

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 27, 2021**

AGENDA

- | | | |
|------|----------------------------|---|
| 9:30 | Done | Presentations |
| 9:30 | Done with Amendment | Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups |
| 9:30 | Done | Matters Presented by Board Members |
| 9:30 | Done | Items Presented by the County Executive |

**ADMINISTRATIVE
ITEMS**

- | | | |
|---|-----------------|---|
| 1 | Approved | Authorization to Advertise a Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21 |
| 2 | Approved | Streets into the Secondary System (Dranesville District) |
| 3 | Approved | Authorization to Advertise a Public Hearing for the Amendment of Chapter 11.1 of the County Code to Reflect Amendments to State Anti-Discrimination and Fair Housing Statutes Enacted During the 2021 Session of the General Assembly to Change Status as a Veteran to Military Status as a Protected Class, Adding a Definition of Military Status to § 11.1-3-2 (the Fairfax County Fair Housing Act), Adding the Accessible Parking Language from HB 1971 to § 11.1-3-4-2, and Deleting Extraneous Language from § 11.1-3-18 |
| 4 | Approved | Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of the Sleepy Hollow Road Walkway (Mason District) |
| 5 | Approved | Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for Construction of Slipline Replacement #3 (Celadon Lane) (Mason District) |
| 6 | Approved | Authorization to Advertise a Public Hearing on the County and Schools' FY 2021 Carryover Review to Amend the Appropriation Level in the FY 2022 Revised Budget Plan |
| 7 | Approved | Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Grant Funding from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance for a FY 2021 Justice and Mental Health Collaboration Program Grant |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 27, 2021**

**ADMINISTRATIVE
ITEMS
(continued)**

- | | | |
|----|-----------------|---|
| 8 | Approved | Supplemental Appropriation Resolution AS 22006 for the Department of Neighborhood and Community Services to Accept One-Time Funding in Response to the COVID-19 Pandemic from the U.S. Department of Health and Human Services Associated with the Head Start, Early Head Start, and Early Head Start Child Care Partnership Grants |
| 9 | Approved | Authorization to Advertise a Public Hearing for the Enlargement of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Services (Mason District) |
| 10 | Approved | Authorization to Advertise a Public Hearing for the Creation of Small and Local Sanitary Districts for Refuse/Recycling Collection Service (Braddock District) |
| 11 | Approved | Authorization to Advertise a Public Hearing for the Creation of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Services (Lee District) |
| 12 | Approved | Authorization to Advertise a Public Hearing for the Creation and Enlargement of Small and Local Sanitary Districts for Refuse/Recycling Collection Services (Dranesville District) |
| 13 | Approved | Supplemental Appropriation Resolution AS 22011 for the Department of Family Services to Accept Grant Funding from the Virginia Community College System for the Return to Earn Grant Program to Help Virginians Transition Back to Work |
| 14 | Approved | Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Springfield District) |
| 15 | Approved | Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Dranesville District) |
| 16 | Approved | Supplemental Appropriation Resolution AS 22025 for the Health Department to Accept Grant Funding from the U.S. Department of Health and Human Services for The Stronger Partnership, Stronger Community: Using Health Literacy to Increase Resilience |
| 17 | Approved | Supplemental Appropriation Resolution 22010 to Accept Grant Funding and Authorization to Execute a Grant Project Contract with the Virginia Department of Environmental Quality for the Purchase of Electric Transit Buses and Charging Stations |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 27, 2021**

**ADMINISTRATIVE
ITEMS
(continued)**

- 18 **Approved** Authorization to Advertise a Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia – Chapter 4 (Taxation and Finance) to Add a New Article 30 to Establish a Disposable Plastic Bag Tax

ACTION ITEMS

- 1 **Approved** Approval of a Plain Language Explanation for the 2021 Bond Referendum for Improvements to Public Schools
- 2 **Approved** Approval of Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report
- 3 **Approved** Authorization of Economic Opportunity Reserve Funding to the Tysons Partnership for Community Activation and Branding (Providence and Hunter Mill Districts)
- 4 **Approved** Approval of a Revised Financing Plan for Dredging Lake Accotink (Braddock District)
- 5 **Approved** Approval of a Project Funding Agreement for the CSX Railroad at Route 1 Bridge Improvement Project (Mount Vernon District)
- 6 **Approved** Adoption of a Resolution of Support for an Adjustment of the Limited Access Line Adjacent to Eastbound Route 66 and 6702 Hallwood Avenue (Route 7542) (Dranesville District)
- 7 **Approved** Endorsement of Route 7 Bus Rapid Transit (BRT) Preferred Alignment and Authorization of a Plan Amendment to the Comprehensive Plan (Dranesville and Providence Districts)
- 8 **Approved** Approval of the FY 2022 and FY 2023 Community Services Performance Contract Between the Fairfax-Falls Church Community Services Board and the Virginia Department of Behavioral Health and Developmental Services
- 9 **Approved** Endorsement of the Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2022 Through 2027

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 27, 2021**

**ACTION ITEMS
(continued)**

- | | | |
|----|-----------------|---|
| 10 | Approved | Endorsement of the Recommendations Proposed as Part of the Fairfax County and Franconia-Springfield Parkways Alternatives Analysis and Long-Term Planning Study and Authorization of a Comprehensive Plan Amendment to Incorporate Those Recommendations into the Transportation Plan Map and Area Transportation Plan Maps and Text (Braddock, Dranesville, Hunter Mill, Lee, Mount Vernon, Springfield and Sully Districts) |
| 11 | Approved | Approval of Proposed Fairfax Connector Fares to Match Recently Approved Washington Metropolitan Area Transit Authority (WMATA) Fare Changes |
| 12 | Approved | Authorization to Establish the Active and Thriving Community Grants Program |
| 13 | Approved | Approval of a Resolution Authorizing the Department of Transportation to Apply for Funding, and Endorsing Projects Being Submitted for the Virginia Department of Transportation's FY 2023-2024 Transportation Alternatives Set-Aside Funding Program (Lee, Mount Vernon, and Providence Districts) |
| 14 | Approved | Approval of an Addition to Action Item No. 17, Establishment of a Police Civilian Review Panel, Approved by the Fairfax County Board of Supervisors on December 6, 2016, and Related Bylaws Amendment |
| 15 | Approved | Endorsement of Preliminary Design Plans (30% Complete) for the Richmond Highway Bus Rapid Transit (BRT) Project from the Huntington Metrorail Station to Fort Belvoir (Lee and Mount Vernon Districts) |

**CONSIDERATION
ITEMS**

- | | | |
|---|-----------------|---|
| 1 | Approved | Approval of Bylaws and Resolution Restating the Purposes and Membership of the Reston Transportation Service District Advisory Board (RTSDAB) |
| 2 | Approved | Approval of Bylaws and Resolution Restating the Purposes and Membership of the Tysons Transportation Service District Advisory Board (TTSDAB) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 27, 2021**

CLOSED SESSION

Done Closed Session

**PUBLIC
HEARINGS**

3:30	Approved	Public Hearing on SE 2020-DR-022 (Turner Farmhouse Foundation) (Dranesville District)
3:30	Approved	Public Hearing on SE 2021-DR-004 (Falls Church Propco LLC) (Dranesville District)
3:30	Approved	Public Hearing on SEA 93-Y-036-02 and RZ 2020-SU-014 (Trustees of Fairfax Church of Christ) (Sully District)
3:30	Approved	Public Hearing on AF 2021-SP-001 (Rebecca Crump) (Springfield District)
3:30	Deferred to 9/14/2021	Decision Only on a Proposed Zoning Ordinance Amendment Re: Historic Overlay Districts – State Code Revisions
4:00	Adopted	Public Hearing on Proposed Plan Amendment 2021-00007, 2550 Huntington Avenue, Located on Huntington Avenue, West of Metroview Parkway (Mount Vernon District)
4:00	Decision deferred to 10/19/2021	Public Hearing on Proposed Plan Amendment 2021-00006, 2806 Popkins Lane, Located on Popkins Lane, West of Bryant Town Court (Mount Vernon District)
4:00	Adopted	Public Hearing on Proposed Plan Amendment 2021-00009, 4312 & 4316 Ravensworth Road, South of Little River Turnpike, West of Ravensworth Road (Mason District)
4:00	Adopted	Public Hearing to Consider Adoption of Amendments to an Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the Novel Coronavirus Disease 2019 (COVID-19) Emergency and Its Aftermath by Temporarily Approving Outdoor Dining and Outdoor Fitness and Exercise Activities Subject to Certain Conditions, Thereby Suspending Any Requirement for Individualized Approvals of Such Activities

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 27, 2021**

**PUBLIC
HEARINGS
(continued)**

4:00	Adopted	Public Hearing to Consider Adoption of an Amendments to an Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the COVID-19 Emergency and Its Aftermath, as Authorized by Virginia Code § 15.2-1413, by Approving Temporary County-Operated Hypothermia Prevention Shelters, Authorizing a Streamlined Process for Approving Temporary Modifications to Activities, Uses, and Structures in Response to the Emergency and Its Impacts, and Reducing Certain Zoning and Development Fees
4:00	Held	Public Comment



Fairfax County, Virginia
BOARD OF SUPERVISORS
AGENDA

Tuesday
July 27, 2021

9:30 a.m.

PRESENTATIONS

- RESOLUTION — To recognize Billy Thompson for his years of service as president of the Greater Merrifield Business Association and his contributions to the Merrifield area and Fairfax County. Requested by Chairman McKay and Supervisors Palchik and Alcorn.
- RESOLUTION — To recognize Sharon Stark for her years of hard work and service to Fairfax County. Requested by Chairman McKay and Supervisors Walkinshaw and Herrity.
- RESOLUTION — To recognize Jennifer Siciliano for her years of hard work and service to Fairfax County. Requested by Chairman McKay and Supervisors Alcorn, Walkinshaw, Smith, Storck, Gross, Palchik, Lusk, Herrity and Foust.

STAFF:

Tony Castrilli, Director, Office of Public Affairs

Bill Miller, Office of Public Affairs

Jeremy Lasich, Office of Public Affairs

Board Agenda Item
July 27, 2021

9:30 a.m.

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

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard July 27, 2021

STAFF:

Jill G. Cooper, Clerk for the Board of Supervisors

FINAL COPY

**APPOINTMENTS TO BE HEARD JULY 27, 2021
(ENCOMPASSING VACANCIES PROJECTED THROUGH **AUGUST 31, 2021**)
(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 Clifford L. Fields; appointed 1/96-1/03 by Hanley; 1/04-1/08 by Connolly; 2/09-1/20 by Bulova) Term exp. 1/21 <i>Resigned</i>	At-Large Chairman's Representative		McKay	At-Large Chairman's
Kerrie Wilson (Appointed 1/10-1/20 by Foust) Term exp. 1/21	Dranesville District Representative	Kerrie Wilson	Foust	Dranesville
Douglas M. Salik (Appointed 1/20 by Storck) Term exp. 1/21	Mount Vernon District Representative		Storck	Mount Vernon
Ernestine Heastie (Appointed 2/04-2/19 by L. Smyth; 1/20 by Palchik) Term exp. 1/21	Providence District Representative	Ernestine Heastie	Palchik	Providence

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Kendal Vahovius; appointed 12/20 by Storck) Term exp. 9/24 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Marcela Lievano Martinez; appointed 7/20 by Palchik) Term exp. 9/21 <i>Resigned</i>	Providence District Representative	Laura Martinez	Palchik	Providence

CONFIRMATION NEEDED:

- Ms. Mary Wilcox as the City of Falls Church Representative

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Richard N. Rose (Appointed 7/97-4/01 by Hanley; 9/05-5/09 by Connolly; 6/13-6/17 by Bulova) Term exp. 5/21	Builder (Multi-Family) Representative		By Any Supervisor	At-Large
James H. Scanlon (Appointed 6/93-5/17 by Bulova) Term exp. 5/21	Engineer/Architect/Planner #1 Representative		By Any Supervisor	At-Large
Mark Drake (Appointed 2/09-5/12 by McKay) Term exp. 5/16	Engineer/Architect/Planner #2 Representative		By Any Supervisor	At-Large

continued

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

Continued from the previous page

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Frieda A. Tatem; appointed 10/93-10/96 by Davis; 9/99-10/02 by Hanley; 10/05-10/08 by Connolly; 11/11-10/17 by Bulova) Term exp. 10/20 Deceased	At-Large #1 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>
Mark H. O'Meara (Appointed 2/19-6/19 by Cook) Term exp. 6/21	Braddock District Alternate Representative	Mark H. O'Meara	Walkinshaw	Braddock

Continued

ATHLETIC COUNCIL (2 years)
Continued from the previous page

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Mark H. O'Meara (Appointed 2/19-6/19 by Cook) Term exp. 6/21	Braddock District Alternate Representative		Walkinshaw	Braddock
VACANT (Formerly held by Terry Adams; appointed 11/11-7/13 by Gross) Term exp. 6/15 <i>Resigned</i>	Mason District Alternate Representative		Gross	Mason
John J. Corley (Appointed 7/19 by Storck) Term exp. 6/21	Mount Vernon District Alternate Representative	John J. Corley	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>
Barbara Glakas (Appointed 1/12-6/19 by Foust) Term exp. 6/20	Dranesville District Representative		Foust	Dranesville
VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 <i>Resigned</i>	Mason District Representative	Abby L. Block	Gross	Mason
Emilie F. Miller (Appointed 7/05-7/19 by L. Smyth; 7/20 by Palchik) Term exp. 6/21	Providence District Representative	Emilie F. Miller	Palchik	Providence

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 Thomas J. Schroeder; appointed 06/92-2/17 by Bulova) Term exp. 2/21 <i>Resigned</i>	Design Professional #1 Representative		By Any Supervisor	At-Large
Wayne Bryan (Appointed 6/13-2/17 by Bulova) Term exp. 2/21	Alternate #1 Representative		By Any Supervisor	At-Large

BOARD OF EQUALIZATION OF REAL ESTATE ASSESSMENTS (BOE) (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Joseph W. Blackwell, appointed 2/05-1/08 by Kauffman; 12/09-12/17 by McKay) Term exp. 12/20 <i>Resigned</i>	At-Large #2 Representative		By Any Supervisor	At-Large

CELEBRATE FAIRFAX, INC. BOARD OF DIRECTORS

(2 years – limited to 3 consecutive terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Karen Pica (Appointed 10/14-9/18 by McKay) Term exp. 9/20 <i>Not eligible for reappointment</i>	At-Large #1 Representative		By Any Supervisor	At-Large
Joan Marie Dec (Appointed 10/18 by Smith) Term exp. 9/20	At-Large #2 Representative	Dana Stewart (Smith)	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 Grant Sitta; appointed 9/10-9/15 by Gross) Term exp. 9/19 <i>Resigned</i>	Mason District Representative		Gross	Mason

CIVIL SERVICE COMMISSION (2 years)

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

Current Membership: Males: 7 Females: 3 Minorities: 4

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Lee Ellen Helfrich; appointed 2/14-1/20 by Gross) Term exp. 12/21 <i>Resigned</i>	At-Large #9 Representative		By Any Supervisor	At-Large

COMMISSION FOR WOMEN (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Sondra Seba Hemenway; appointed 2/12-10/16 Bulova; 6/20 by McKay) Term exp. 10/22 <i>Deceased</i>	At-Large Chairman's Representative		McKay	At-Large Chairman's

COMMISSION ON AGING (2 years)

CONFIRMATION NEEDED:

- Ms. Martha Cooper as the City of Falls Church Representative

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 Theodore Choi; appointed 7/19 by Storck) Term exp. 2/22 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon

CONFIRMATION NEEDED:

- Ms. Alicia Doe as the Elected - South County Target Area #2 Representative
- Ms. Hari Kurup as the Fairfax County Council of PTAs Representative

CONSUMER PROTECTION COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Jason J. Kratovil (Appointed 1/19 by Bulova) Term exp. 7/21	Fairfax County Resident #3 Representative	Jason J. Kratovil (McKay)	By Any Supervisor	At-Large
Wes Callender (Appointed 9/14-7/18 by Foust) Term exp. 7/21	Fairfax County Resident #6 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Daton Lynch; appointed 9/18 by Smith) Term exp. 7/21 <i>Resigned</i>	Fairfax County Resident #7 Representative		By Any Supervisor	At-Large
Harold G. Belkowitz (Appointed 11/08-7/18 by Herrity) Term exp. 7/21	Fairfax County Resident #8 Representative	Harold G. Belkowitz (Herrity)	By Any Supervisor	At-Large
VACANT (Formerly held by Abrar Omeish; appointed 2/18-9/18 by Bulova) Term exp. 7/21 <i>Resigned</i>	Fairfax County Resident #9 Representative		By Any Supervisor	At-Large
John Theodore Fee (Appointed 7/97-9/16 by Bulova) Term exp. 7/21	Fairfax County Resident #10 Representative	John Theodore Fee (McKay)	By Any Supervisor	At-Large
VACANT (Formerly held by Scott Hine; appointed 2/07 by McConnell; 7/09-7/18 by Herrity) Term exp. 7/21 <i>Resigned</i>	Fairfax County Resident #11 Representative		By Any Supervisor	At-Large

CONSUMER PROTECTION COMMISSION (3 years)
Continued from the previous page

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Denis Gulakowski (Appointed 5/16-7/18 by Cook) Term exp. 7/21	Fairfax County Resident #12 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Umair Javed; appointed 2/17-1/19 by L. Smyth) Term exp. 7/21 <i>Resigned</i>	Fairfax County Resident #13 Representative		By Any Supervisor	At-Large

CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Michael A. Skvortsov (Appointed 12/16-7/18 by Hudgins) Term exp. 7/21	At-Large Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Brian D. Leclair appointed 10/13 by Hyland; 10/16-7/19 by Storck) Term exp. 4/22 <i>Resigned</i>	Mount Vernon District Representative	Derrick Robinson	Storck	Mount Vernon

**DULLES RAIL TRANSPORTATION IMPROVEMENT
DISTRICT ADVISORY BOARD, PHASE II (4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Gregory W. Trimmer (Appointed 1/12-1/16 by Bulova) Term exp. 1/20	BOS At-Large #6 Representative		By Any Supervisor	At-Large

ECONOMIC ADVISORY COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Alfred Thieme (Appointed 1/09-12/17 by Gross) Term exp. 12/20	Mason District Representative		Gross	Mason

ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	At-Large #8 Representative	Joseph Vidulich (McKay)	By Any Supervisor	At-Large
NEW POSITION	At-Large #9 Representative		By Any Supervisor	At-Large

ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Howard J. Guba (Appointed 6/18 by Bulova) Term exp. 3/21	Citizen #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Maya Huber; appointed 12/09-1/14 by Confirmation; 05/18 by Bulova) Term exp. 3/21 <i>Resigned</i>	Citizen #4 Representative		By Any Supervisor	At-Large

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Chester Freedenthal; appointed 1/16-11/18 by McKay) Term exp. 11/21 <i>Resigned</i>	Lee District Representative	Sarah Graham Taylor	Lusk	Lee
Ayman Eldarwish (Appointed 10/17 by Gross) Term exp. 11/20	Mason District Representative		Gross	Mason

**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>
VACANT (Formerly held by Sondra Seba Hemenway; appointed 9/18 by Bulova) Term exp. 6/21 <i>Deceased</i>	At-Large Chairman's Representative	Patricia Depew Wirth	McKay	At-Large Chairman's
Sam Misleh (Appointed 6/15-6/18 by McKay) Term exp. 6/21 <i>Not eligible for reappointment</i>	Lee District Representative		Lusk	Lee

CONFIRMATIONS NEEDED:

- Mr. Scott Hamilton as the Fairfax County Convention and Visitors Corporation #2 Representative
- Mr. Christopher Shand as the Fairfax County Convention and Visitors Corporation #3 Representative
- Ms. Sarah White as the Fairfax County Convention and Visitors Corporation #8 Representative

**FAIRFAX COUNTY EMPLOYEES' RETIREMENT
SYSTEM BOARD OF TRUSTEES (4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Kevin L. North (Appointed 10/17 by Smith) Term exp. 8/21	At-Large #1 Representative	Kevin L. North (Smith)	By Any Supervisor	At-Large

HEALTH CARE ADVISORY BOARD (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Michael Christ Trahos (Appointed 7/12-5/16 by Bulova) Term exp. 6/20	At-Large Chairman's Representative		McKay	At-Large Chairman's
Rosanne Lammers Rodilosso (Appointed 6/99-5/01 by Mendelsohn, 6/05 by DuBois; 7/09-11/17 by Foust) Term exp. 6/21	Dranesville District Representative		Foust	Dranesville

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Jacqueline Hixson; appointed 6/17 by Hudgins) Term exp. 6/20 <i>Resigned</i>	Consumer #2 Representative		By Any Supervisor	At-Large
RJ Narang (Appointed 7/18 by Foust) Term exp. 6/21	Consumer #5 Representative		By Any Supervisor	At-Large
Veronica C. Doran (Appointed 7/17 by Cook) Term exp. 6/21	Provider #1 Representative		By Any Supervisor	At-Large
John J. Whyte (Appointed 9/18 by Foust) Term exp. 6/21	Provider #3 Representative	John J. Whyte (Foust)	By Any Supervisor	At-Large

HISTORY COMMISSION (3 years)

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

Braddock - 3	Lee - 2	Providence - 1
Dranesville - 2	Mason - 1	Springfield - 2
Hunter Mill - 3	Mount Vernon - 3	Sully - 2

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Carole L. Herrick (Appointed 6/06 by DuBois; 6/09-6/18 by Foust) Term exp. 6/21	At-Large #1 Representative	Carole L. Herrick (Foust)	By Any Supervisor	At-Large
Steve Sherman (Appointed 10/09-12/17 by McKay) Term exp. 12/20	Citizen #4 Representative		By Any Supervisor	At-Large
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 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>
Jeff Dannick (Appointed 04/14-7/17 by Cook)	Braddock District #1 Representative	Jeff Dannick	Walkinshaw	Braddock
Alis Wang (Appointed 12/16-7/17 by Gross) Term exp. 7/21	Mason District #2 Representative	Alis Wang	Gross	Mason

HUMAN SERVICES COUNCIL (4 years)
Continued from the previous page

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Tianja D. Grant (Appointed 1/20 by Palchik) Term exp. 7/21	Providence District #2 Representative	Tianja D. Grant	Palchik	Providence
Jerrold L. Foltz (Appointed 07/14 by Frey; 7/17 by Smith) Term exp. 7/21	Sully District #1 Representative	Jerrold L. Foltz	Smith	Sully

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Caroline C. Kerns; appointed 2/02-1/15 by Frey; 1/17-1/19 by Smith) Term exp. 1/21 <i>Resigned</i>	Sully District Representative		Smith	Sully

LIBRARY BOARD (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Brian D. Engler (Appointed 6/18 by Cook) Term exp. 7/21	Braddock District Representative	Brian D. Engler	Walkinshaw	Braddock
Sujatha Hampton (Appointed 9/20 by Foust) Term exp. 7/21	Dranesville District Representative	Sujatha Hampton	Foust	Dranesville
]Frances E. Millhouser (Appointed 4/15-7/17 by Gross) Term exp. 7/21	Mason District Representative	Frances E. Millhouser	Gross	Mason
Gary G. Russell (Appointed 3/16-7/17 by Storck) Term exp. 7/21	Mount Vernon District Representative	Gary G. Russell	Storck	Mount Vernon
Miriam Smolen (Appointed 4/15-07/17) Term exp. 7/21	Providence District Representative		Palchik	Providence

OVERSIGHT COMMITTEE ON DISTRACTED AND IMPAIRED DRIVING (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Annette Koklauner (Appointed 1/16 by Bulova) Term exp. 6/19	At-Large Chairman's Representative		McKay	At-Large Chairman's
VACANT (Formerly held by William Uehling; appointed 3/10-7/12 by Bulova) Term exp. 6/15 <i>Resigned</i>	Braddock District Representative		Walkinshaw	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
Nabil S. Barbari (Appointed 1/07-9/16 by Gross) Term exp. 6/19	Mason District Representative		Gross	Mason
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 L. Smyth) Term exp. 6/14 <i>Resigned</i>	Providence District Representative		Palchik	Providence
Peyton Smith (Appointed 10/17 by Smith) Term exp. 6/20	Sully District Representative		Smith	Sully

POLICE CIVILIAN REVIEW PANEL (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Robert E. Cluck; appointed 9/18 by Bulova; 2/20 by McKay) Term exp. 2/23 <i>Resigned</i>	Seat #2 Representative		By Any Supervisor	At-Large

RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD
The Board established the advisory board on April 4, 2017, to have 14 members.
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>
VACANT (Formerly held by Anne Mader; appointed 9/17 by Hudgins) Term exp. 9/21 <i>Resigned</i>	Commercial or Retail Ownership #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Mark S. Ingrao; appointed 9/17 by Hudgins) Term exp. 9/21 <i>Resigned</i>	Reston Chamber of Commerce lessees on Non-Residential Space Representative	Steven J. Coniglio (Alcorn)	By Any Supervisor	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #3 Representative		By Any Supervisor	At-Large

ROAD VIEWERS BOARD (1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Marcus Wadsworth (Appointed 6/09-1/20 by McKay) Term exp. 12/20	At-Large #3 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by L. Smyth) Term exp. 12/12 <i>Resigned</i>	At-Large #4 Representative		By Any Supervisor	At-Large
Micah D. Himmel (Appointed 12/11-1/18 by L. Smyth) Term exp. 12/18	At-Large #5 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 Eric Fielding; appointed 6/15-1/19 by Bulova) Term exp. 12/21 <i>Resigned</i>	Citizen Member #3 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Christopher Lee Kocsis; appointed 3/99-11/00 by Hanley; 1/04-12/06 by Connolly; 12/09-1/16 by Bulova) Term exp. 12/18 <i>Deceased</i>	Landlord Member #2 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>
VACANT (Formerly held by Barry Mark; appointed 3/15-2/17 by Bulova) Term exp. 2/19 <i>Resigned</i>	Commercial or Retail Ownership #3 Representative		By Any Supervisor	At-Large

WATER AUTHORITY (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Frank Begovich (Appointed 9/04- 06/06 by Kauffman; 6/09-6/18 by McKay) Term exp. 6/21	Lee District Representative	Frank Begovich	Lusk	Lee

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- 10/18 by Bulova) Term exp. 7/31	Alternate #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Leslie Jacobs; appointed 5/16-1/20 by Storck) Term exp. 12/24 <i>Resigned</i>	Mount Vernon District #3 Representative		Storck	Mt. Vernon

YOUNG ADULTS ADVISORY COUNCIL (YAA) (2 years)
 NOTE: The Board established the Council on January 28, 2020
 (There will be a total of 15 members. The appointees must be 20-34 years and would serve for 2-year terms limited to 2 full consecutive terms)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Dalton J. Bisson; appointed 11/20 by Smith) Term exp. 6/21 <i>Resigned</i>	Sully District Representative		Smith	Sully

NEW BOARD

AFFORDABLE HOUSING ADVISORY COUNCIL (AHAC)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	Braddock District Representative		Walkinshaw	Braddock
NEW POSITION	Dranesville District Representative	RJ Narang	Foust	Dranesville
NEW POSITION	Hunter Mill District Representative		Alcorn	Hunter Mill
NEW POSITION	Lee District Representative		Lusk	Lee
NEW POSITION	Mason District Representative		Gross	Mason
NEW POSITION	Mount Vernon District Representative		Storck	Mount Vernon
NEW POSITION	Providence District Representative	Joseph Mondoro	Palchik	Providence

Continued

AFFORDABLE HOUSING ADVISORY COUNCIL (AHAC)
Continued from the previous page

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	Springfield District Representative	Michael Perez	Herrity	Springfield
NEW POSITION	Sully District Representative		Smith	Sully

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9:30 a.m.

Matters Presented by Board Members

Board Agenda Item
July 27, 2021

9:30 a.m.

Items Presented by the County Executive

Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 1

Authorization to Advertise a Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 3, County Employees, Article 1, Personnel Administration, Sections 3-1-1 and 3-1-21

ISSUE:

Board of Supervisors authorization to advertise a public hearing to amend Chapter 3, County Employees, Article 1, Personnel Administration, of the Code of the County of Fairfax. The proposed amendments are required as a result of HB 2161/SB 1410 which was passed by the 2021 special session 1 of the General Assembly, signed by the Governor and took effect July 1, 2021. The proposed amendments will be effective retroactive to July 1, 2021.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed County Code amendments.

TIMING:

Board action is requested on July 27, 2021, to advertise the public hearing before the Board on September 14, 2021, at 4:30 p.m.

BACKGROUND:

The 2021 special session 1 of the Virginia General Assembly passed HB 2161/SB 1410, which was signed by the Governor on March 31, 2021, and took effect July 1, 2021. HB 2161/SB 1410 explicitly prohibits discrimination in public employment based upon military status which was defined in the bills as:

- (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101,
- (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

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As a result, Fairfax County Code 3-1-1, Definitions, and Fairfax County Code 3-1-21, Prohibited Practices, require amendment.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENT:
Attachment 1 – Proposed amendments to Fairfax County Code § 3-1-1, Definitions and Fairfax County Code § 3-1-21, Prohibited Practices

STAFF:
Catherine Spage, Director, Department of Human Resources

ASSIGNED COUNSEL:
Karen Gibbons, Deputy County Attorney

Section 3-1-1. Purposes of Article; definitions.

- (a) *Purposes.* The purposes of this Article are:
 - (1) To place personnel administration on a merit basis in order to attract and retain for public service in the County Government employees with integrity and superior ability;
 - (2) To strengthen the effectiveness of the County Government through the improvement of personnel administration;
 - (3) To provide for a County merit system under which recruitment, appointment, and advancement of covered employees will be on a competitive basis, free of discrimination on the basis of race, color, national origin, religion, sex, age, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, ~~status as a veteran, military status~~, political affiliation, disability, or genetic information, and which will be administered in conformity with the Merit Principles set forth by the U.S. Office of Personnel Management (5 CFR 900) under authority of the Intergovernmental Personnel Act of 1970, as amended;
 - (4) To provide for an exempt service which will be limited to positions so designated in accordance with this Article or by Personnel Regulations.
- (b) *Authority.* The authority for this article is contained in *Va. Code Ann. § 15.2-1506*, which reads, in part, as follows: "Notwithstanding any other provision of law to the contrary, the governing body of every county, city and town which has more than fifteen employees shall establish by June thirty, nineteen hundred seventy-four, a grievance procedure for its employees to afford an immediate and fair method for the resolution of disputes which may arise between such public employer and its employees and a personnel system including a classification plan for service and uniform pay plan for all employees;" *Va. Code Ann. § 15.2-807*, which reads, in part, as follows: "All appointments shall be on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform;" and *Va. Code Ann. § 15.2-1500.1* which explicitly prohibits discrimination in employment on the "basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran."¹
- (c) *Applicability.*
 - (1) This Article applies to all employees in the administrative service of the County who are appointed by the Board of Supervisors, County Executive or the head of a department, as provided in *Va. Code Ann. §15.2-807*.²
 - (2) This Article and any regulations or administrative directives or procedures issued under its authority also may be applied to designated employees of other public agencies within the County, pursuant to written agreements between the heads or governing boards of such agencies and the Human Resources Director of the County, subject to approval of the County Executive and Board of Supervisors, to the effect that the conditions of employment of such employees are to be administered

Commented [AJ1]: Removed status as a veteran. Added military status

¹As to appointment, tenure, suspension or removal and compensation of officers and employees, see *Va. Code Ann., § 15.2-807, 15.2-808 and 15.2-809.*

²Wherever used in this Article, the term "department" means "department," "office," "agency," or other administrative unit, the director of which reports to the County Executive, either directly or via a deputy county executive, or to the Board of Supervisors. Elected officials, persons appointed to fill vacancies in elective offices, and members of boards, authorities and commissions appointed by the Board of Supervisors are not employees in the sense of this article, although they may be compensated and receive such other benefits as State law or regulations, County ordinance or the Board of Supervisors may authorize.

under this Article in the same manner as if those employees were in the administrative service of the County.³³

- (d) *Severability.* Should any article, section, subsection, sentence, clause, or phrase of this ordinance, for any reason, be held unconstitutional or invalid for any reason, such decision or holding shall have no effect on the validity of the remaining portions hereof. It is the intent of the Board of Supervisors to enact or have enacted each section, and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.
- (e) *Definitions.*
 - (1) *Personnel Regulations.* A body of rules governing County personnel administration issued under authority of this Article by the Board of Supervisors after consideration of the recommendation of the County Civil Service Commission, and having the effect of ordinance.
 - (2) *Competitive service.* All positions not specifically designated as exempt positions in accordance with this Article, and the employees appointed to fill such positions. Competitive positions must be filled in accordance with merit principles. Persons in the competitive service are considered career employees. They have all rights, benefits, privileges, protections and obligations set forth in this Article and Personnel Regulations.
 - (3) *Exempt service.* Positions which are specifically so designated in accordance with this article and Personnel Regulations, and employees appointed to fill such positions. Exempt personnel are not merit employees. They may be appointed, classified, promoted to other exempt positions, demoted to other exempt positions and discharged without regard to the restrictions contained in this Article and Personnel Regulations, which apply to the competitive service. They are entitled to only such employee rights and benefits as are provided for various categories of exempt personnel elsewhere in this Article and Personnel Regulations or by the Board of Supervisors or in procedural directives issued by the County Executive or his or her designee.
 - (4) *Full-time position.* Any position, whether authorized for the competitive service or exempt, which is authorized to be filled for at least 2080 scheduled hours in 12 consecutive months.
 - (5) *Part-time position.* Any position, whether authorized for the competitive service or exempt, which does not meet the above criteria for full-time positions.
 - (6) *Full-time employee.* Any employee, whether in the competitive service or exempt, who is regularly scheduled to work at least 2080 hours in 12 consecutive months.
 - (7) *Part-time employee.* Any employee, whether in the competitive service or exempt, who does not meet the above criteria for full-time employees.
 - (8) *Probationary employee.* Any employee in the competitive service serving in a probationary appointment as defined in § 3-1-13 of this Article and Personnel Regulations.
 - (9) *Merit system.* The system of personnel administration applicable to the competitive service. It includes the provisions of this Article, other applicable provisions of County ordinances, County Personnel

³³Public agencies authorized to execute such agreements include (but are not limited to) the offices of Constitutional Officers and individual members of the Board of Supervisors, the School Board, the Library Board, the Park Authority, the Housing Authority, the Fairfax/Falls Church Community Services Board, the Economic Development Authority, the Water Authority, the Industrial Authority, similar agencies established by the Board of Supervisors in the future, community centers and other service agencies established in small districts under authority of the Board of Supervisors, and State agencies located in and serving the County where such agreements are consistent with State law and regulations. Employees whose conditions of employment are to be administered pursuant to such agreements may be either merit system or exempt employees, as defined in this Article, whichever is specified in the applicable agreement.

Regulations and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive or Human Resources Director.

- (10) *Merit employee.* Any employee in the competitive service.
- (11) *Department Head.* An employee appointed by the Board of Supervisors or the County Executive to oversee, direct, or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. All department head positions are assigned to the exempt service. All persons appointed as department heads on or after July 1, 1987, are exempt employees. Any department head appointed as a department head by the Board of Supervisors on or after July 1, 1987, may be removed by the Board of Supervisors with or without cause and in any event, may not grieve his or her removal under the County's grievance procedures. Any department head appointed by the County Executive may be removed by either the Board of Supervisors or the County Executive with or without cause and in any event, may not grieve his or her removal under the County's grievance procedure.

(12) *Military Status.* Means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50. (7-87-3; 32-8-3; 26-98-3; 35-05-3; 32-11-3; 40-19-3; 14-20-3.)

Commented [AJ2]: Added all of (12) Military Status

Section 3-1-21. Prohibited practices.

- (a) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, promotion, reduction, removal or appointment held or made under the provisions of this Article or in any manner commit or attempt to commit any fraud preventing the impartial execution of the Personnel Regulations adopted pursuant to this Article.
- (b) No person shall, either directly or indirectly, pay, render or give any money, service or other valuable thing to any person for, on account of or in connection with any test, appointment, promotion, reduction or removal in which he or she is concerned.
- (c) No officer or employee of the County shall knowingly defeat, deceive or obstruct any person in his or her right to examination, eligibility certification or appointment under this Article or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the competitive service.
- (d) No officer or employee of the County shall discriminate against any employee or applicant for employment with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, or retirement on the basis of race, color, sex, creed, religion, national origin, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, ~~status as a veteran,~~ military status, age, disability, or genetic information.
- (e) No officer or employee of the County shall retaliate against any employee with regard to recruitment, application, testing, certification, appointment, assignment, performance evaluation, training, working conditions, promotion, demotion, discipline, lay-off, discharge, or retirement because the employee has used or has participated in the County's grievance procedure, has complied with any law of the United States, or of the Commonwealth, or has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors, the County Executive, or other governmental authority. (7-87-3; 26-98-3; 35-05-3; 32-11-3; 14-20-3.)

Commented [AJ3]: Removed status as a veteran. Added military status

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ADMINISTRATIVE - 2

Streets into the Secondary System (Dranesville District)

ISSUE:

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

RECOMMENDATION:

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

<u>Subdivision</u>	<u>District</u>	<u>Street</u>
Crimmins Subdivision	Dranesville	Crimmins Lane
Crimmins Subdivision	Dranesville	Manor Ridge Court

TIMING:

Routine.

BACKGROUND:

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

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Street Acceptance Form

STAFF:

Rachel Flynn, Deputy County Executive
William D. Hicks, P.E., Director, Department of Land Development Services

Street Acceptance Form For Board Of Supervisors Resolution

<p>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</p> <p>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.</p>	<p>VIRGINIA DEPARTMENT OF TRANSPORTATION OFFICE OF LAND USE - FAIRFAX PERMITS</p> <p>REQUEST TO THE PERMITS MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.</p> <p>PLAN NUMBER: 4294-SD-001</p> <p>SUBDIVISION PLAT NAME: Crimmins Subdivision</p> <p>COUNTY MAGISTERIAL DISTRICT: Dranesville</p>		
<p>VDOT PERMITS MANAGER: Robert Burton</p> <p>BY: <u> <i>Nadia Alphonse</i> </u></p>	<p style="text-align: center;">FOR OFFICIAL USE ONLY</p> <p>VDOT INSPECTION APPROVAL DATE: <u> <i>06/09/2021</i> </u></p>		
STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Crimmins Lane	Existing Crimmins Lane, Route 2832 - 145' S CL Orland Street, Route 2887	348' S to CL Manor Ridge Court	0.07
Manor Ridge Court	CL Crimmins Lane	273' W to End of Cul-de-Sac and 411' E to End of Cul-de-Sac (Total 684')	0.13
NOTES:			TOTALS:
Crimmins Lane: 5' Concrete Sidewalk on Both Sides to be maintained by VDOT			0.20
Manor Ridge Court: 5' Concrete Sidewalk on Both Sides to be maintained by VDOT			

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ADMINISTRATIVE - 3

Authorization to Advertise a Public Hearing for the Amendment of Chapter 11.1 of the County Code to Reflect Amendments to State Anti-Discrimination and Fair Housing Statutes Enacted During the 2021 Session of the General Assembly to Change Status as a Veteran to Military Status as a Protected Class, Adding a Definition of Military Status to § 11.1-3-2 (the Fairfax County Fair Housing Act), Adding the Accessible Parking Language from HB 1971 to § 11.1-3-4-2, and Deleting Extraneous Language from § 11.1-3-18

ISSUE:

Board of Supervisors authorization to advertise a public hearing to amend Chapter 11.1 of the County Code to change status as a veteran to military status as a protected class, add a definition of military status to §11.1-3-2, add accessible parking language from HB 1971 to § 11.1-3-4-2, and delete extraneous language from § 11.1-3-18. The proposed amendments are required as a result of amendments to state Anti-Discrimination and Fair Housing Statutes and HB 1971 which were passed by the 2021 session of the General Assembly, signed by the Governor, and take effect July 1, 2021. The proposed amendments will be effective retroactive to July 1, 2021.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed County Code amendments for September 14, 2021, at 4:00 p.m.

TIMING:

Board action is requested on July 27, 2021, to advertise the public hearing before the Board on September 14, 2021, at 4:00 p.m.

BACKGROUND:

The 2021 session of the Virginia General Assembly amended state anti-discrimination and fair housing statutes changing “status as a veteran” to “military status” as a protected class. It defined “military status” to mean status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided within 180 days immediately preceding an alleged action that if proven true would

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constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

The General Assembly also amended the state fair housing statute to add language making clear that requests for accessible parking are to be treated as requests for a reasonable accommodation.

The proposed amendments to Chapter 11.1 of the County Code would incorporate these amendments into the County Code to make them consistent with the state statutes. The proposed amendments would also delete extraneous language from the title of County Code § 11.1-3-18.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENT:

Attachment 1 – Proposed Amendments to Chapter 11.1 of the County Code to Reflect Amendments to State Anti-Discrimination and Fair Housing Statutes

STAFF:

Kenneth Saunders, Director, Office of Human Rights and Equity Programs

ASSIGNED COUNSEL:

Ben Jacewicz, Assistant County Attorney
Ryan Wolf, Assistant County Attorney

**CODE OF FAIRFAX COUNTY, VIRGINIA
CHAPTER 11**

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Article 1. In General.

Section 11.1-1-1. Purpose.

This Chapter codifies the Fairfax County Human Rights Ordinance and the Fairfax County Fair Housing Act. As such, it reflects the following decision the Board of Supervisors to:

(a) Continue to enforce and amend the County Fair Housing Act in effect on January 1, 1991, as authorized by Virginia Code § 36.1-96.21, rather than merge the County's rules and regulations on housing discrimination into the Human Rights Ordinance; and

(b) Designate the Fairfax County Human Rights Commission as responsible for furthering compliance with the Human Rights Ordinance and the Fair Housing Act, as authorized by Virginia Code §§ 15.2-823, 15.2-853, 15.2-965, and 36.1-96.21.

Section 11.1-1-2. Definitions.

The following definitions shall apply to this Chapter:

(a) *Case file* shall mean the OHREP file on a complaint, including but not limited to, the complaint, any answer filed by the respondent, and information gathered during any investigation of the complaint.

(b) *Commission* shall mean the Human Rights Commission, as established herein.

(c) *County Attorney* shall mean the County Attorney for Fairfax County.

(d) *Director* shall mean the Director of OHREP, or the Director's designated representative.

(e) *OHREP* shall mean the Fairfax County Office of Human Rights and Equity Programs.

Section 11.1-1-3. Human Rights Commission established.

The Board of Supervisors establishes the Fairfax County Human Rights Commission.

Section 11.1-1-4. Membership; compensation; terms of office; chairperson and vice chairperson; bylaws.

(a) The Commission shall consist of twelve (12) members who shall be residents of the County and broadly representative of the County's population.

(b) The members of the Commission shall be appointed by the Board of Supervisors and shall be entitled to receive such compensation as the Board of Supervisors shall direct.

(c) Of the members of the Commission first appointed, four (4) shall be appointed for terms of three (3) years, four (4) shall be appointed for terms of two (2) years, and three (3) shall be appointed for terms of one (1) year. Thereafter, members shall be appointed for terms of three (3) years each. Any vacancy shall be filled by the Board of Supervisors for the unexpired portion of the term.

(d) The Commission shall establish bylaws, and make any subsequent amendments to such bylaws, in accordance with County policies and procedures.

Section 11.1-1-5. Legal counsel.

The County Attorney shall act as legal counsel to the Commission and shall authorize retention of outside legal counsel for the Commission where deemed appropriate for a particular complaint.

Section 11.1.1-6. Office of Human Rights and Equity Programs.

(a) OHREP shall have the following functions:

- (1) To provide administrative support for the Commission's activities;
- (2) To make studies to effectuate the purposes and policies of this Article and to make the results thereof available to the public;
- (3) To accept public grants or private gifts, bequests, or other payments, as appropriate under the law; and
- (4) To furnish technical assistance, upon request, to persons subject to this Article to further compliance with this Article or a recommendation made thereunder.

OHREP also may perform any other function as provided by this Chapter.

(b) The Board of Supervisors shall appoint the Director of OHREP upon the recommendation of the County Executive. The Director shall serve full time and be responsible for overseeing the day-to-day operations of OHREP.

Section 11.1-1-7. Right to representation.

A complainant and respondent each are entitled to be represented by counsel or by an authorized representative in any matter before the Commission.

Section 11.1-1-8. Effective date.

This Chapter shall take effect retroactive to July 1, 2020, and shall apply to all matters pending before the Commission on that date and to all matters arising before the Commission thereafter.

Article 2. Human Rights Ordinance.

Section 11.1-2-1. Authorization; short title.

(a) Under the authority of Virginia Code §§ 15.2-853 and 15.2-965, the Board of Supervisors enacts this Article prohibiting discrimination in employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, **military** status, ~~as a veteran~~, age, marital status, sexual orientation, gender identity, or disability.¹

(b) This Article shall be known and cited as the Fairfax County Human Rights Ordinance.

Section 11.1-2-2. Definitions.

The following definitions shall apply to this Article:

(a) *Complainant* shall mean a person who claims to have been injured by an unlawful discriminatory practice.

(b) *Complaint* shall mean a written statement by a person, a member of the Commission, or the Commission alleging an act of discrimination prohibited by this Article.

(c) *Conciliation* shall mean the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the complainant, the respondent, and the Director.

(d) *Party* shall mean a complainant or respondent.

(e) *Person* shall mean one or more individuals, labor unions, partnerships, corporations, associations, legal representatives, mutual companies, joint-stock companies, trusts or unincorporated organizations.

(f) *Respondent* shall mean a person against whom a complaint of violation of this Article is filed.

Section 11.1-2-3. Declaration of policy.

It is the policy of the County to:

¹ As explained in Article 1 of this Chapter, Virginia Code 15.2-853 also authorizes the Board of Supervisors to prohibit unlawful discrimination in housing and real estate transactions. Under the authority of Virginia Code § 36-96.21, the Board has enacted a separate Fair Housing Act to prohibit such discrimination, which appears as Article 3.

- Safeguard all individuals within the County from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability in places of public accommodation, including educational institutions, and with respect to credit;
- Safeguard all individuals within the County from unlawful discrimination in employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability;
- Preserve the public safety, health, and general welfare;
- Further the interests, rights, and privileges of individuals within the County; and
- Protect citizens of the County against unfounded charges of unlawful discrimination.

Section 11.1-2-4. Construction.

(a) The provisions of this Article shall be construed liberally for the accomplishment of its policies.

(b) Nothing in this Article shall be deemed to repeal, supersede or expand upon any of the provisions of any other state or federal law relating to discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability.

(c) Nothing in this Article shall prohibit or alter any program, service, facility, school, or privilege that is afforded, oriented, or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

(d) Nothing in this Article shall be construed to affect any government program, law or activity differentiating between persons on the basis of age over the age of eighteen (18) years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of powers of the County for the general health, safety and welfare of the population at large.

Section 11.1-2-5. Unlawful discrimination.

(a) With the exception of matters relating to housing and residential real estate, conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions,

including lactation, age, disability, **military** status, ~~as a veteran~~, or national origin shall be an “unlawful discriminatory practice” for purposes of this Article.

(b) It shall be a violation of this Article for any person to engage in an unlawful discriminatory practice.

Section 11.1-2-6. Commission jurisdiction.

(a) The Commission shall exercise jurisdiction to enforce this Article within the geographical boundaries of the County, including the Towns of Clifton, Herndon and Vienna, except for complaints of unlawful discrimination made against governmental entities, and the officers, employees and agents of such entities.

(b) If the Commission determines that a complaint is not within the Commission’s jurisdiction, but possibly within the jurisdiction of one of the agencies with which the Commission has an interagency agreement, the complaint shall be sent to the appropriate agency within fifteen (15) working days of the determination. The complainant shall be notified of this action and a reason provided. Once the complaint has been forwarded and the complainant notified, the Commission shall close the case file. In the event the complaint is not under the jurisdiction of the agency to which it was referred, or if additional evidence is submitted, the case file will be reopened. The Commission delegates to the Director authority to make the determination and provide the notice required under this Subsection.

Section 11.1-2-7 Commission powers and duties.

Under this Article, the Commission shall promote policies to ensure that all persons in the County be afforded equal opportunity, serve as an agency for receiving, investigating, holding hearings, processing, and assisting in the voluntary resolution of complaints regarding unlawful discriminatory practices occurring within the County, and with the approval of the County Attorney, to seek, through appropriate enforcement authorities, prevention of or relief from a violation of any County ordinance prohibiting discrimination.

Section 11.1-2-8. Service.

Service by the Commission with respect to matters covered by this Article shall be either in person or by mail to the last-known address of the recipient appearing in OHREP’s records. The complainant, respondent, counsel of record and any authorized representative shall be responsible for providing the Commission with prompt notice of any change in address.

Section 11.1-2-9. Filing of complaint.

(a) Any person claiming to be aggrieved by an unlawful discriminatory practice may file a complaint in writing under oath or affirmation with the Commission. The

Commission or a member of the Commission may in a like manner file such a complaint.

(b) In the event that a complaint is filed on behalf of a person claiming to be aggrieved, the Director shall verify the complaint with the person on whose behalf the complaint is made.

(c) Where a person is entitled to file a complaint with the Commission, OHREP shall render assistance in the filing of a complaint.

(d) A complaint may be filed in person at or by mail to OHREP's office located at the Fairfax County Government Center, 12000 Government Center Parkway, Suite 318, Fairfax, Virginia 22035 during normal County business hours, by fax to 703-324-3570, or by email to EPDEmailComplaints@fairfaxcounty.gov. Telephone calls may be made to 703-324-2953, TTY 711, in order to receive information on how and where to file a complaint. Complaints shall not be accepted over the telephone.

(e) All complaints shall be dated and time-stamped upon receipt.

(f) The Commission may reveal the identity of complainants to federal, state, or local agencies that have agreed to keep such information confidential, or when required to do so by law.

Section 11.1-2-10. Form and contents of complaint.

(a) A complaint shall be in such detail as to substantially apprise any party properly concerned as to the time, place, and facts surrounding the alleged unlawful discriminatory practice. To ensure compliance with this requirement, it should contain the following information:

(1) The full name, address and telephone number of the person making the complaint;

(2) The full name, addresses and telephone number of the respondent; and

(3) A clear concise statement of the facts, including pertinent dates, constituting the alleged unlawful discriminatory practice.

(b) Notwithstanding the provisions of Subsection (a) of this Section, a complaint shall be considered filed when OHREP receives a written statement that identifies the parties and describes generally the actions or practices complained of.

(c) A complaint may be reasonably and fairly amended by the filing party at any time prior to a hearing. Except for purposes of notifying the respondent as specified in Subsection (d) of this Section, amended complaints shall be considered as having been made as of the original filing date.

(d) When an amendment is filed, OHREP shall forward a copy of the amendment to the respondent within five (5) working days of the amendment. The respondent shall within ten (10) working days after receiving the amendment file an answer to the amendment.

Section 11.1-2-11. Dismissal of complaint.

(a) The Commission shall dismiss a complaint for lack of jurisdiction.

(b) The Commission shall dismiss a complaint when the complainant fails to cure defects in its allegations or make required amendments within the time prescribed by OHREP.

(c) When the Commission determines that the complaint (1) is not timely or (2) fails to state a claim under this Article, it shall dismiss the complaint.

(d) Written notice of any dismissal pursuant to this Section shall be issued to the complainant and the respondent.

(e) The Commission delegates authority to the Director to dismiss complaints under this Section.

Section 11.1-2-12. Withdrawal of complaint.

(a) A complaint may only be withdrawn by the complainant and only with the consent of the Commission. The Commission hereby delegates authority to the Director to consent to a request to withdraw a complaint, where withdrawal of the complaint will not defeat the purposes of the statute or regulation alleged to have been violated.

(b) The Commission may withdraw any complaint filed by a member of the Commission whose term of office has expired or otherwise ended when it determines that the purposes of this Article are no longer served by processing the complaint.

(c) A complaint filed under this Article may not be withdrawn after a determination of reasonable cause has been made.

Section 11.1-2-13. Service and notice of complaint.

(a) Upon perfection of a complaint, the Commission shall timely serve the complaint on the respondent and provide all parties with written notice informing them of the complainant's rights, including the right to commence a civil action, and the dates within which the complainant may exercise such rights. The notice also shall notify the complainant that the complaint shall be dismissed with prejudice and with no right to further proceed if a written complaint is not timely filed with the appropriate general district or circuit court. Finally, the notice also

shall advise the parties of the need for them to preserve all documents relevant to the complaint until final disposition of the complaint.

(b) The Commission delegates to the Director authority to serve the complaint and notice provided under this Section.

Section 11.1-2-14. Mediation.

(a) The complainant and respondent may agree voluntarily to submit the complaint to mediation without waiving any rights that are otherwise available to each party pursuant to this Article and without incurring any obligation to accept the result of the mediation process.

(b) Nothing occurring in mediation shall be disclosed by the Commission or OHREP. Nor shall it be admissible in evidence in any subsequent proceeding unless the complainant and the respondent agree in writing that such disclosure be made.

Section 11.1-2-15. Investigation.

(a) Unless the complaint on its face is subject to dismissal under Section 11-1-2-11, the Commission shall conduct an investigation sufficient to determine whether there is reasonable cause to believe the unlawful discriminatory practice alleged in the complaint has occurred or is occurring.

(b) The Commission delegates the authority to investigate the complaint to OHREP. As part of each investigation, OHREP:

(1) Shall accept a statement of position or evidence submitted by the complainant, the person making the complaint on behalf of the complainant, or the respondent;

(2) May require the complainant to provide a statement which includes: (i) a statement of each specific harm that the complainant has suffered and the date on which each harm occurred; (ii) for each harm, a statement specifying the act, policy or practice which is alleged to be unlawful; and (iii) for each act, policy, or practice alleged to have harmed the complainant, a statement of the facts which lead the complainant to believe that the act, policy or practice is discriminatory; and

(3) May submit a request for information to the respondent that, in addition to specific questions, may request a response to the allegations contained in the complaint.

(c) OHREP's authority to investigate a complaint is not limited to the procedures outlined in Subsection (b) of this Section.

Section 11.1-2-16. Subpoena power.

(a) The Commission has no power itself to issue subpoenas under this Article.

(b) Whenever OHREP has a reasonable cause to believe that any person has engaged in, or is engaging in, any violation of this Article, and, after making a good faith effort to obtain the data, information, and attendance of witnesses necessary to determine whether such violation has occurred, is unable to obtain such data, information, or attendance, it may request the County Attorney to petition the General District Court for Fairfax County for a subpoena against any such person refusing to produce such data and information or refusing to appear as a witness, and such court may, upon good cause shown, cause the subpoena to be issued.

(c) Neither the complainant nor the respondent shall have the right to demand that a subpoena be issued by the Commission or OHREP.

(d) Any witness subpoena issued under this Section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney.

(e) Any person failing to comply with a subpoena issued under this Section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued a subpoena to quash it.

Section 11.1-2-17. Investigative report.

(a) Upon completion of the investigation, the Commission shall issue a written investigative report determining whether or not there is reasonable cause to believe a violation of this Article has occurred, and the facts supporting such determination. The report shall be a confidential document subject to review by the Director, authorized OHREP staff members, and the parties.

(b) The Commission delegates authority to the Director to prepare and issue written investigative reports.

Section 11.1-2-18. No cause determination.

(a) If the investigative report concludes that there is no reasonable cause to believe the alleged unlawful discrimination has been committed, the complaint shall be dismissed.

(b) The Commission delegates authority to the Director to issue no cause letters of determination and dismiss complaints pursuant to this Section.

(c) If the complainant disagrees with the no cause determination, the complainant may seek reconsideration by the Director or file an appeal with the Commission within ten (10) working days of receipt of the determination.

(d) Reconsideration shall only be granted when the complainant presents newly discovered evidence. After considering any such evidence, the Director shall (1) reaffirm the determination of no cause and dismiss the complaint, or (2) make a determination of reasonable cause.

(e) The Director shall provide a written notice to the complainant of the decision made on the request for reconsideration. In the event the Director reaffirms the no cause determination, this notice shall advise the complainant that the determination shall become final, unless within ten (10) business days of the letter's receipt, the complainant files an appeal with the Commission.

(1) The Commission shall only overturn the Director's no cause determination if it decides that (i) a factual finding underlying the determination is clearly erroneous, or (ii) the determination rests upon an incorrect legal conclusion.

(2) If the Commission affirms the Director's determination, it shall dismiss the complaint. When the Commission overturns the determination, it shall either: (i) vacate the determination and direct the Director to continue the investigation; or (ii) reverse and determine that there is reasonable cause to believe that a violation of this Article has occurred or is occurring.

Section 11.1-2-19. Reasonable cause determination.

(a) If the investigative report concludes that there is reasonable cause to believe the alleged unlawful discriminatory practice has been committed, the complainant and respondent shall be notified of such determination.

(b) A determination finding reasonable cause shall be based on, and limited to, evidence obtained by during the investigation and does not reflect any judgment of the merits of the allegations not addressed in the determination.

(c) The Commission delegates to the Director, upon completion of the investigation, to make a reasonable cause determination, issue a cause letter of determination and serve a copy of the letter upon the parties.

Section 11.1-2-20. Conciliation.

(a) When a reasonable cause determination has been made, the Commission shall immediately endeavor to eliminate any alleged unlawful discriminatory practice by informal methods such as conference, conciliation, negotiation, and persuasion.

(b) The Commission delegates to the Director the authority to enter into informal conciliation efforts, and to negotiate conciliation agreements.

(c) If the conciliation is successful, and agreed to by the vote of the Commission, the complaint shall be considered resolved, and the case file shall be closed. The terms of any settlement agreement resulting from the conciliation shall be reduced to writing and signed by the complainant, respondent, and the Commission. A copy of the agreement signed by parties and the Chair of the Commission or the Chair's designee shall be sent to the complainant and the respondent.

(d) When the Commission agrees in any negotiated settlement not to process the complaint further, the Commission's agreement shall be in consideration for the promises made by the other parties to the agreement. Such agreement shall not affect the processing of any other complaint, including, but not limited to, a complaint with allegations which are like or related to the individual allegations settled.

(e) When the Director determines that further endeavor to settle a complaint by conference, conciliation, negotiation, and persuasion is unworkable and should be bypassed, the Director shall so notify the complainant and the respondent in writing. Within 10 working days of receipt of this notice, the complainant may request referral of the complaint to the Commission for determination of whether to hold a public hearing. If the complainant makes no such request, the Commission shall close the case file.

Section 11.1-2-21. Determination whether to hold a public hearing.

The Commission shall determine whether to hold a public hearing on a complaint based upon the totality of circumstances, including how best to further the policies and purposes underlying this Article. If the Commission determines not to hold a public hearing, it shall close the case file.

Section 11.1-2-22. Confidentiality.

(a) No member of the Commission or member of OHREP shall make public, prior to a public hearing, as provided herein, investigative notes and other correspondence and information furnished to the Commission or OHREP in confidence with respect to an investigation, mediation, or conciliation process involving an alleged unlawful discriminatory practice under this Article; however, nothing in this Section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

(b) This Section does not apply to such disclosures to representatives of federal, state or local agencies as may be appropriate or necessary to carrying out the Commission's functions under this Article; provided, that the Commission may refuse to make disclosures to any such agency which does not maintain confidentiality of such endeavors in accordance with this Section or in any

circumstances where the disclosures will not serve the purposes of effective enforcement of the law or regulation alleged to have been violated.

Section 11.1-2-23. Hearing before Commission.

(a) The Commission may hear appeals made following a no cause determination made under this Article; provided, however, that a member of the Commission who has filed the complaint at issue or otherwise has a personal interest in the matter giving rise to the complaint shall be disqualified from hearing the appeal.

(b) After hearing all of the evidence and arguments, the Commission shall vote to dismiss the complaint due to insufficient evidence of a violation of this Article or to find reasonable cause based upon evidence sufficient to establish a violation of this Article.

(c) Once the hearing has concluded, all administrative appeals and hearings shall have been exhausted, and the Commission shall close the case file.

Section 11.1-2-24. Hearing procedures.

(a) This Section applies to all hearings held before the Commission, including any panel of its members, under this Article.

(b) The Commission shall notify the parties of the time, date, and location of a hearing no later than twenty (20) working days prior to the date of the hearing. This notice also shall identify the issues to be considered at the hearing and, when applicable, specify the deadlines by which parties must submit motions, file exhibits, designate witnesses, and raise evidentiary objections. Motions to continue a hearing or extend a deadline shall be in writing with a copy to the opposing party and submitted to the Commission. The Commission may grant any such motion only where good cause is shown.

(c) All hearings shall be open to the public.

(d) Both the complainant and the respondent shall appear and be heard in person.

(e) All testimony shall be given under oath or affirmation.

(f) The order of presentation of evidence shall be established by the Commission with the burden of proof being placed on the complainant. The burden of proof shall be a preponderance of the evidence.

(g) The Commission shall rule on all motions, evidentiary issues, and procedural matters. It shall not be bound by statutory rules of evidence or technical rules of procedure

(h) Irrelevant, immaterial, and unduly repetitious evidence shall, at the discretion of the Commission, be excluded. The rules of privilege shall be given effect.

(i) Documents and witness testimony not provided during the prior investigation shall not be admitted as evidence at the hearing, except for good cause shown or upon agreement of the parties.

(j) A party's exhibit and witness list for a hearing must be distributed to the Commission and the other party no later than five (5) working days prior to the hearing. Non-compliance with this rule shall result in the exclusion of the document or witness testimony left off the list, unless the Commission determines that good cause exists to allow it.

(k) At the start of the hearing, the Commission shall order the exclusion of witnesses so they cannot hear the testimony of other witnesses. This rule does not authorize excluding parties, or a person authorized to be present.

(l) Commission members may ask questions of the parties and witnesses.

(m) Before the hearing concludes, the parties shall be given an opportunity to present oral argument of their cases.

(n) After the parties have completed their presentations, the Commission's members shall cast their votes. After all members have voted, the Chair shall announce the Commission's decision and conclude the hearing.

Section 11.1-2-25. Remedies.

(a) If the respondent fails to adhere to any provision contained in any conciliation agreement or adequately to remedy a violation of this Article giving rise to a reasonable cause determination, the Commission, with the approval of the County Attorney, may seek through appropriate enforcement authorities the prevention of or relief from the violation.

(b) Upon finding a violation of this Article, the Commission may notify the County Purchasing Agent or any County agency providing financial support to the respondent of the violation.

(c) The Commission has no authority to award damages or grant injunctive relief under this Article.

(d) Nothing in this Article creates, nor shall it be construed to create, an independent or private cause of action to enforce its provisions.

Section 11.1-2-26. No waiver of other legal rights.

(a) Any person who is aggrieved by an unlawful discriminatory practice may bring an appropriate action in a court of competent jurisdiction, as provided for by any other applicable law.

(b) Nothing in this Chapter shall prevent any person from exercising any right or seeking any remedy to which the person might otherwise be entitled; nor shall any person be required to pursue any remedy set forth herein as a condition of seeking relief from any court or other agency, except as is otherwise provided by applicable Virginia or federal law.

Section 11.1-2-27. Severability.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the other provisions or applications of this Article which can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

ARTICLE 3. Fair Housing Act.

Section 11.1-3-1. Declaration of policy.

- (a) This Article shall be known and referred to as the Fairfax County Fair Housing Act.
- (b) It is the policy of the County of Fairfax to provide for fair housing throughout the County, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the County may be protected and ensured. This law shall be deemed an exercise of the police power of the County of Fairfax for the protection of the people of the County.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-2. Definitions.

For the purposes of this Article, unless the context requires a different meaning clearly indicates otherwise:

Aggrieved person means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

Assistance animal means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

Complainant means a person, including the Human Rights Commission, who files a complaint under Section 11.1-3-10.

Conciliation means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal

negotiations involving the aggrieved person, the respondent, their respective authorized representatives, and the Human Rights Commission.

Conciliation agreement means a written agreement setting forth the resolution of the issues in conciliation.

Disability means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms "disability" and "handicap" shall be interchangeable.

Discriminatory housing practices means an act that is unlawful [under] Sections 11.1-3-4, 11.1-3-5, 11.1-3-6, or 11.1-3-7. Dwelling means any building, structure, or portion thereof, which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Elderliness means an individual who has attained his or her fifty-fifth birthday.

Familial status means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this Section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

Family includes a single individual, whether male or female.

Lending institution includes any bank, savings institution, credit union, insurance company, or mortgage lender.

Major life activities include any of the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Military status means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual

shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

Person means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

Physical or mental impairment includes any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or physiological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance, and alcoholism.

Prevailing Party has the same meaning as such term has in Section 1988 of Title 42 of the United States Code.

Respondent means any person or other entity alleged to have violated the provisions of this Article, as stated in a complaint filed under the provisions of this Chapter and any other person joined pursuant to the provisions of Section 11.1-3-10.

Restrictive covenant means any specification in any instrument affecting title to real property which purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, **military** status, ~~as a veteran~~, or disability.

Source of funds means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

To rent means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-3. Exemptions.

- (a) Except as provided in Section 11.1-3-4(a)(3) and Section 11.1-3-7(a)-(c), this Article shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any 24-month period; provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this Article only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this Article. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title.
- (b) Except for Section 11.1-3-4(a)(3), this Article shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- (c) Nothing in this Article shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, **military** status, ~~as a veteran~~, or disability. Nor shall anything in this Article apply to a private membership club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such

lodgings to its members or from giving preference to its members. Nor, where matters of personal privacy are involved, shall anything in this Article be construed to prohibit any private, state-owned, or state-supported educational institution, hospital, nursing home, religious, or correctional institution, from requiring that persons of both sexes not occupy any single-family residence or room or unit of dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it owns or operates.

- (d) Nothing in this Article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in federal law.
- (e) It shall not be unlawful under this Article for any owner to deny or limit the rental of housing to persons who pose a clear and present threat of substantial harm to others or to the dwelling itself.
- (f) A rental application may require disclosure by the applicant of any criminal convictions and the owner or managing agent may require as a condition of acceptance of the rental application that applicant consent in writing to a criminal record check to verify the disclosures made by applicant in the rental application. The owner or managing agent may collect from the applicant moneys to reimburse the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record checks. Nothing in this Article shall require an owner or managing agent to rent a dwelling to an individual who, based on a prior record of criminal convictions involving harm to persons or property, would constitute a clear and present threat to the health or safety of other individuals.
- (g) Nothing in this Article limits the applicability of any reasonable local, state, or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as the standards do not violate local, state, or federal restrictions. Nothing in this Article prohibits the rental application or similar document from requiring information concerning the number, ages, sex, and familial relationship of the applicants and the dwelling's intended occupants.
- (h) Nothing in this Article shall prohibit an owner or an owner's managing agent from denying or limiting the rental or occupancy of a rental dwelling unit to a person because of such person's source of funds, provided that such owner does not own more than four rental dwelling units in the Commonwealth at the time of the alleged

discriminatory housing practice. However, if an owner, whether individually or through a business entity, owns more than a 10 percent interest in more than four rental dwelling units in the Commonwealth at the time of the alleged discriminatory housing practice, the exemption provided in this subsection shall not apply.

- (i) It shall be unlawful under this Article for an owner or owner's managing agent to deny or limit a person's rental or occupancy of a rental dwelling unit based on the person's source of funds for that unit if such source is not approved within 15 days of the person's submission of the request for tenancy approval.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-4. Unlawful discriminatory housing practices.

- (a) It shall be an unlawful discriminatory housing practice for any person:
 - (1) To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, marital status, sexual orientation, gender identity, or **military** status ~~as a veteran~~;
 - (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, sex, elderliness, source of funds, familial status, marital status, sexual orientation, gender identity, or **military** status ~~as a veteran~~;
 - (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation or discrimination based on race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, **military** status, ~~as a veteran~~, source of funds, or disability. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this Chapter that shall not be overcome by a general disclaimer. However, reference alone to places of worship including churches, synagogues, temples, or mosques in any such notice,

statement or advertisement shall not be prima facie evidence of an illegal preference;

- (4) To represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
- (5) To deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability;
- (6) To include in any transfer, sale, rental, or lease of housing, any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability or for any person to honor or exercise, or attempt to honor or exercise any such discriminatory covenant pertaining to housing;
- (7) To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, source of funds, or disability;
- (8) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate or make unavailable or deny a dwelling because of a disability of (i) the buyer or renter; (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (iii) any person associated with the buyer or renter; or
- (9) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of a disability of (i) that person; (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented or made

available; or (iii) any person associated with that buyer or renter.

- (b) For the purposes of this Section, discrimination includes: (i) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:
- (1) The public use and common use areas of the dwellings are readily accessible to and usable by disabled persons;
 - (2) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and
 - (3) All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. As used in this subdivision the term "covered multi-family dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.
- (c) Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically disabled people shall be deemed to satisfy the requirements of Section 11.1-3-4(b)(3).
- (d) Nothing in this Chapter shall be construed to invalidate or limit any Virginia law or regulation that requires dwellings to be designed and

constructed in a manner that affords disabled persons greater access than is required by this Chapter.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-4-1. Rights and responsibilities with respect to the use of an assistance animal in a dwelling.

- (a) A person with a disability, or a person associated with such person, who maintains an assistance animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property owner applicable to all residents that do not interfere with an equal opportunity to use and enjoy the dwelling and any common areas of the premises. Such person shall not be required to pay a pet fee or deposit or any additional rent to maintain an assistance animal in a dwelling, but shall be responsible for any physical damages to the dwelling if residents who maintain pets are responsible for such damages in accordance with such documents or state law. Nothing herein shall be construed to affect any cause of action against any resident for other damages under the laws of the County.
- (b) If a person's disability is obvious or otherwise known to the person receiving a request, or if the need for a requested accommodation is readily apparent or known to the person receiving a request, the person receiving a request for reasonable accommodation may not request any additional verification about the requester's disability. If a person's disability is readily apparent or known to the person receiving the request but the disability-related need is not readily apparent or known, the person receiving the request may ask for additional verification to evaluate the requester's disability-related need.
- (c) A person with a disability, or a person associated with such person, may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling. Subject to subsection B, the person receiving the request may ask the requester to provide reliable documentation of the disability and the disability-related need for an assistance animal, including documentation from any person with whom the person with a disability has or has had a therapeutic relationship.
- (d) Subject to subsection (b), a person receiving a request for a reasonable accommodation to maintain an assistance animal in a dwelling shall evaluate the request and any reliable supporting documentation to verify the disability and the disability-related need for the reasonable accommodation regarding an assistance animal.

- (e) For purposes of this Section, "therapeutic relationship" means the provision of medical care, program care, or personal care services, in good faith, to the person with a disability by (i) a mental health service provider as defined in Virginia Code § 54.1-2400.1; (ii) an individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities; (iii) a person from a peer support or similar group that does not charge service recipients a fee or impose any actual or implied financial requirement and who has actual knowledge about the requester's disability; or (iv) a caregiver, reliable third party, or government entity with actual knowledge of the requester's disability.

Section 11.1-3-4-2. Reasonable accommodations; interactive process.

- (a) When a request for a reasonable accommodation establishes that such accommodation is necessary to afford a person with a disability, and who has a disability-related need, an equal opportunity to use and enjoy a dwelling and does not impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the request for the accommodation is reasonable and shall be granted.
- (b) **When a person receives a request for accessible parking to accommodate a disability, the person receiving the request shall treat such request as a request for reasonable accommodation as provided by this chapter.**
- (c) When a request for a reasonable accommodation may impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the person receiving the request shall offer to engage in a good- faith interactive process to determine if there is an alternative accommodation that would effectively address the disability-related needs of the requester. An interactive process is not required when the requester does not have a disability and a disability-related need for the requested accommodation. As part of the interactive process, unless the reasonableness and necessity for the accommodation has been established by the requester, a request may be made for additional supporting documentation to evaluate the reasonableness of either the requested accommodation or any identified alternative accommodations. If an alternative accommodation is identified that effectively meets the requester's disability-related needs and is reasonable, the person receiving the reasonable accommodation request shall make the effective alternative accommodation. However, the requester shall not be required to accept an alternative accommodation if the requested accommodation is also reasonable. The various factors to be considered for determining whether an accommodation imposes an undue financial and administrative

burden include (a) the cost of the requested accommodation, including any substantial increase in the cost of the owner's insurance policy; (b) the financial resources of the person receiving the request; (c) the benefits that the accommodation would provide to the person with a disability; and (d) the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

- (d) A request for a reasonable accommodation shall be determined on a case-by-case basis and may be denied if (i) the person on whose behalf the request for an accommodation was submitted is not disabled; (ii) there is no disability-related need for the accommodation; (iii) the accommodation imposes an undue financial and administrative burden on the person receiving the request; or (iv) the accommodation would fundamentally alter the nature of the operations of the person receiving the request. With respect to a request for reasonable accommodation to maintain an assistance animal in a dwelling, the requested assistance animal shall (a) work, provide assistance, or perform tasks or services for the benefit of the requester or (b) provide emotional support that alleviates one or more of the identified symptoms or effects of such requester's existing disability. In addition, as determined by the person receiving the request, the requested assistance animal shall not pose a clear and present threat of substantial harm to others or to the dwelling itself that is not solely based on breed, size, or type or cannot be reduced or eliminated by another reasonable accommodation.

Section 11.1-3-5. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.

- (a) It shall be unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related transactions, to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, **military** status, ~~as a veteran~~, or disability. It shall not be unlawful; however, for any person or other entity whose business includes engaging in residential real estate transactions to require any applicant to qualify financially for the loan or loans for which such person is making application.
- (b) As used in this Section, the term "residential real estate-related transaction" means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling, or (ii) secured by residential real estate; or
- (2) The selling, brokering, insuring or appraising of residential real property. However, nothing in this Article shall prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-6. Interference with enjoyment of rights of others under this Article.

It shall be an unlawful discriminatory housing practice for any person to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on the account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Article.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-7. Certain restrictive covenants void; instruments containing such covenants.

- (a) Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, elderliness, familial status, marital status, sexual orientation, gender identity, military status, ~~as a veteran~~, or disability, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of this County.
- (b) Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.
- (c) No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest

described in subsection (a). Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three times the compensation solicited or received, or \$500.00, plus reasonable attorney fees and costs incurred.

- (d) A family care home, foster home, or group home in which individuals with physical disabilities, mental illness, intellectual disabilities, or developmental disabilities reside, with one or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single-family when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single-family or to residential use or structure.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-8. Familial status protection not applicable to housing for older persons.

- (a) Nothing in this Article regarding unlawful discrimination because of familial status shall apply to housing for older persons. As used in this Section, "housing for older persons" means housing: (i) provided under any federal, state, or local program that is lawfully determined to be specifically designed and operated to assist elderly persons, as defined in the federal, state or local program; or (ii) intended for, and solely occupied by, persons 62 years of age or older; or (iii) intended for, and solely occupied by at least one person 55 years of age or older per unit. The following criteria shall be met in determining whether housing qualifies as housing for older persons under subdivision (iii) of this Section:
 - (1) That at least 80 percent of the occupied units are occupied by at least one person 55 years of age or older per unit; and
 - (2) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- (b) Housing shall not fail to meet the requirements for housing for older persons by reason of:
 - (1) Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subdivisions (ii) and (iii) of subsection (a) of this Section, provided that new occupants of such housing meet the age requirements of those subdivisions; or

- (2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the provisions of subdivisions (ii) and (iii) of subsection (a) of this Section.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-9. Powers of the Human Rights Commission.

The Human Rights Commission has the power for the purposes of this Article to initiate and receive complaints, conduct investigations of any violation of this Article, attempt resolution of complaints by conference and conciliation, and, upon failure of such efforts, issue a charge, and refer it to the County Attorney for action. When conducting an investigation of a complaint filed under Article 3 of this Chapter the Commission or its designated subordinates shall have the power to issue and serve a subpoena as provided for by Section 11.1-3-11(b).

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-10. Procedures for receipt or initiation of complaint under Article 3 of this Chapter; notice to parties; filing of answer.

- (a) A complaint under this Article shall be filed with the Commission in writing within one year after the alleged discriminatory housing practice occurred or terminated.
- (b) Any person not named in such a complaint and who is identified as a respondent in the course of the investigation may be joined as an additional or substitute respondent upon written notice to such person by the Director explaining the basis for the Director's belief that such person is properly joined as a respondent
- (c) Any respondent may file an answer to such a complaint not later than ten business days after receipt of the notice described in Section 11.1-3-10(d) below. Complaints and answers must be made in writing, under oath or affirmation, and in such form as the Director requires. Complaints and answers may be reasonably and fairly amended at any time.
- (d) Upon the filing of a complaint under this Article 3 or initiation of such a complaint by the Director or its designee, the Commission shall provide written notice to the parties as follows:
 - (1) To the aggrieved person acknowledging the filing and advising such person of the time limits and choice of forums under this Article; and
 - (2) To the respondent, not later than ten business days after such filing or the identification of an additional respondent under subsection (b), identifying the alleged discriminatory housing

practice and advising such respondent of the procedural rights and obligations of respondents under this Article with a copy of the original complaint and copies of any supporting documentation referenced in the complaint.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-11. Procedures for investigation.

- (a) The Director shall commence proceedings with respect to a complaint filed under this Article within 30 days after receipt of the complaint, and shall complete the investigation within 100 days thereof unless it is impracticable to do so. If the Director is unable to complete the investigation within 100 days after the receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons for not doing so.
- (b) When conducting an investigation of a complaint filed under this Article, the Director shall have the right to interview any person who may have any information which may further its investigation and to request production of any records or documents for inspection and copying in the possession of any person which may further the investigation. Such persons may be interviewed under oath. The Director or its designated subordinates shall have the power to issue and serve a subpoena to any such person to appear and testify and to produce any such records or documents for inspection and copying. Said subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served as part of a civil action in the Commonwealth of Virginia. In case of refusal or neglect to obey a subpoena, the Commission may petition for its enforcement in the Circuit Court for the County of Fairfax. The Circuit Court of Fairfax County will be requested to give these cases priority on the court docket.
- (c) At the end of each investigation under this Section, the Director shall prepare a final investigative report which may contain:
 - (1) The names and dates of contacts with witnesses;
 - (2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
 - (3) A summary description of other pertinent records;
 - (4) A summary of witness statements; and
 - (5) Answers to interrogatories.

A final report under this subsection may be amended if additional evidence is later discovered.

- (d) The Director shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Director's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-12. Reasonable cause determination and effect.

The Commission shall, within 100 days after the filing of a complaint under this Article, determine, based on the facts and after consultation with the Office of the County Attorney, whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is

impracticable to do so or unless the Commission has approved a conciliation agreement with respect to the complaint. If the Commission is unable to determine whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur within 100 days after receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons therefor.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-13. No reasonable cause determination and effect.

If the Commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall promptly dismiss the complaint notifying the parties within 30 days of such determination. The Commission shall make public disclosure of each dismissal.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-14. Conciliation.

During the period beginning with the filing of such complaint under this Article and ending with the filing of a charge or a dismissal by the Director, the Director shall, to the extent feasible, engage in conciliation with respect to such complaint.

- (1) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent, the complainant, and the Commission, and shall be subject to approval by the Commission.

- (2) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.
- (3) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Commission determines that disclosure is not required to further the purposes of this Chapter.
- (4) Whenever the Commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the Commission may refer the matter to the County Attorney with a recommendation that a civil action be filed under Section 11.1-3-18 for the enforcement of such agreement.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-15. Issuance of a charge.

Upon failure to resolve a complaint under this Article by conciliation and after consultation with the Office of the County Attorney, the Commission shall issue a charge on behalf of the Commission and the aggrieved person or persons and shall immediately refer the charge to the County Attorney, who shall proceed with the charge as directed by Section 11.1-3-17.

- (1) Such charge:
 - (A) Shall consist of a short and plain statement of the facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;
 - (B) Shall be based on the final investigative report; and
 - (C) Need not be limited to the acts or grounds alleged in the complaint filed under Section 11.1-3-10.
- (2) Not later than ten business days after the Commission issues a charge under this Section, the Director shall cause a copy thereof to be served on each respondent named in such charge and on each aggrieved person on whose behalf the complaint was filed.

The Commission may not issue a charge under this Section regarding an alleged discriminatory housing practice after the beginning of a trial of a civil action commenced by the aggrieved party under an Act of Congress or a state law seeking relief with respect to that discriminatory housing practice.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-16. Prompt judicial action.

If the Director concludes at any time following the filing of a complaint and after consultation with the Office of the County Attorney, that prompt judicial action is necessary to carry out the purposes of this Chapter, the Director may authorize a civil action by the County Attorney for appropriate temporary or preliminary relief. Upon receipt of such authorization, the County Attorney shall promptly commence and maintain such action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Virginia Rules of Civil Procedure. The commencement of a civil action under this Section shall not affect the initiation or continuation of administrative proceedings by the Commission under Section 11.1-3-9.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-17. Civil action by County Attorney upon referral of charge by the Human Rights Commission.

- (a) Not later than 30 days after a charge is referred by the Commission to the County Attorney under Section 11.1-3-15, the County Attorney, at County expense, shall commence and maintain a civil action seeking relief on behalf of the Commission and the complainant in the circuit court for the city, county, or town in which the unlawful discriminatory housing practice has occurred or is about to occur.
- (b) Any aggrieved person with respect to the issues to be determined in a civil action pursuant to subsection (a) may intervene as of right.
- (c) In a civil action under this Section, if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may grant, as relief, any relief which a court could grant with respect to such discriminatory housing practice in a civil action under Section 11.1-3-19. Any relief so granted that would accrue to an aggrieved person under Section 11.1-3-19 shall also accrue to the aggrieved person in a civil action under this Section. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court in the course of the action brought under this Section.
- (d) In any court proceeding arising under this Section, the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-18. Civil action by County Attorney; ~~matters involving the legality of any local zoning or other land use ordinance;~~ pattern or practice cases; or referral of conciliation agreement for enforcement.

- (a) Whenever the County Attorney has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this Article, or that any group of persons has been denied any of the rights granted by this Article and such denial raises an issue of general public importance, the County Attorney may commence a civil action in the appropriate circuit court for appropriate relief.
- (b) In the event of a breach of a conciliation agreement by a respondent, the Commission may authorize a civil action by the County Attorney. The County Attorney may commence a civil action in any appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of 90 days after the referral of such alleged breach.
- (c) The County Attorney, on behalf of the Commission, or other party at whose request a subpoena is issued, under this Article, may enforce such subpoena in appropriate proceedings in the appropriate circuit court.
- (d) In a civil action under subsections (a) and (b), the court may:
 - (1) Award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this Article as is necessary to assure the full enjoyment of the rights granted by this Article.
 - (2) Assess a civil penalty against the respondent (i) in an amount not exceeding \$50,000.00 for a first violation; and (ii) in an amount not exceeding \$100,000.00 for any subsequent violation. The court or jury may award such other relief to the aggrieved person, as the court deems appropriate, including compensatory damages, and punitive damages without limitation otherwise imposed by state law.
- (e) Upon timely application, any person may intervene in a civil action commenced by the County Attorney under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a party to a conciliation agreement. The court may grant such appropriate relief

to any such intervening party as is authorized to be granted to a plaintiff in a civil action under Section 11.1-3-19.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-19. Civil action; enforcement by private parties.

- (a) An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this Article, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.
- (b) An aggrieved person may commence a civil action under Section 11.1-3-19(a) no later than 180 days after the conclusion of the administrative process with respect to a complaint or charge or not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, whichever is later. This subsection shall not apply to actions arising from a breach of a conciliation agreement. An aggrieved person may commence a civil action under this Section whether or not a complaint has been filed under Section 11.1-3-10 and without regard to the status of any such complaint. If the Commission or a federal agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this Section by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.
- (c) In a civil action under subsection (a), if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may award to the plaintiff, as the prevailing party, compensatory and punitive damages, without limitation otherwise imposed by state law, and the court may award reasonable attorney's fees and costs, and subject to subsection (d), may grant as relief, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or order such affirmative action as may be appropriate.
- (d) Relief granted under subsection (c) shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving bona fide purchasers, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Commission or civil action under this Article.

- (e) Upon timely application, the County Attorney may intervene in such civil action, if the County Attorney certifies that the case is of general public importance. Upon intervention, the County Attorney may obtain such relief as would be available to the private party under subsection (c).

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-20. Witness fees.

Witnesses summoned by a subpoena under this Chapter shall be entitled to the same witness and mileage fees as witnesses in proceedings in the courts of the Commonwealth. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Commission.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-21. Promulgating regulations.

The Commission shall perform all acts necessary and proper to carry out the provisions of this Article and may promulgate and amend necessary regulations.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-22. Application of Article.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the other provisions or applications of this Article which can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-23. Construction of law.

Nothing in this Article shall abridge the federal Fair Housing Act of 1968, (42 U.S.C. § 3601 et seq.), as amended, or the Virginia Fair Housing Act (Va. Code Ann. § 36-96.1 et seq.) (Michie 1996) as amended.

(39-00-11; 46-02-11; 33-10-11.)

Section 11.1-3-24. Time Limitations.

- (a) A complaint filed under the provisions of this Article shall be dismissed by the Director if the complainant knew or should have known that the alleged violation of this Article ceased more than one year prior to the date of filing of the complaint.

- (b) If the Commission is unable to make a final disposition within 100 days after receipt of the complaint, the parties shall be notified in writing of the reasons for not doing so.

(33-10-11.)

Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of the Sleepy Hollow Road Walkway (Mason District)

ISSUE:

Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Sleepy Hollow Rd. Walkway - Columbia Pike to Route 7 (Mason District)

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for September 14, 2021, at 4:30 p.m.

TIMING:

Board action is requested on July 27, 2021, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:

This project consists of constructing 4,789 linear feet (LF) of concrete sidewalk which will provide a continuous pedestrian walkway along Sleepy Hollow Road, between Columbia Pike and Leesburg Pike. In addition to walkway improvements, this project will upgrade CG-12 curb ramps, install new curb and gutter, address drainage concerns within the project limits, and install a retaining wall.

Land rights for these improvements are required on 48 properties, 31 of which have been acquired by the Land Acquisition Division. The construction of this project requires the acquisition of dedications, storm drainage easements and the grading agreement and temporary construction easements.

Negotiations are in progress with the affected property owners; however, because resolution of these acquisitions is not imminent, it may be necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule. These powers are conferred upon the Board by statute, namely, Va. Code Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

Board Agenda Item
July 27, 2021

FISCAL IMPACT:

Funding is available in Project 2G40-088-028, County Six Year Plan (CSYP) Bike and Pedestrian Program, Fund 400-C40010, County and Regional Transportation Projects. This project is included in the FY 2022 – FY 2026 Adopted Capital Improvement Program (with future Fiscal Years to 2031) and is included in the Board's Transportation Priorities Plan (TPP) adopted on January 28, 2014, and as amended on December 3, 2019. No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

Attachment A through C - Project Location Maps
Attachment D - Listing of Affected Properties

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation
Christopher S. Herrington, Director, Department of Public Works and Environmental Services (DPWES)
Carey F. Needham, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:

Pamela K. Pelto, Assistant County Attorney



**SLEEPY HOLLOW ROAD
COLUMBIA PIKE TO ROUTE 7 (SHEET 1 OF 3)
Project 2G40-088-028**

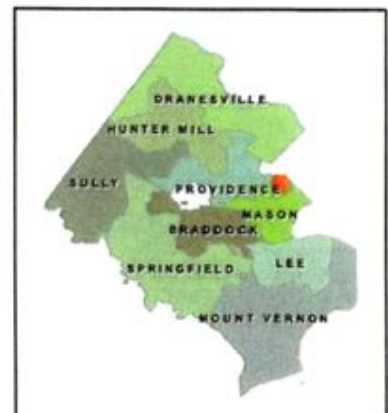
Tax Map: 051-3

Mason District

Affected Properties: 

Proposed Improvements: 

0 0.05 0.1 0.2 Miles






**SLEEPY HOLLOW ROAD
COLUMBIA PIKE TO ROUTE 7 (SHEET 2 OF 3)
Project 2G40-088-028**

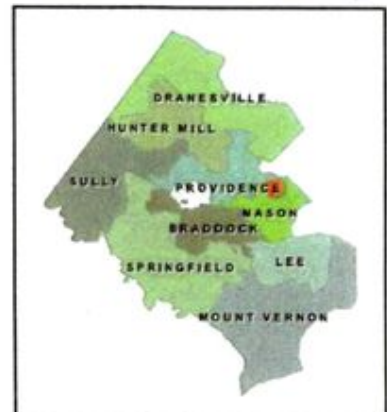
Tax Map: 051-3 - 060-2

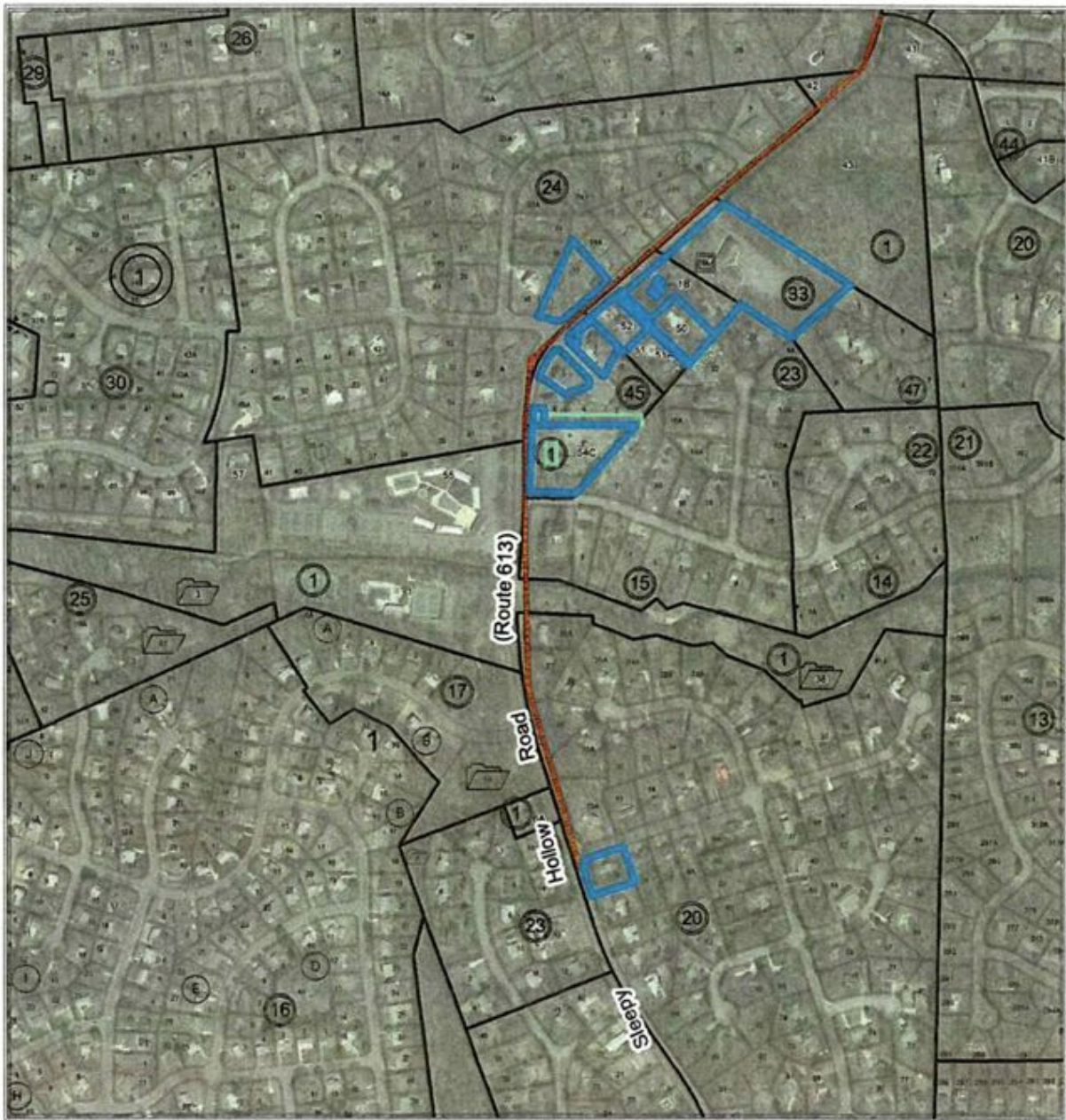
Mason District

Affected Properties: 

Proposed Improvements: 

0 5 10 20
Miles






**SLEEPY HOLLOW ROAD
COLUMBIA PIKE TO ROUTE 7 (SHEET 3 OF 3)
Project 2G40-088-028**

Tax Map: 060-2 - 060-4

Mason District

Affected Properties: 

Proposed Improvements: 



LISTING OF AFFECTED PROPERTIES
Project 2G40-088-028
Sleepy Hollow Rd, Walkway- Columbia Pike to Route 7
(Mason District)

<u>PROPERTY OWNER(S)</u>	<u>TAX MAP NUMBER(S)</u>
1. Sleepy Hollow Mews Homeowners Association	060-2-45-A
2. John A. Rapsis	060-2-17-0012
Address: 3232 Sleepy Hollow Road, Falls Church, VA 22042	
3. The Congressional School of Virginia	060-1-01-0005B
Address: 3229 Sleepy Hollow Road, Falls Church, VA 22042	
4. Katherine L. Mills Kathy L. Stroop	051-3-06-0054
Address: 6411 Overhill Road, Falls Church, VA 22042	
5. Seven Corners Place Professional Park	051-3-34-CONDO
6. Mellinium Center LLC	051-3-15-C
Address: 6319 Castle Place, Falls Church, VA 22044	
7. Seven Oaks Homeowners Association	051-3-31-2-0002B
8. Gregory M. Giammittorio	060-2-01-0050
Address: 3443 Sleepy Hollow Road, Falls Church, VA 22042	
9. Trustees of the Sleepy Hollow United Methodist Church	060-2-33-0001A
Address: 3435 Sleepy Hollow Road, Falls Church, VA 22042	

10. XBT, LLC 060-2-01-0041
Address:
3401 Malbrook Drive, Falls Church, VA 22042
11. Angel Uria 060-2-43-0001
Address:
3400 Malbrook Drive, Falls Church, VA 22042
12. Christopher J. Farrell 051-3-08-0001B
Address:
3132 Sleepy Hollow Road, Falls Church, VA 22042
13. Joel Torres-Otamendi 051-3-09-0001
Address:
3117 Sleepy Hollow Road, Falls Church, VA 22042
14. Greater Washington Home, LLC 051-3-07-0041
Address:
3104 Sleepy Hollow Road, Falls Church, VA 22042
15. Viet Q. Nguyen 051-3-07-0042
Address:
3102 Sleepy Hollow Road, Falls Church, VA 22042
16. Trustees of the Marilyn C. Gotschall Trust 051-3-07-0044
Address:
6420 Sleepy Ridge Road, Falls Church, VA 22042
17. Virginia Psychiatric Co. Inc. 051-3-01-0009A
Address:
2960 Sleepy Hollow Road, Falls Church, VA 22042

Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for Construction of Slipline Replacement #3 (Celadon Lane) (Mason District)

ISSUE:

Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Slipline Replacement #3 (Celadon Lane) (Mason District) in Project WW-000028, Gravity Sewers, Fund 69300, Sewer Construction Improvements.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for September 14, 2021, at 4:30 p.m.

TIMING:

Board action is requested on July 27, 2021, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:

This project, which is located primarily along Celadon Lane, involves the replacement of approximately 1,700 linear feet of defective 6-inch sanitary sewer pipes.

Land rights for these improvements are required on 27 properties, 8 of which have been acquired by the Land Acquisition Division. The construction of this project requires the acquisition of the sanitary sewer easements and the grading agreement and temporary construction easements.

Negotiations are in progress with the affected property owners; however, because resolution of these acquisitions is not imminent, it may be necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule. These powers are conferred upon the Board by statute, namely, Va. Code Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

Board Agenda Item
July 27, 2021

FISCAL IMPACT:

Funding is available in Project WW-000028, Gravity Sewers, Fund 69300, Sewer Construction Improvements. This project is included in the FY 2022 – FY 2026 Adopted Capital Improvement Program (With Future Fiscal Years to 2031). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

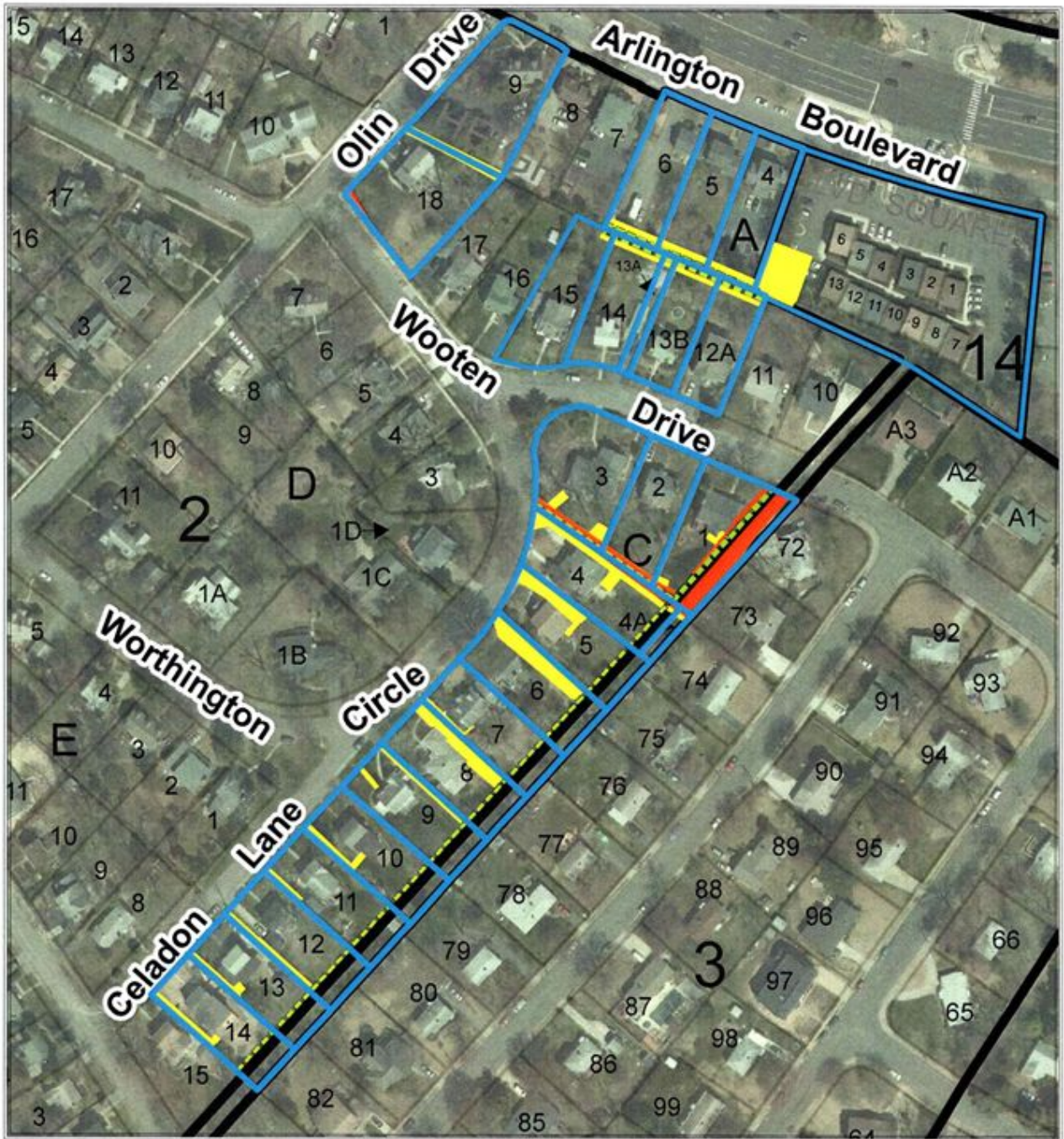
Attachments A through C - Project Location Maps
Attachment D - Listing of Affected Properties

STAFF:

Rachel Flynn, Deputy County Executive
Christopher S. Herrington, Director, Department of Public Works and Environmental Services (DPWES)
Carey F. Needham, Deputy Director, DPWES, Capital Facilities (CAP)
Magdi Imbabi, Director, DPWES, CAP, Wastewater Design and Construction Division

ASSIGNED COUNSEL:

Pamela K. Pelto, Assistant County Attorney



Slipline Replacement #3 (Celadon Lane)

Mason District

Tax Map#: 051-4

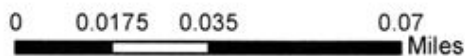
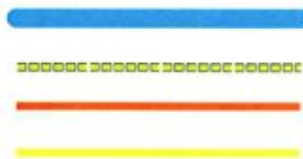
Project: WW-000028-002C

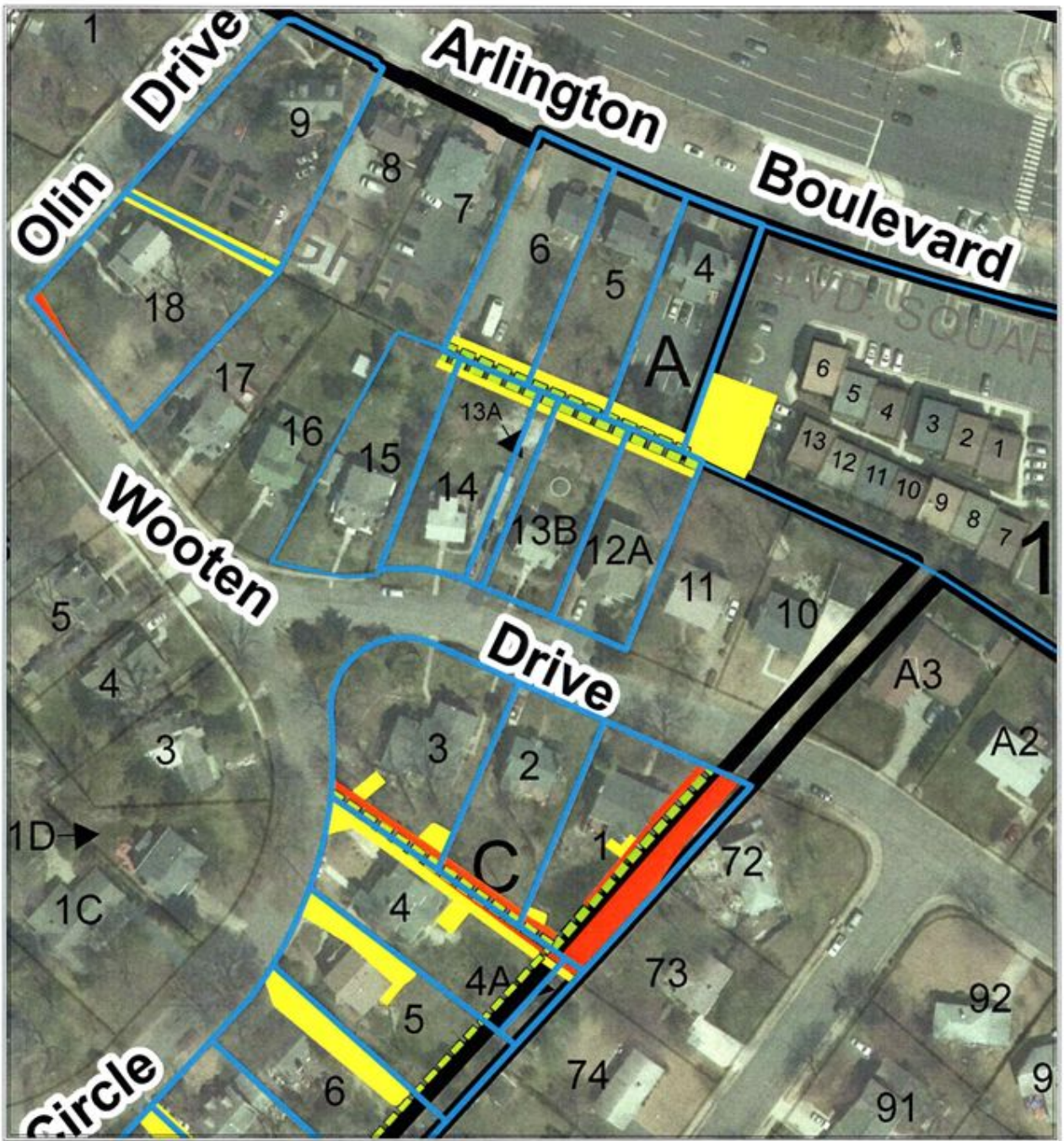
Affected Properties:

Existing Sanitary Easements

Prop. Sanitary Improvements:

**Temp. Construction Easement
& Grading Agreement:**





Slipline Replacement #3 (Celadon Lane)

Mason District

Tax Map#: 051-4

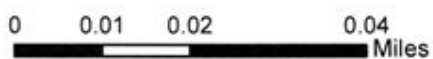
Project: WW-000028-002C

Affected Properties:

Existing Sanitary Easements

Prop. Sanitary Improvements:

Temp. Construction Easement
& Grading Agreement:





Slipline Replacement #3 (Celadon Lane)

Mason District

Tax Map#: 051-4

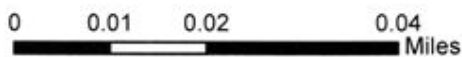
Project: WW-000028-002C

Affected Properties:

Existing Sanitary Easements

Prop. Sanitary Improvements:

Temp. Construction Easement
& Grading Agreement:



LISTING OF AFFECTED PROPERTIES
 Project WW-000028-002-C
 Slipline Replacement #3 (Celadon Lane)
 (Mason District)

<u>PROPERTY OWNER(S)</u>	<u>TAX MAP NUMBER(S)</u>
1. Shahid P. Ahmad Address: Adjacent to 6064 Wooten Drive, Falls Church, VA 22044	051-04-02-A-0013A
2. Shahid P. Ahmad Address: 6064 Wooten Drive, Falls Church, VA 22044	051-04-02-A-0014
3. Shahid P. Ahmad Address: 6066 Wooten Drive, Falls Church, VA 22044	051-04-02-A-0015
4. Christopher Bassler, Kayleen Gloor Address: 3105 Worthington Circle, Falls Church, VA 22044	051-04-02-C-0005
5. John Francis Battaglia Address: Parcel Adj. to Lt 4, Blk C, Sec. 3, Lee Boulevard Heights	051-4-02-C-0004-A
6. Boulevard Square Condominium c/o Barbara Turner, Community Manager Address: 6051 - 6059 Arlington Boulevard, Falls Church, VA 22044	051-4-14-CONDO

ATTACHMENT D

7. Rebecca L. Bowman, 051-04-02-A-0018
Vivek Shankar

Address:
3045 Olin Drive, Falls Church, VA 22044
8. Douglas Ralph Dawson 051-4-02-C-0013

Address:
3121 Celadon Lane, Falls Church, VA 22044
9. Gillian M. Dollard, 051-04-02-C-0006
Timothy James Dollard

Address:
3107 Worthington Circle, Falls Church, VA 22044
10. Eric Arthur Hanson, 051-04-02-C-0004
Joyce L. Hanson

Address:
3103 Worthington Circle, Falls Church, VA 22044
11. HRE, LLC 051-04-02-A-0004

Address:
6063 Arlington Blvd., Falls Church, VA 22044
12. Jennifer A. White, 051-04-02-C-0007
Neil R. Jenkins

Address:
3109 Worthington Circle, Falls Church, VA 22044
13. Alison E. Lawrence 051-04-02-A-0012-A

Address:
6058 Wooten Drive, Falls Church, VA 22044
14. Albert Lloyd, No TM# associated with this parcel
Julia M. Lloyd

Address:
Vacant strip of land adjacent to TM# 051-4-02-C-0004-A

ATTACHMENT D

15. Deirdre O'Hara, 051-04-02-C-0003
Hilary O'Hara,
Charles P. O'Hara,
Dorothy A. O'Hara
- Address:
3101 Worthington Circle, Falls Church, VA 22044
16. Adrienne Rose-Marie Raynor, 051-04-02-C-0011
Austin Raynor
- Address:
3117 Celadon Lane, Falls Church, VA 22044
17. Duane Scott Smith, 051-04-02-C-0010
Katie Elizabeth Kane
- Address:
3115 Celadon Lane, Falls Church, VA 22044
18. Homan Solemaninejad, 051-04-02-A-0005
AVIN, LLC
- Address:
6065 Arlington Boulevard, Falls Church, VA 22044
19. Homan Solemaninejad, 051-04-02-A-0006
AVIN, LLC
- Address:
6067 Arlington Boulevard, Falls Church, VA 22044

Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing on the County and Schools' FY 2021 Carryover Review to Amend the Appropriation Level in the FY 2022 Revised Budget Plan

ISSUE:

Board approval of an advertisement to increase the FY 2022 appropriation level. The advertisement encompasses both the County and the Schools' *FY 2021 Carryover Reviews*. Section 15.2 – 2507 of the Code of Virginia requires that a public hearing be held prior to Board Action.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to publish the advertisement for a public hearing to be held on October 5, 2021, at 10:30 a.m.

TIMING:

Board authorization is requested on July 27, 2021.

BACKGROUND:

As the *FY 2021 Carryover Review* includes potential increases in appropriation greater than 1 percent, a public hearing is required prior to Board action. In addition, the Code of Virginia requires that a synopsis of proposed changes be included in the advertisement for a public hearing.

Details of the proposed changes shown in the advertisement are provided to the Board in the enclosed *FY 2021 Carryover Review* documents.

The School Board funding adjustments included in the advertisement are based upon the School Board's actions on July 15, 2021.

ENCLOSED DOCUMENTS:

These attachments will be available online on Monday, July 26, 2021:

<https://www.fairfaxcounty.gov/budget/fy-2021-carryover-budget-package>

Attachment A: Proposed advertisement for public hearing

Board Agenda Item
July 27, 2021

Attachment B: July 26, 2021 Memorandum to the Board of Supervisors from Bryan J. Hill, County Executive, with attachments, transmitting the County's *FY 2021 Carryover Review* with appropriate resolutions

Attachment C: Fairfax County School Recommended FY 2021 Final Budget Review and Appropriation Resolutions

STAFF:

Bryan J. Hill, County Executive

Joseph M. Mondoro, Chief Financial Officer

Christina Jackson, Director, Department of Management and Budget

Philip Hagen, Deputy Director, Department of Management and Budget

Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 7

Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Grant Funding from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance for a FY 2021 Justice and Mental Health Collaboration Program Grant

ISSUE:

Board of Supervisors authorization is requested for the Fairfax-Falls Church Community Services Board (CSB) to apply for and accept grant funding, if received, from the Department of Justice, Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA) in the amount of \$550,000 for a Justice and Mental Health Collaboration Program grant. Funding will support 1/1.0 FTE new grant position to serve individuals with mental illness or co-occurring substance use disorders who are part of the Supervised Release Non-Compliance Docket (SRP Docket), a post-arrest diversion program as well as contracted mental health skill-building services in the community. The grant period is October 1, 2021, to September 30, 2024. There is a 20 percent local match requirement in years 1 and 2 and 40 percent local match requirement in year 3 which will be met with in-kind resources. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively per Board policy. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize the CSB to apply for and accept funding, if received, from the Department of Justice, OJP, BJA in the amount of \$550,000. Funding will support 1/1.0 FTE new grant position to serve individuals with mental illness or co-occurring substance use disorders who are part of the SRP Docket as well as contracted mental health skill-building services in the community. There is a 20 percent local match requirement in years 1 and 2 and 40 percent local match requirement in year 3 which will be met with in-kind resources. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Board Agenda Item
July 27, 2021

TIMING:

Board action is requested on July 27, 2021. Due to a grant application deadline of July 6, 2021, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn. The Fairfax-Falls Church Community Services Board reviewed the application on June 23, 2021.

BACKGROUND:

The BJA is seeking proposals for the Justice and Mental Health Collaboration Program to support innovative cross-system collaboration to serve individuals with mental illnesses or co-occurring mental health and substance abuse disorders who come into contact with the criminal justice system. BJA seeks to fund projects to facilitate collaboration among the criminal justice and mental health and substance abuse treatment systems to increase access to mental health and other treatment services for this population. This BJA funding supports and aligns with the *Stepping Up* Initiative, a national movement that includes Fairfax County, to reduce the number of people with mental illnesses and co-occurring mental health and substance abuse disorders in jails.

Funding will support 1/1.0 FTE new grant position who will serve individuals with mental illness or co-occurring substance use disorders who are part of the SRP Docket. The SRP Docket is for defendants who are on active pre-trial supervision, have mental health and/or substance use disorder, and are alleged to have violated their terms of probation, which includes treatment requirements. This senior clinician will work to connect individuals to community supports to help them with medication compliance, adherence to treatment and appointments and other approaches to build success in the community to reduce recidivism. Additional funds will go toward providing contracted mental health skill-building service in the community. The goal of mental health skill building is to enable individuals to achieve and maintain community stability and independence in the most appropriate, least restrictive environment. The remaining funds will be used for evaluation and implementation manual development, required by the funder. This proposal seeks to expand and diversify funding for Fairfax County's Diversion First efforts.

FISCAL IMPACT:

Federal funding of \$550,000 is being requested from the Department of Justice, OJP, BJA to serve individuals with mental illness or co-occurring substance use disorders who are part of the SRP Docket. The 20 percent local match requirement in years 1 and 2 and 40 percent local match requirement in year 3 will be met with in-kind resources. This grant does allow for the recovery of indirect costs; however, because

Board Agenda Item
July 27, 2021

of the highly competitive nature of the award, the CSB did not include indirect costs as part of the application. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2022.

CREATION OF NEW POSITIONS:

There is 1/1.0 FTE new grant position associated with this funding. The County is under no obligation to continue funding these positions when the grant funding expires.

ENCLOSED DOCUMENTS:

Attachment 1: Summary of Grant Proposal

STAFF:

Christopher A. Leonard, Deputy County Executive

Daryl Washington, Executive Director, Fairfax-Falls Church Community Services Board

**Justice and Mental Health Collaboration Program
Summary of Grant Proposal**

Grant Title:	Justice and Mental Health Collaboration Program
Funding Agency:	U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance
Applicant:	Fairfax-Falls Church Community Services Board (CSB)
Funding Amount:	Federal funding of \$550,000; there is a 20 percent local match requirement in years 1 and 2 and 40 percent local match requirement in year 3 which will be met with in-kind resources.
Proposed Use of Funds:	This grant project 1/1.0 FTE new Senior Clinician grant position will be established to serve individuals with mental illness or co-occurring substance use disorders who are part of the Supervised Release Non-Compliance Docket (SRP Docket), a post-arrest diversion program. The SRP Docket is for defendants who are on active pre-trial supervision, have mental health and/or substance use disorder, and are alleged to have violated their terms of probation, which includes treatment requirements. This position will work to connect individuals to community supports to help them with medication compliance, adherence to treatment and appointments and other approaches to build success in the community to reduce recidivism. Additional funds will go toward providing contracted mental health skill-building service in the community. The goal of mental health skill building is to enable individuals to achieve and maintain community stability and independence in the most appropriate, least restrictive environment. The remaining funds will be used for evaluation and implementation manual development, required by the funder.
Performance Measures:	<p>Develop a required Planning and Implementation Guide to be completed within 6 months of project approval.</p> <p>Establish 1 Senior Clinician position to expand the Supervised Release Non-Compliance Docket and enhance operations to better triage individual by their level and need and monitor docket compliance.</p> <p>Monitor treatment compliance for approximately 285 individuals served annually and provide more intensive support for approximately 50 individuals identified as needing a high-level of support to stay in compliance.</p>

Enhance connections to needed services and supports to support competency and compliance with the SRP Docket.

Assure tracking systems obtain relevant data related to individuals served by staff and demonstrate effectiveness of interventions that help support people considered high risk for recidivism. Use a third-party evaluator to reduce bias in data collection.

Develop policies and practices to support this effort and help sustain change after the funding period ends.

Reduce non-compliance with SRP Docket requirements for docket participants, lowering recidivism.

Grant Period:

October 1, 2021 – September 30, 2024

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ADMINISTRATIVE - 8

Supplemental Appropriation Resolution AS 22006 for the Department of Neighborhood and Community Services to Accept One-Time Funding in Response to the COVID-19 Pandemic from the U.S. Department of Health and Human Services Associated with the Head Start, Early Head Start, and Early Head Start Child Care Partnership Grants

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 22006 in the amount of \$1,069,193 is requested for the Department of Neighborhood and Community Services (NCS) to accept an award from the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Head Start. The County has specifically been awarded \$854,301 in one-time funding under the American Rescue Plan Act of 2021 (ARPA) and \$214,892 in one-time funding under the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) for a total of \$1,069,193.

Funds will be used to carry out activities under the Head Start Act to prevent, prepare for, and respond to COVID-19. NCS will administer the ARPA and CRRSA funds and provide direct funding to support high quality early childhood education and comprehensive family support services for children enrolled in Head Start, Early Head Start, and Early Head Start Child Care Partnership programs in the community, including centers and family child care homes. The grant period is April 1, 2021 to March 31, 2023. No Local Cash Match is required. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive, and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Additionally, Board approval is requested for NCS to request an 11-month no-cost extension to the program year 2021 Head Start and Early Head Start grant. Program year 2021 is the fifth year of the five-year Head Start and Early Head Start project period ending June 30, 2021. Due to COVID-19 restrictions on program operations, the program was unable to fully spend down the funds. The extension will allow the remaining funds to be spent through May 31, 2022.

RECOMMENDATION:

The County Executive recommends that the Board approve Supplemental Appropriation Resolution AS 22006 in the amount of \$1,069,193 from the U.S. Department of Health

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and Human Services Administration for Children and Families, Office of Head Start under the ARPA and CRRSA funding opportunities. NCS will use the funds to carry out activities under the Head Start Act to prevent, prepare for, and respond to COVID-19. There are no positions associated with this funding and no Local Cash Match is required. The County Executive also recommends the Board authorize NCS to request an 11-month no-cost extension for the remaining funds in the program year 2021 Head Start and Early Head Start program under the five-year project period ending June 30, 2021, and authorize the Chairman of the Board of Supervisors, the County Executive, and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:

Board approval is requested on July 27, 2021.

BACKGROUND:

Head Start and Early Head Start are national child and family development programs that provide quality early childhood education and comprehensive family support services to income eligible families with children birth to five years of age and expectant parents.

The Coronavirus Response and Relief Supplemental Appropriations Act includes \$250 million for Head Start programs to continue their response to COVID-19. All Head Start, Early Head Start, and Early Head Start-Child Care (EHS-CC) Partnership grantees are eligible to receive additional funds to continue responding to COVID-19. Each grantee was able to apply for a proportionate amount of the \$250 million based on their total funded enrollment. The purpose of these supplemental funds is the same as that of the CARES Act funds: to prevent, prepare for, and respond to COVID-19. Within these parameters, grantees have flexibility to determine which investments best support the needs of children and families while adhering to state and local guidance.

President Biden signed Public Law 117-2, the American Rescue Plan Act of 2021, into law on March 11, 2021. The \$1.9 trillion American Rescue Plan includes \$1 billion for Head Start programs. All Head Start, Early Head Start, and EHS-CC Partnership grantees are eligible to receive additional funds proportionally based on funded enrollment levels. When combined with the \$750 million in the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the \$250 million in supplemental funds in the Coronavirus Response and Relief Supplemental Appropriations Act, the Head Start program has received a total of \$2 billion nationally in additional funding to support staff, children, and families during this unprecedented time.

Board Agenda Item
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Head Start and Early Head Start funds are awarded in five-year project periods, and program year 2021 was the fifth year of the County's project period. Due to program restrictions as a result of COVID-19, the program was unable to fully spend the funds that were awarded for the period ending June 30, 2021. Head Start programs throughout the country have been impacted similarly by the pandemic and programs have been given the opportunity to request a no-cost extension in order to utilize the remaining funds to support critical program needs. NCS is requesting an extension through May 31, 2022.

FISCAL IMPACT:

Total funding in the amount of \$1,069,193 is available from the Department of Health and Human Services Administration for Children and Families, Office of Head Start under the ARPA and CRRSA. These funds will be used to carry out activities under the Head Start Act to prevent, prepare for, and respond to COVID-19. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated awards received in FY 2022. Indirect costs are recoverable for this award but have not been requested due to the administrative cost cap outlined in the Head Start Act. No Local Cash Match is required. There is no fiscal impact associated with the 11-month no-cost extension, as these funds have already been appropriated.

CREATION OF NEW POSITIONS:

No new positions will be created as a result of this award.

ENCLOSED DOCUMENTS:

Attachment 1: Funding Notification #03HE000967-01-00 CRRSA
Attachment 2: Funding Notification #03HE000967-01-01 ARPA
Attachment 3: Supplemental Appropriation Resolution AS 22006

STAFF:

Christopher A. Leonard, Deputy County Executive
Lloyd Tucker, Director, Department of Neighborhood and Community Services (NCS)
Anne-Marie Twohie, Director, Office for Children, NCS



Department of Health and Human Services

Administration for Children and Families

Notice of Award

Award# 03HE000967-01-00

FAIN# 03HE000967

Federal Award Date: 04/27/2021

Recipient Information

1. Recipient Name

COUNTY OF FAIRFAX
12000 Government Center Pkwy Ste 214
Fairfax, VA 22035-0001
703-324-8087

2. Congressional District of Recipient

11

3. Payment System Identifier (ID)

1540787833A2

4. Employer Identification Number (EIN)

540787833

5. Data Universal Numbering System (DUNS)

074837626

6. Recipient's Unique Entity Identifier
7. Project Director or Principal Investigator

Ms. JENNIFER BRANCH
JENNIFER.BRANCH@FAIRFAXCOUNTY.GOV
703-324-8087

8. Authorized Official

Mr. JEFFREY MCKAY
Chairman, Board of Supervisors
CHAIRMAN@fairfaxcounty.gov
(703) 971-6262

Federal Agency Information

ACF/OHS Region III Grants Office

9. Awarding Agency Contact Information

Trisha Smith
Grants Officer
trisha.smith@acf.hhs.gov
215-861-4742

10. Program Official Contact Information

Mrs. Brenda R Hewitt
Regional Program Manager, Region 3
Brenda.Hewitt@acf.hhs.gov
215-861-4743

Federal Award Information

11. Award Number

03HE000967-01-00

12. Unique Federal Award Identification Number (FAIN)

03HE000967

13. Statutory Authority

42 USC 9801 ET SEQ

14. Federal Award Project Title

COVID (P.L. 116-260)

15. Assistance Listing Number

93.600

16. Assistance Listing Program Title

Head Start

17. Award Action Type

New

18. Is the Award R&D?

No

Summary Federal Award Financial Information

19. Budget Period Start Date	04/01/2021	- End Date	03/31/2023
20. Total Amount of Federal Funds Obligated by this Action			\$214,892.00
20a. Direct Cost Amount			\$214,892.00
20b. Indirect Cost Amount			\$0.00
21. Authorized Carryover			\$0.00
22. Offset			\$0.00
23. Total Amount of Federal Funds Obligated this budget period			\$0.00
24. Total Approved Cost Sharing or Matching, where applicable			\$0.00
25. Total Federal and Non-Federal Approved this Budget Period			\$214,892.00
26. Project Period Start Date	04/01/2021	- End Date	03/31/2023
27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Project Period			Not Available

28. Authorized Treatment of Program Income

Additional Costs

29. Grants Management Officer - Signature

Trisha Smith
Grants Officer

30. Remarks



Recipient Information
Recipient Name COUNTY OF FAIRFAX 12000 Government Center Pkwy Ste 214 Fairfax, VA 22035-0001 703-324-8087
Congressional District of Recipient 11
Payment Account Number and Type 1540787833A2
Employer Identification Number (EIN) Data 540787833
Universal Numbering System (DUNS) 074837626
Recipient's Unique Entity Identifier Not Available
31. Assistance Type Project Grant
32. Type of Award Service

33. Approved Budget (Excludes Direct Assistance)	
I. Financial Assistance from the Federal Awarding Agency Only	
II. Total project costs including grant funds and all other financial participation	
a. Salaries and Wages	\$0.00
b. Fringe Benefits	\$0.00
c. Total Personnel Costs	\$0.00
d. Equipment	\$0.00
e. Supplies	\$50,000.00
f. Travel	\$0.00
g. Construction	\$0.00
h. Other	\$35,474.00
i. Contractual	\$129,418.00
j. TOTAL DIRECT COSTS	\$214,892.00
k. INDIRECT COSTS	\$0.00
l. TOTAL APPROVED BUDGET	\$214,892.00
m. Federal Share	\$214,892.00
n. Non-Federal Share	\$0.00

34. Accounting Classification Codes					
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	OBJECT CLASS	AMT ACTION FINANCIAL ASSISTANCE	APPROPRIATION
1-G031100	03HE00096701C5	ACFOHS	41.51	\$214,892.00	75-21-1536



35. Terms And Conditions

STANDARD TERMS

1. Paid by DHHS Payment Management System (PMS), see attached for payment information. This award is subject to the requirements of the HHS Grants Policy Statement (HHS GPS) that are applicable to you based on your recipient type and the purpose of this award.

This includes requirements in Parts I and II (available at <http://www.hhs.gov/grants/grants/policies-regulations/index.html>) of the HHS GPS. Although consistent with the HHS GPS, any applicable statutory or regulatory requirements, including 45 CFR Part 75, directly apply to this award apart from any coverage in the HHS GPS. This award is subject to requirements or limitations in any applicable Appropriations Act. This award is subject to the requirements of Section 106 (g) of the trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term, go to <http://www.acf.hhs.gov/discretionary-post-award-requirements>

This award is subject to the Federal Financial Accountability and Transparency Act (FFATA or Transparency) of 2006 subaward and executive compensation reporting requirements. For the full text of the award term, go to <http://www.acf.hhs.gov/discretionary-post-award-requirements>. This award is subject to requirements as set forth in 2 CFR 25.110 Central Contractor Registration (CCR) and DATA Universal Number System (DUNS). For full text go to <http://www.acf.hhs.gov/discretionary-post-award-requirements>

Consistent with 45 CFR 75.113, applicants and recipients must disclose in a timely manner, in writing to the HHS awarding agency, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the awarding agency and to the HHS OIG at the following addresses:

The Administration for Children for Children and Families U.S. Department of Health and Human Services Office of Grants Management ATTN: Grants Management Specialist 330 C Street, SW., Switzer Building Corridor 3200 Washington, DC 20201 AND
U.S. Department of Health and Human Services Office of Inspector General ATTN: Mandatory Grant Disclosures, Intake Coordinator 330 Independence Avenue, SW, Cohen Building Room 5527 Washington, DC 20201 Fax: (202) 205-0604 (Include "Mandatory Grant Disclosures" in subject line) or Email: MandatoryGranteeDisclosures@oig.hhs.gov
Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

This award is subject to the requirements as set forth in 45 CFR Part 87. This award is subject to HHS regulations codified at 45 CFR Chapter XIII, Parts 1301, 1302, 1303, 1304 and 1305. Attached are terms and conditions, reporting requirements, and payment instructions. Initial expenditure of funds by the grantee constitutes acceptance of this award.

REPORTING REQUIREMENTS

1. **Federal Reporting Requirements for Head Start CRRSA and ARP Grant Awards**



Department of Health and Human Services

Administration for Children and Families

Notice of Award

Award# 03HE000967-01-00

FAIN# 03HE000967

Federal Award Date: 04/27/2021

Federal Financial Report (SF-425):

Federal Financial Reports (SF-425) must be submitted in the Payment Management System (PMS) based on the reporting schedule below:

1. C5 (CRRSA) Annual FFR 4/1/2021 – 3/31/2022: due by 7/30/2022
2. C6 (ARP) Annual FFR 4/1/2021 – 3/31/2022: due by 7/30/2022
3. C5 (CRRSA) Final FFR 4/1/2021 – 3/31/2023: due by 6/29/2023
4. C6 (ARP) Final FFR 4/1/2021 – 3/31/2023: due by 6/29/2023

FFR Grantee User Guide: <https://pms.psc.gov/pms-user-guide/federal-financial-report.html>

For support using the Payment Management System, contact your PMS Liaison Accountant: <https://pms.psc.gov/find-pms-liaison-accountant.html>

Federal Cash Transaction Report (FFR-FCTR-425):

The Federal Cash Transaction Report (FCTR – Disbursements, lines 10a - 10c), **FFR-FCTR** (Disbursements) must be prepared and certified as follows:

- Disbursements January 1 – March 31: certify by April 30
- Disbursements April 1 – June 30: certify by July 30
- Disbursements July 1 – September 30: certify by October 30
- Disbursements October 1 – December 31: certify by January 30

If the FCTR is not certified 10 days after the due date, funds will be frozen until the report has been submitted.

FCTR Guidance: <https://pms.psc.gov/pms-user-guide/federal-cash-transaction-report.html>

Performance Progress Report:

This award is subject to performance progress reporting as indicated in 45 CFR 75.342. Additional information will be forthcoming as to the reporting requirements and frequency.

Tangible Personal Property Report (SF-428):

This award is subject to the submission of a Tangible Personal Property Report SF-428 and SF-428B, and as necessary, SF-428S, at closeout. This report is due on the same date the final SF-425 Federal Financial report is due. Please review the chart in the **Federal Financial Report (SF-425)** section of these reporting requirements for the due date. Completed copies of the SF-428 reports must be uploaded to the specified folders in the Grant Notes section of GrantSolutions.

Downloadable version of SF-428 can be found at <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>.

Real Property Standard Form (SF-429):

The submission of the SF-429 Attachment A No Property report is not required for CRRSA



Department of Health and Human Services

Administration for Children and Families

Notice of Award

Award# 03HE000967-01-00

FAIN# 03HE000967

Federal Award Date: 04/27/2021

and ARP grant awards where there is no covered real property.

If funds from this award are used for any purpose requiring a 45 CFR Part 1303 application (purchase, construction, major renovation), submission of applicable SF-429 with supporting documentation is required. A SF-429 Attachment B and/or Attachment C is required upon approval of the 1303 application for purchase, construction, or major renovation.

Grantees with covered real property must submit reports at least annually on the status of real property in which OHS holds a Federal interest. Grantees with real property with federal interest must submit the SF-429 Attachment C along with supporting documentation to request transfer of property and record to the grantee's CH or HP grant program (or, if applicable, the OHS eligible designated new entity that will continue the intended purpose of property) at closeout on the same date as the final SF-425 Federal Financial report is due.

- 1. Annual Real Property Status for 4/1/2021 – 3/31/2022: due as an Attachment to the Annual SF-425 in Payment Management System by 7/30/2022**
- 2. Annual Real Property Status for 4/1/2021 – 3/31/2023: due as the SF-429A in the On-Line Data Collection System by 4/30/2023**
- 3. Transfer of Real Property: due as the SF-429C in the On-Line Data Collection System by 6/29/2023**

AWARD ATTACHMENTS

COUNTY OF FAIRFAX

03HE000967-01-00

1. COVID (P.L. 116-260) Remarks

30. REMARKS (Continued from previous page)

This action awards one-time funds under Common Accounting Number (CAN) 1100 for activities pertaining to the prevention, preparation, and/or response to the coronavirus disease (COVID-19). COVID-19 funds can be used for costs incurred from December 27, 2020 in response to the public health emergency.

If applicable, this action approves the purchase of equipment identified on the 'Equipment' object class category.

If applicable, this action approves a non-federal match waiver for the federal funds awarded.



Notice of Award

Award# 03HE000967-01-01

FAIN# 03HE000967

Federal Award Date: 05/26/2021

Recipient Information

1. Recipient Name
COUNTY OF FAIRFAX
12000 Government Center Pkwy Ste 214
Fairfax, VA 22035-0001
703-324-8087

2. Congressional District of Recipient
11

3. Payment System Identifier (ID)
1540787833A2

4. Employer Identification Number (EIN)
540787833

5. Data Universal Numbering System (DUNS)
074837626

6. Recipient's Unique Entity Identifier

7. Project Director or Principal Investigator
Ms. JENNIFER BRANCH
JENNIFER.BRANCH@FAIRFAXCOUNTY.GOV
703-324-8087

8. Authorized Official
Mr. JEFFREY MCKAY
Chairman, Board of Supervisors
CHAIRMAN@fairfaxcounty.gov
(703) 971-6262

Federal Agency Information
ACF/OHS Region III Grants Office

9. Awarding Agency Contact Information
Trisha Smith
Grants Officer
trisha.smith@acf.hhs.gov
215-861-4742

10. Program Official Contact Information
Mrs. Brenda R Hewitt
Regional Program Manager, Region 3
Brenda.Hewitt@acf.hhs.gov
215-861-4743

Federal Award Information

11. Award Number
03HE000967-01-01

12. Unique Federal Award Identification Number (FAIN)
03HE000967

13. Statutory Authority
42 USC 9801 ET SEQ

14. Federal Award Project Title
American Rescue Plan

15. Assistance Listing Number
93.600

16. Assistance Listing Program Title
Head Start

17. Award Action Type
Supplement

18. Is the Award R&D?
No

Summary Federal Award Financial Information

19. Budget Period Start Date	04/01/2021	- End Date	03/31/2023
20. Total Amount of Federal Funds Obligated by this Action	\$854,301.00		
20a. Direct Cost Amount	\$854,301.00		
20b. Indirect Cost Amount	\$0.00		
21. Authorized Carryover	\$0.00		
22. Offset	\$0.00		
23. Total Amount of Federal Funds Obligated this budget period	\$214,892.00		
24. Total Approved Cost Sharing or Matching, where applicable	\$0.00		
25. Total Federal and Non-Federal Approved this Budget Period	\$1,069,193.00		
26. Project Period Start Date	04/01/2021	- End Date	03/31/2023
27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Project Period	Not Available		

28. Authorized Treatment of Program Income
Additional Costs

29. Grants Management Officer - Signature
Trisha Smith
Grants Officer

30. Remarks



Recipient Information
Recipient Name COUNTY OF FAIRFAX 12000 Government Center Pkwy Ste 214 Fairfax, VA 22035-0001 703-324-8087
Congressional District of Recipient 11
Payment Account Number and Type 1540787833A2
Employer Identification Number (EIN) Data 540787833
Universal Numbering System (DUNS) 074837626
Recipient's Unique Entity Identifier Not Available
31. Assistance Type Project Grant
32. Type of Award Service

33. Approved Budget (Excludes Direct Assistance)	
I. Financial Assistance from the Federal Awarding Agency Only	
II. Total project costs including grant funds and all other financial participation	
a. Salaries and Wages	\$0.00
b. Fringe Benefits	\$0.00
c. Total Personnel Costs	\$0.00
d. Equipment	\$0.00
e. Supplies	\$144,806.00
f. Travel	\$0.00
g. Construction	\$0.00
h. Other	\$135,474.00
i. Contractual	\$788,913.00
j. TOTAL DIRECT COSTS	\$1,069,193.00
k. INDIRECT COSTS	\$0.00
l. TOTAL APPROVED BUDGET	\$1,069,193.00
m. Federal Share	\$1,069,193.00
n. Non-Federal Share	\$0.00

34. Accounting Classification Codes					
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	OBJECT CLASS	AMT ACTION FINANCIAL ASSISTANCE	APPROPRIATION
1-G031200	03HE00096701C6	ACFOHS	41.51	\$854,301.00	75-2122-1536



35. Terms And Conditions

STANDARD TERMS

1. Paid by DHHS Payment Management System (PMS), see attached for payment information. This award is subject to the requirements of the HHS Grants Policy Statement (HHS GPS) that are applicable to you based on your recipient type and the purpose of this award.

This includes requirements in Parts I and II (available at <http://www.hhs.gov/grants/grants/policies-regulations/index.html>) of the HHS GPS. Although consistent with the HHS GPS, any applicable statutory or regulatory requirements, including 45 CFR Part 75, directly apply to this award apart from any coverage in the HHS GPS. This award is subject to requirements or limitations in any applicable Appropriations Act. This award is subject to the requirements of Section 106 (g) of the trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term, go to <http://www.acf.hhs.gov/discretionary-post-award-requirements>

This award is subject to the Federal Financial Accountability and Transparency Act (FFATA or Transparency) of 2006 subaward and executive compensation reporting requirements. For the full text of the award term, go to <http://www.acf.hhs.gov/discretionary-post-award-requirements>. This award is subject to requirements as set forth in 2 CFR 25.110 Central Contractor Registration (CCR) and DATA Universal Number System (DUNS). For full text go to <http://www.acf.hhs.gov/discretionary-post-award-requirements>

Consistent with 45 CFR 75.113, applicants and recipients must disclose in a timely manner, in writing to the HHS awarding agency, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the awarding agency and to the HHS OIG at the following addresses:

The Administration for Children for Children and Families U.S. Department of Health and Human Services Office of Grants Management ATTN: Grants Management Specialist 330 C Street, SW., Switzer Building Corridor 3200 Washington, DC 20201 AND
U.S. Department of Health and Human Services Office of Inspector General ATTN: Mandatory Grant Disclosures, Intake Coordinator 330 Independence Avenue, SW, Cohen Building Room 5527 Washington, DC 20201 Fax: (202) 205-0604 (Include "Mandatory Grant Disclosures" in subject line) or Email: MandatoryGranteeDisclosures@oig.hhs.gov
Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

This award is subject to the requirements as set forth in 45 CFR Part 87. This award is subject to HHS regulations codified at 45 CFR Chapter XIII, Parts 1301, 1302, 1303, 1304 and 1305. Attached are terms and conditions, reporting requirements, and payment instructions. Initial expenditure of funds by the grantee constitutes acceptance of this award.

REPORTING REQUIREMENTS

1. **Federal Reporting Requirements for Head Start CRRSA and ARP Grant Awards**



Department of Health and Human Services

Administration for Children and Families

Notice of Award

Award# 03HE000967-01-01

FAIN# 03HE000967

Federal Award Date: 05/26/2021

Federal Financial Report (SF-425):

Federal Financial Reports (SF-425) must be submitted in the Payment Management System (PMS) based on the reporting schedule below:

1. **C5 (CRRSA) Annual FFR 4/1/2021 – 3/31/2022:** **due by 7/30/2022**
2. **C6 (ARP) Annual FFR 4/1/2021 – 3/31/2022:** **due by 7/30/2022**
3. **C5 (CRRSA) Final FFR 4/1/2021 – 3/31/2023:** **due by 7/30/2023**
4. **C6 (ARP) Final FFR 4/1/2021 – 3/31/2023:** **due by 7/30/2023**

FFR Grantee User Guide: <https://pms.psc.gov/pms-user-guide/federal-financial-report.html>

For support using the Payment Management System, contact your PMS Liaison Accountant: <https://pms.psc.gov/find-pms-liaison-accountant.html>

Federal Cash Transaction Report (FFR-FCTR-425):

The Federal Cash Transaction Report (FCTR – Disbursements, lines 10a - 10c), **FFR-FCTR** (Disbursements) must be prepared and certified as follows:

- **Disbursements January 1 – March 31:** **certify by April 30**
- **Disbursements April 1 – June 30:** **certify by July 30**
- **Disbursements July 1 – September 30:** **certify by October 30**
- **Disbursements October 1 – December 31:** **certify by January 30**

If the FCTR is not certified 10 days after the due date, funds will be frozen until the report has been submitted.

FCTR Guidance: <https://pms.psc.gov/pms-user-guide/federal-cash-transaction-report.html>

Performance Progress Report:

This award is subject to performance progress reporting as indicated in 45 CFR 75.342, and will occur at least annually. Additional information will be forthcoming as to the reporting requirements and frequency.

Tangible Personal Property Report (SF-428):

This award is subject to the submission of a Tangible Personal Property Report SF-428 and SF-428B, and as necessary, SF-428S, at closeout. This report is due on the same date the final SF-425 Federal Financial report is due. Please review the chart in the **Federal Financial Report (SF-425)** section of these reporting requirements for the due date. Completed copies of the SF-428 reports must be uploaded to the specified folders in the Grant Notes section of GrantSolutions.

Downloadable version of SF-428 can be found at <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>.

Real Property Standard Form (SF-429):



Department of Health and Human Services

Administration for Children and Families

Notice of Award

Award# 03HE000967-01-01

FAIN# 03HE000967

Federal Award Date: 05/26/2021

The submission of the SF-429 Attachment A No Property report is not required for CRRSA and ARP grant awards where there is no covered real property.

If funds from this award are used for any purpose requiring a 45 CFR Part 1303 application (purchase, construction, major renovation), submission of applicable SF-429 with supporting documentation is required. A SF-429 Attachment B and/or Attachment C is required upon approval of the 1303 application for purchase, construction, or major renovation.

Grantees with covered real property must submit reports at least annually on the status of real property in which OHS holds a Federal interest. Grantees with real property with federal interest must submit the SF-429 Attachment C along with supporting documentation to request transfer of property and record to the grantee's CH or HP grant program (or, if applicable, the OHS eligible designated new entity that will continue the intended purpose of property) at closeout on the same date as the final SF-425 Federal Financial report is due.

- 1. Annual Real Property Status for 4/1/2021 – 3/31/2022: due as an Attachment to the Annual SF-425 in Payment Management System by 7/30/2022**
- 2. Annual Real Property Status for 4/1/2021 – 3/31/2023: due as the SF-429A in the On-Line Data Collection System by 4/30/2023**
- 3. Transfer of Real Property: due as the SF-429C in the On-Line Data Collection System by 7/30/2023**

AWARD ATTACHMENTS

COUNTY OF FAIRFAX

03HE000967-01-01

1. ARP Remarks

30. Remarks (continued from previous page)

This action awards one-time supplemental funds authorized under the American Rescue Plan Act 2021, P.L. 117-2 for the provision of approved services defined under the Head Start Act, to include activities outlined in Program Instruction ACF-PI-HS-21-03 to further support in-person services. The amount of this award is identified in Field 34 of this Notice of Award and charged to Account Number 1200, which includes the suffix "C6." All funds for expenditures under this C6 subaward must be disbursed from the corresponding account in the Payment Management System.

This action approves the purchase of equipment identified on the 'Equipment' object class category, if applicable.

This action approves a non-federal match waiver for the federal funds awarded, if applicable.

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 22006

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax Virginia on July 27, 2021, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2022, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund:	500-C50000, Federal-State Grant Fund	
Agency:	G7979, Department of Neighborhood and Comm Svcs.	
Grant:	1CV7905-2022, Head Start ARPA Funds	\$854,301
	1CV7906-2022, Head Start CRRSA Funds	\$214,892

Reduce Appropriation to:

Agency:	G8787, Unclassified Administrative Expenses	\$1,069,193
Fund:	500-C50000, Federal-State Grant Fund	

Source of Funds: U.S. Department of Health and Human Services, \$1,069,193

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 9

Authorization to Advertise a Public Hearing for the Enlargement of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Services (Mason District)

ISSUE:

Board of Supervisors' authorization to advertise a Public Hearing for the Enlargement of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Services.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of a public hearing at 3:30 p.m. on Tuesday, October 5, 2021, to consider the following change to small and local sanitary districts for refuse/recycling and/or leaf collection service in accordance with the Board of Supervisor's adopted criteria for the creation of Small or Local Sanitary Districts.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Small District 2 Within Mason District (Pleasant Ridge Area)	Enlarge	Refuse, Recycling, & Vacuum Leaf	Approve

TIMING:

Board of Supervisors' authorization to advertise on July 27, 2021, is required for a Public Hearing to be held on October 5, 2021, at 3:30 p.m.

BACKGROUND:

The administrative responsibility for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts in the County of Fairfax for refuse/recycling and/or leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings. Prior to any action by the Board of Supervisors on a proposed small or local sanitary district, certain relevant standards and criteria must be met in accordance with the Board of Supervisors' adopted criteria for the

Board Agenda Item
July 27, 2021

Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts.

The submitted petition has been reviewed, and it has been determined that the petition meets the Board of Supervisors' Adopted Criteria. Staff recommends that authorization to advertise a public hearing for the enlargement of small and/or local sanitary districts for refuse/recycling and vacuum leaf collection be approved. If approved, the modification will become permanent on January 1, 2022.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Summary Sheet
Attachment 2: Data Sheet with Proposed Resolution and Map (Pleasant Ridge Area)

STAFF:
Rachel Flynn, Deputy County Executive
Christopher S. Herrington, Director, Department of Public Works and Environmental Services (DPWES)
John W. Kellas, Deputy Director, DPWES

Board Agenda Item
July 27, 2021

Attachment 1

SUMMARY SHEET

Proposed alterations to the following small and local sanitary districts for refuse/recycling and/or leaf collection service:

1. Enlarge Small District 2 within Mason District for the purpose of providing refuse/recycling and vacuum leaf Collection Services to Pleasant Ridge Area.

DATA SHEET
Enlarge
Small District 2
Within the Mason District

Purpose: To provide County Refuse/Recycling and Vacuum Leaf Collection Service to the Pleasant Ridge area.

- Petition requesting service received July 9, 2019.
- Petition Area: 109 Properties.
- 71 Property Owners in favor.
- 26 property owners opposed.
- 12 Non-responsive / unable to contact.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved, effective January 1, 2022.

Board Agenda Item
July 27, 2021

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO ENLARGE
SMALL DISTRICT 2
WITHIN MASON DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of July, 2021, it was proposed by said Board to adopt a resolution to enlarge a small district known as Small District 2 within Mason District to include Pleasant Ridge area for the purpose of providing for refuse/recycling and vacuum leaf collection to be effective January 1, 2022, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
October 5, 2021
COMMENCING AT 3:30 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section 15.2-858, as amended, provides for, among other things, the Creation by the Board of Supervisors of Fairfax County, Virginia, of a small/local sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by enlarging the small sanitary district for the purpose of providing for refuse/recycling and vacuum leaf collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed enlargement of a small sanitary district, pursuant to Virginia Code Section 15.2-858, as amended, to be known as Small District 2 within Mason District, Fairfax

Board Agenda Item
July 27, 2021

County, Virginia, which said enlargement of the small sanitary district shall be described as follows:

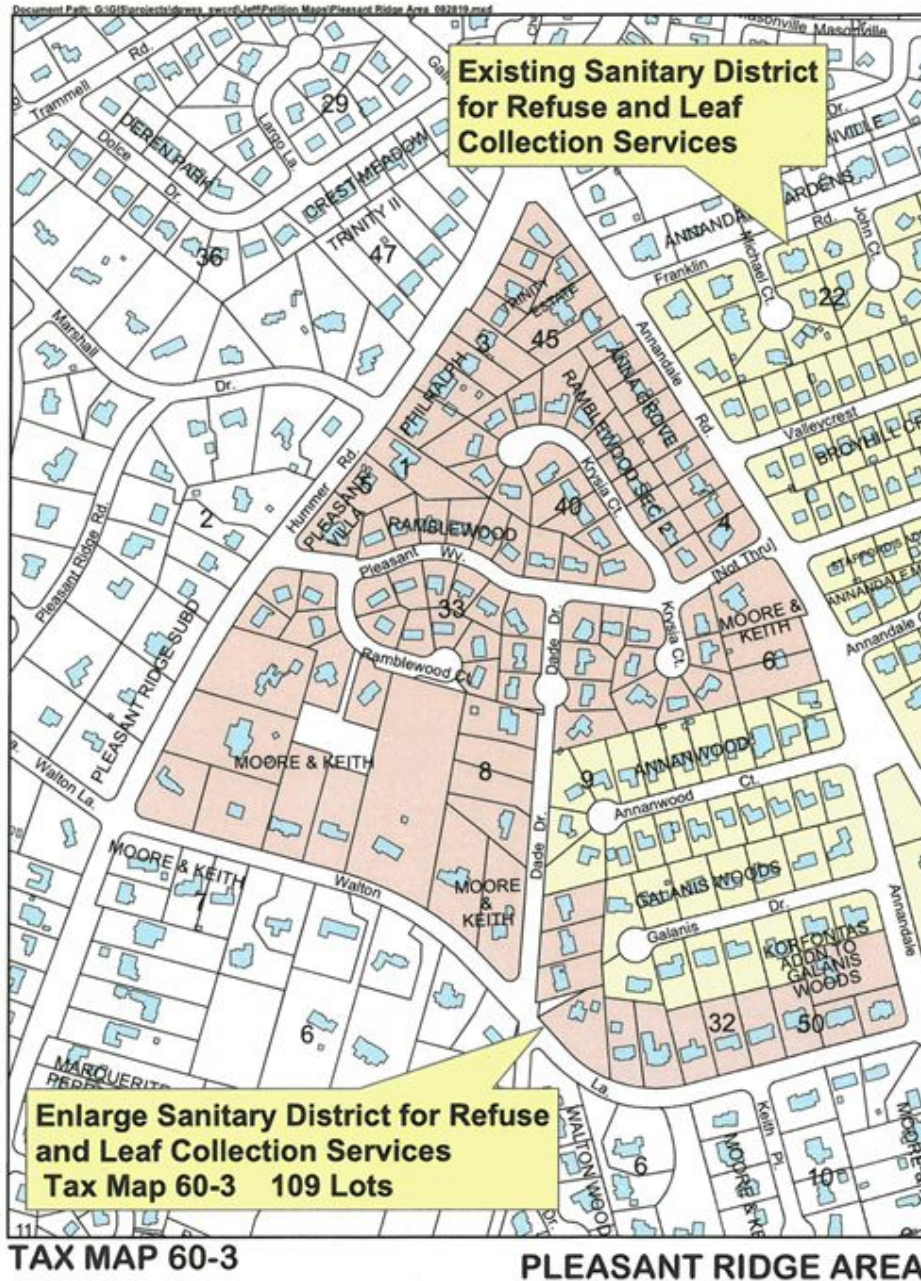
The enlargement of Small District 2 within Mason District to include Pleasant Ridge Area located in the County of Fairfax, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Small District 2 within Mason District is hereby created to wit:

To provide refuse/recycling and vacuum leaf collection service for the citizens who reside therein.

Given under my hand this ____ day of July, 2021

Jill G. Cooper
Clerk for the Board of Supervisors



Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 10

Authorization to Advertise a Public Hearing for the Creation of Small and Local Sanitary Districts for Refuse/Recycling Collection Service (Braddock District)

ISSUE:

Board of Supervisors' authorization to advertise a Public Hearing for the Creation of Small and Local Sanitary Districts for refuse/recycling collection service.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of a public hearing at 3:30 p.m. on Tuesday, October 5, 2021, to consider the following change to small and local sanitary districts for refuse/recycling and/or leaf collection service in accordance with the Board of Supervisor's adopted criteria for the creation of Small or Local Sanitary Districts.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Small District 3 Within Braddock District (Canterbury Woods Area)	Create	Refuse & Recycling	Approve

TIMING:

Board of Supervisors' authorization to advertise on July 27, 2021, is required for a Public Hearing to be held on October 5, 2021, at 3:30 p.m.

BACKGROUND:

The administrative responsibility for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts in the County of Fairfax for refuse/recycling and/or leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings. Prior to any action by the Board of Supervisors on a proposed small or local sanitary district, certain relevant standards and criteria must be met in accordance with the Board of Supervisors' adopted criteria for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts.

The submitted petition has been reviewed, and it has been determined that the petition

Board Agenda Item
July 27, 2021

meets the Board of Supervisors' Adopted Criteria. Staff recommends that the authorization to advertise a public hearing for the creation of small and/or local sanitary districts for refuse/recycling and/or leaf collection be approved. If approved, the modification will become permanent on January 1, 2022.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Summary Sheet

Attachment 2: Data Sheet with Proposed Resolution and Map

STAFF:

Rachel Flynn, Deputy County Executive

Christopher S. Herrington, Director, Department of Public Works and Environmental Services (DPWES)

John W. Kellas, Deputy Director, DPWES

Board Agenda Item
July 27, 2021

Attachment 1

SUMMARY SHEET

Proposed alterations to the following small and local sanitary districts for refuse/recycling collection service:

1. Create Small District 3 within Braddock District for the purpose of providing refuse/recycling Collection Services to Canterbury Woods Area.

DATA SHEET
Create
Small District 3
Within the Braddock District

Purpose: To provide County Refuse/Recycling Collection Service to Canterbury Woods Area.

- Petition requesting service received January 22, 2020.
- Petition Area: 517 Properties.
- 292 Property Owners in favor.
- 141 property owners opposed.
- 84 Non-responsive / unable to contact.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved. If approved, services will become effective January 1, 2022.

Board Agenda Item
July 27, 2021

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO CREATE
SMALL DISTRICT 3
WITHIN BRADDOCK DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of July, 2021, it was proposed by said Board to adopt a resolution to create a small district known as Small District 3 within Braddock District to include Canterbury Woods Area for the purpose of providing for refuse/recycling collection to be effective January 1, 2022, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
October 5, 2021
COMMENCING AT 3:30 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section 15.2-858, as amended, provides for, among other things, the Creation by the Board of Supervisors of Fairfax County, Virginia, of a small/local sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by creating the small sanitary district for the purpose of providing for refuse/recycling collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed creation of a small sanitary district, pursuant to Virginia Code Section 15.2-858, as

Board Agenda Item
July 27, 2021

amended, to be known as Small District 3 within Braddock District, Fairfax County, Virginia, which said creation of the small sanitary district shall be described as follows:

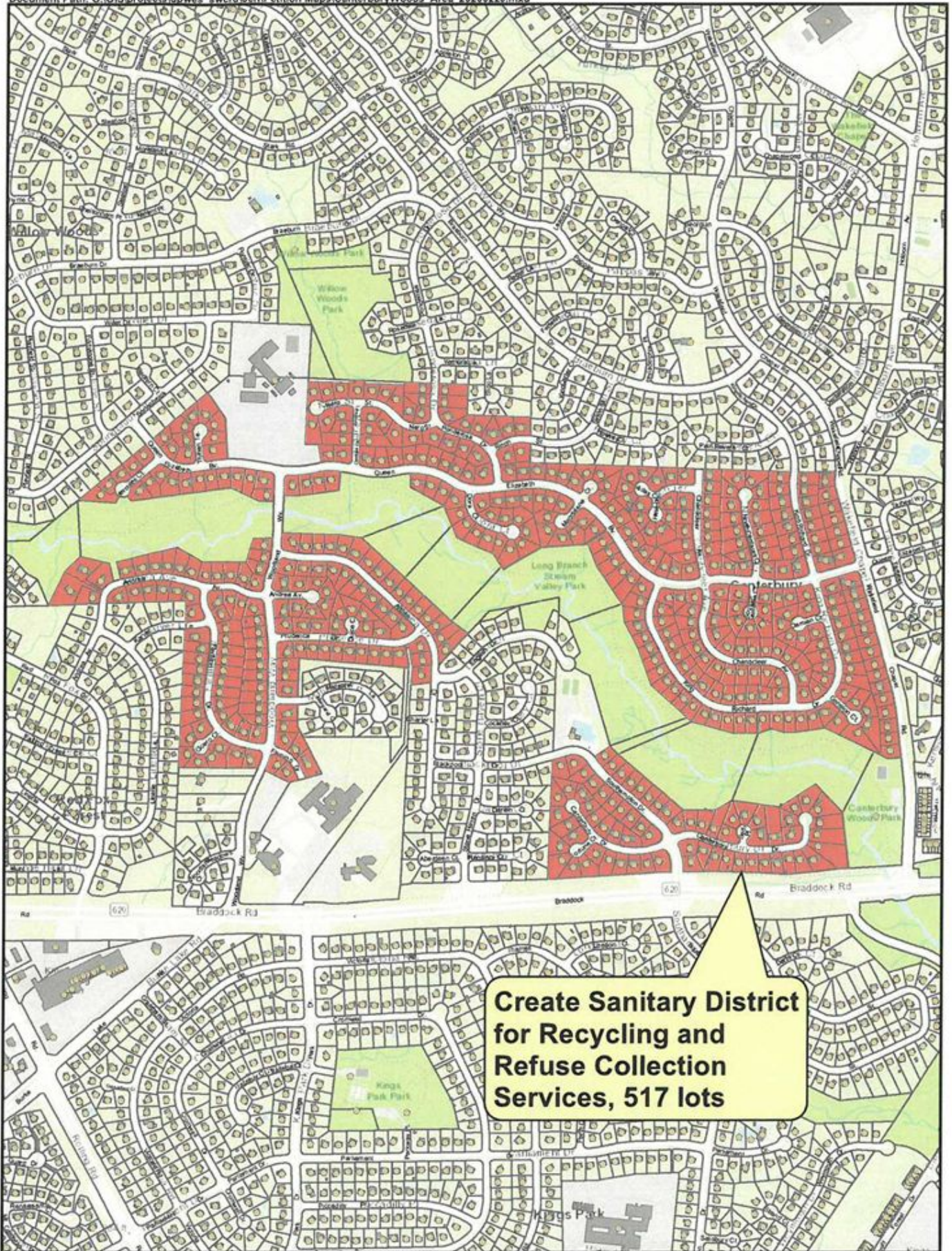
The creation of Small District 3 within Braddock District to include Canterbury Woods Area located in the County of Fairfax, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Small District 3 within Braddock District is hereby created to wit:

To provide refuse/recycling collection service for the citizens who reside therein.

Given under my hand this ____ day of July, 2021

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Maps 69-4, 70-1 & 70-3

CANTERBURY WOODS AREA

ADMINISTRATIVE - 11

Authorization to Advertise a Public Hearing for the Creation of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Services (Lee District)

ISSUE:

Board of Supervisors' authorization to advertise a Public Hearing for the Creation of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Services.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of a public hearing at 3:30 p.m. on Tuesday, October 5, 2021, to consider the following change to small and local sanitary districts for refuse/recycling and/or leaf collection service in accordance with the Board of Supervisor's adopted criteria for the creation of Small or Local Sanitary Districts.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Local District 1-F Within Lee District (Grayson Street Area)	Create	Refuse, Recycling, & Vacuum Leaf	Approve

TIMING:

Board of Supervisors' authorization to advertise on July 27, 2021, is required for a Public Hearing to be held on October 5, 2021, at 3:30 p.m.

BACKGROUND:

The administrative responsibility for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts in the County of Fairfax for refuse/recycling and/or leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings. Prior to any action by the Board of Supervisors on a proposed small or local sanitary district, certain relevant standards and criteria must be met in accordance with the Board of Supervisors' adopted criteria for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts.

Board Agenda Item
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The submitted petition has been reviewed, and it has been determined that the petition meets the Board of Supervisors' Adopted Criteria. Staff recommends that the authorization to advertise a public hearing for the creation of the Grayson Street Area for refuse/recycling and vacuum leaf collection be approved. If approved, the modification will become permanent on January 1, 2022.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Summary Sheet

Attachment 2: Data Sheet with Proposed Resolution and Map (Grayson Street Area)

STAFF:

Rachel Flynn, Deputy County Executive

Christopher S. Herrington, Director, Department of Public Works and Environmental Services (DPWES)

John W. Kellas, Deputy Director, DPWES

Board Agenda Item
July 27, 2021

Attachment 1

SUMMARY SHEET

Proposed alterations to the following small and local sanitary districts for refuse/recycling and/or leaf collection service:

1. Create Local District 1-F within Lee District for the purpose of providing refuse/recycling and vacuum leaf Collection Services to Grayson Street Area.

DATA SHEET
Create
Local District 1-F
Within the Lee District

Purpose: To provide County Refuse/Recycling and Vacuum Leaf Collection Service to the Grayson Street Area.

- Petition requesting service received August 21, 2019.
- Petition Area: 74 Properties.
- 49 Property Owners in favor.
- 5 property owners opposed.
- 20 Non-responsive / unable to contact.
- The Department of Public Works and Environmental Services cannot provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be denied. If approved, services will be effective January 1, 2022.

Board Agenda Item
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NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO CREATE
LOCAL DISTRICT 1-F
WITHIN LEE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of July, 2021, it was proposed by said Board to adopt a resolution to create a local district known as Local District 1-F within Lee District to include Grayson Street area for the purpose of providing for refuse/recycling and vacuum leaf collection to be effective January 1, 2022, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
October 5, 2021
COMMENCING AT 3:30 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section *15.2-858*, as amended, provides for, among other things, the Creation by the Board of Supervisors of Fairfax County, Virginia, of a small/local sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed local sanitary district will be benefited by creating the local sanitary district for the purpose of providing for refuse/recycling and vacuum leaf collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed creation of a local sanitary district, pursuant to Virginia Code Section *15.2-858*, as amended, to be known as Local District 1-F within Lee District, Fairfax County,

Board Agenda Item
July 27, 2021

Virginia, which said creation of the local sanitary district shall be described as follows:

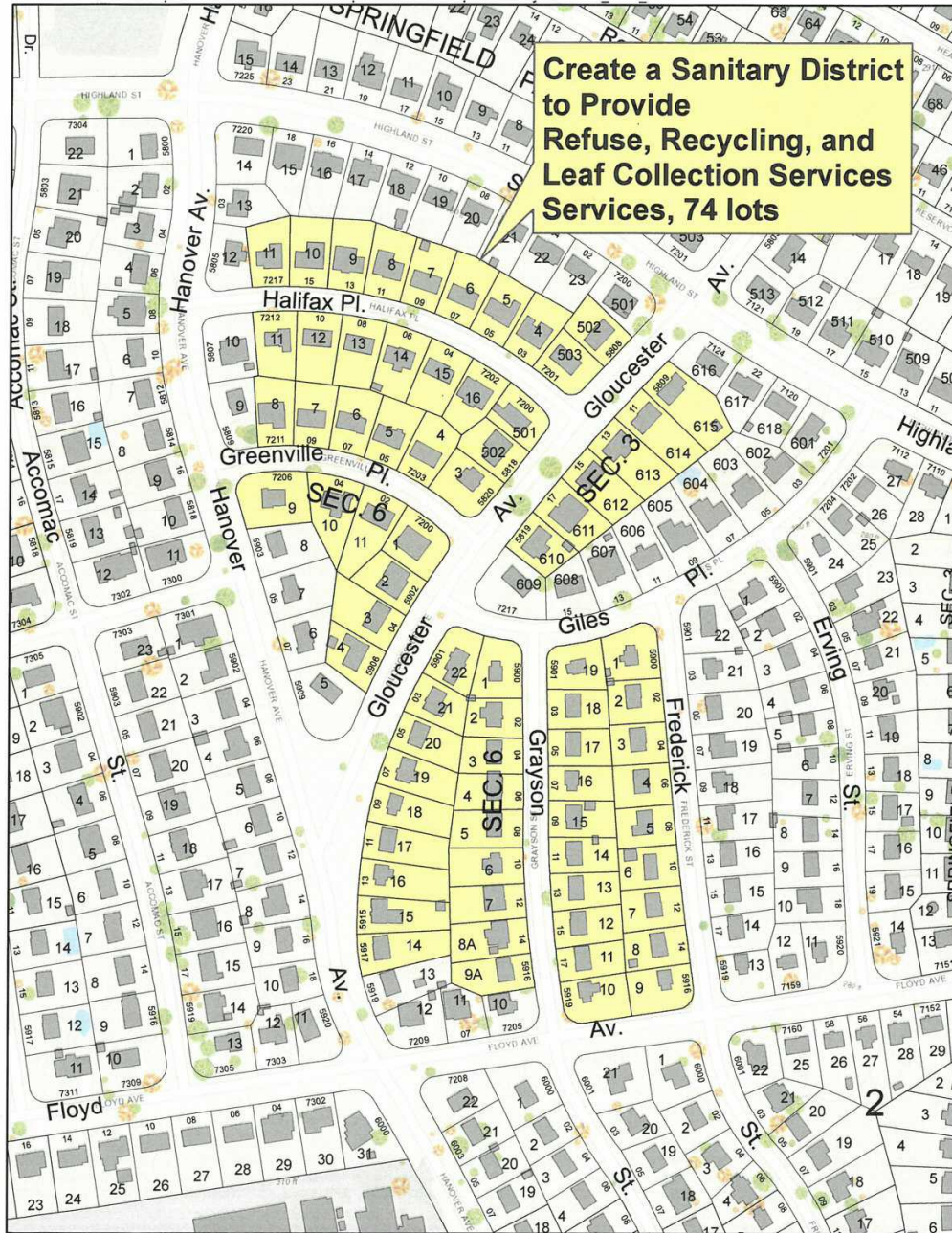
The creation of Local District 1-F within Lee District to include Grayson Street Area located in the County of Fairfax, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Local District 1-F within Lee District is hereby created to wit:

To provide refuse/recycling and vacuum leaf collection service for the citizens who reside therein.

Given under my hand this ____ day of July, 2021

Jill G. Cooper
Clerk for the Board of Supervisors



TAX MAPS; 80-1 & 80-3

GRAYSON STREET AREA

ADMINISTRATIVE - 12

Authorization to Advertise a Public Hearing for the Creation and Enlargement of Small and Local Sanitary Districts for Refuse/Recycling Collection Services (Dranesville District)

ISSUE:

Board of Supervisors' authorization to advertise a Public Hearing for the Creation and Enlargement of Small and Local Sanitary Districts for Refuse/Recycling Collection Services.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of a public hearing at 3:30 p.m. on Tuesday, October 5, 2021, to consider the following changes to small and local sanitary districts for refuse/recycling and/or leaf collection service in accordance with the Board of Supervisor's adopted criteria for the creation of Small or Local Sanitary Districts.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Small District 9 Within Dranesville District (Haycock Road Area)	Enlarge	Refuse & Recycling	Approve
Local District 1-A1 Within Dranesville District (Potomac Hills Area)	Create	Refuse & Recycling	Approve
Local District 1-G Within Dranesville District (McLean Manor Area)	Create	Refuse & Recycling	Approve
Local District 1-A1 Within Dranesville District (McLean Manor Area)	Enlarge	Refuse & Recycling	Approve

TIMING:

Board of Supervisors' authorization to advertise on July 27, 2021, is required for a

Board Agenda Item
July 27, 2021

Public Hearing to be held on October 5, 2021, at 3:30 p.m.

BACKGROUND:

The administrative responsibility for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts in the County of Fairfax for refuse/recycling and/or leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings. Prior to any action by the Board of Supervisors on a proposed small or local sanitary district, certain relevant standards and criteria must be met in accordance with the Board of Supervisors' adopted criteria for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts.

The submitted petitions have been reviewed, and it has been determined that the petitions meet the Board of Supervisors' Adopted Criteria. Staff recommends that all authorizations to advertise a public hearing for the creation and enlargement of small and/or local sanitary districts for refuse/recycling collection be approved. If approved, the modifications will become permanent on January 1, 2022.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Summary Sheet

Attachment 2: Data Sheet with Proposed Resolution and Map (Haycock Road Area)

Attachment 3: Data Sheet with Proposed Resolution and Map (Potomac Hills Area)

Attachment 4: Data Sheet with Proposed Resolution and Map (McLean Manor Area)

Attachment 5: Data Sheet with Proposed Resolution and Map (McLean Manor Area)

STAFF:

Rachel Flynn, Deputy County Executive

Christopher S. Herrington, Director, Department of Public Works and Environmental Services (DPWES)

John W. Kellas, Deputy Director, DPWES

SUMMARY SHEET

Proposed alterations to the following small and local sanitary districts for refuse/recycling collection service:

1. Enlarge Small District 9 within Dranesville District for the purpose of providing refuse/recycling collection services to Haycock Road Area.
2. Create Local District 1-A1 within Dranesville District for the purpose of providing refuse/recycling collection services to Potomac Hills Area.
3. Create Local District 1-G within Dranesville District for the purpose of providing refuse/recycling collection services to McLean Manor Area.
4. Enlarge Local District 1-A1 within Dranesville District for the purpose of providing refuse/recycling collection services to McLean Manor Area.

DATA SHEET
Enlarge
Small District 9
Within Dranesville District

Purpose: To provide County Refuse/Recycling Collection Service to the Haycock Road Area.

- Petition requesting service received May 7, 2019.
- Petition Area: 115 Properties.
- 85 Property Owners in favor.
- 22 property owners opposed.
- 8 Non-responsive / unable to contact.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved. If approved, services will be effective January 1, 2022.

Board Agenda Item
July 27, 2021

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO ENLARGE
SMALL DISTRICT 9
WITHIN DRANESVILLE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of July, 2021, it was proposed by said Board to adopt a resolution to enlarge a small district known as Small District 9 within Dranesville District to include Haycock Road area for the purpose of providing for refuse/recycling collection to be effective January 1, 2022, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
October 5, 2021
COMMENCING AT 3:30 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section 15.2-858, as amended, provides for, among other things, the Enlargement by the Board of Supervisors of Fairfax County, Virginia, of a small/local sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed local sanitary district will be benefited by enlarging the small sanitary district for the purpose of providing for refuse/recycling collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed enlargement of a small sanitary district, pursuant to Virginia Code Section 15.2-858, as amended, to be known as Small District 9 within Dranesville District,

Board Agenda Item
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Fairfax County, Virginia, which said enlargement of the small sanitary district shall be described as follows:

The enlargement of Small District 9 within Dranesville District to include Haycock Road Area located in the County of Fairfax, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Small District 9 within Dranesville District is hereby enlarged to wit:

To provide refuse/recycling collection service for the citizens who reside therein.

Given under my hand this ____ day of July, 2021

Jill G. Cooper
Clerk for the Board of Supervisors

Existing Sanitary District for Refuse, Recycling Collection

**Enlarge Sanitary District to Provide Refuse Collection Service
Tax Map 40-2 115 Lots**

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, ANPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community

TAX MAP 40-2

HAYCOCK ROAD AREA

DATA SHEET
Create
Local District 1-A1
Within Dranesville District

Purpose: To provide County Refuse/Recycling Collection Service to the Potomac Hills Area.

- Petition requesting service received January 31, 2020.
- Petition Area: 114 Properties.
- 68 Property Owners in favor.
- 5 property owners opposed.
- 41 Non-responsive / unable to contact.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved. If approved, services will be effective January 1, 2022.

Board Agenda Item
July 27, 2021

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO CREATE
LOCAL DISTRICT 1-A1
WITHIN DRANESVILLE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of July, 2021, it was proposed by said Board to adopt a resolution to create a local district known as Local District 1-A1 within Dranesville District to include Potomac Hills area for the purpose of providing for refuse/recycling collection to be effective January 1, 2022, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
October 5, 2021
COMMENCING AT 3:30 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section *15.2-858*, as amended, provides for, among other things, the Creation by the Board of Supervisors of Fairfax County, Virginia, of a small/local sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed local sanitary district will be benefited by creating the local sanitary district for the purpose of providing for refuse/recycling collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed creation of a local sanitary district, pursuant to Virginia Code Section *15.2-858*, as amended, to be known as Local District 1-A1 within Dranesville District, Fairfax

Board Agenda Item
July 27, 2021

County, Virginia, which said creation of the local sanitary district shall be described as follows:

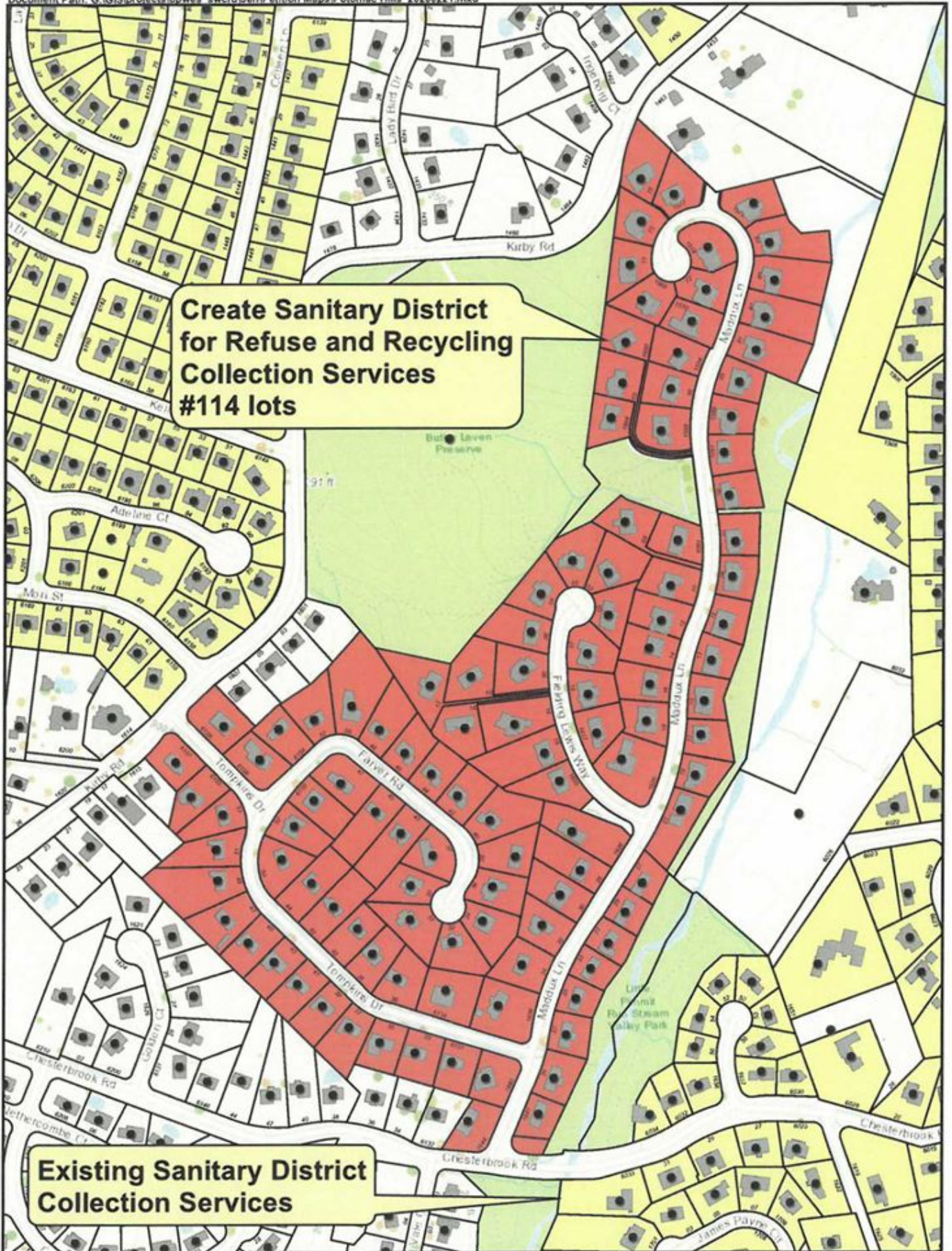
The creation of Local District 1-A1 within Dranesville District to include Potomac Hills Area located in the County of Fairfax, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Local District 1-A1 within Dranesville District is hereby created to wit:

To provide refuse/recycling collection service for the citizens who reside therein.

Given under my hand this ____ day of July, 2021

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Maps 31-3 & 31-4

POTOMAC HILLS AREA

DATA SHEET
Create
Local District 1-G
Within Dranesville District

Purpose: To provide County Refuse/Recycling Collection Service to the McLean Manor Area.

- Petition requesting service received November 13, 2019.
- Petition Area: 54 Properties.
- 37 Property Owners in favor.
- 14 property owners opposed.
- 3 Non-responsive / unable to contact.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved. If approved, services will be effective January 1, 2022.

Board Agenda Item
July 27, 2021

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO CREATE
LOCAL DISTRICT 1-G
WITHIN DRANESVILLE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of July, 2021, it was proposed by said Board to adopt a resolution to create a local district known as Local District 1-G within Dranesville District to include McLean Manor Area for the purpose of providing for refuse/recycling collection to be effective January 1, 2022, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
October 5, 2021
COMMENCING AT 3:30 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section *15.2-858*, as amended, provides for, among other things, the Creation by the Board of Supervisors of Fairfax County, Virginia, of a small/local sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed local sanitary district will be benefited by creating the local sanitary district for the purpose of providing for refuse/recycling collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed creation of a local sanitary district, pursuant to Virginia Code Section *15.2-858*, as amended, to be known as Local District 1-G within Dranesville District, Fairfax

Board Agenda Item
July 27, 2021

County, Virginia, which said creation of the local sanitary district shall be described as follows:

The creation of Local District 1-G within Dranesville District to include McLean Manor Area located in the County of Fairfax, Virginia, and as shown on the attached map.

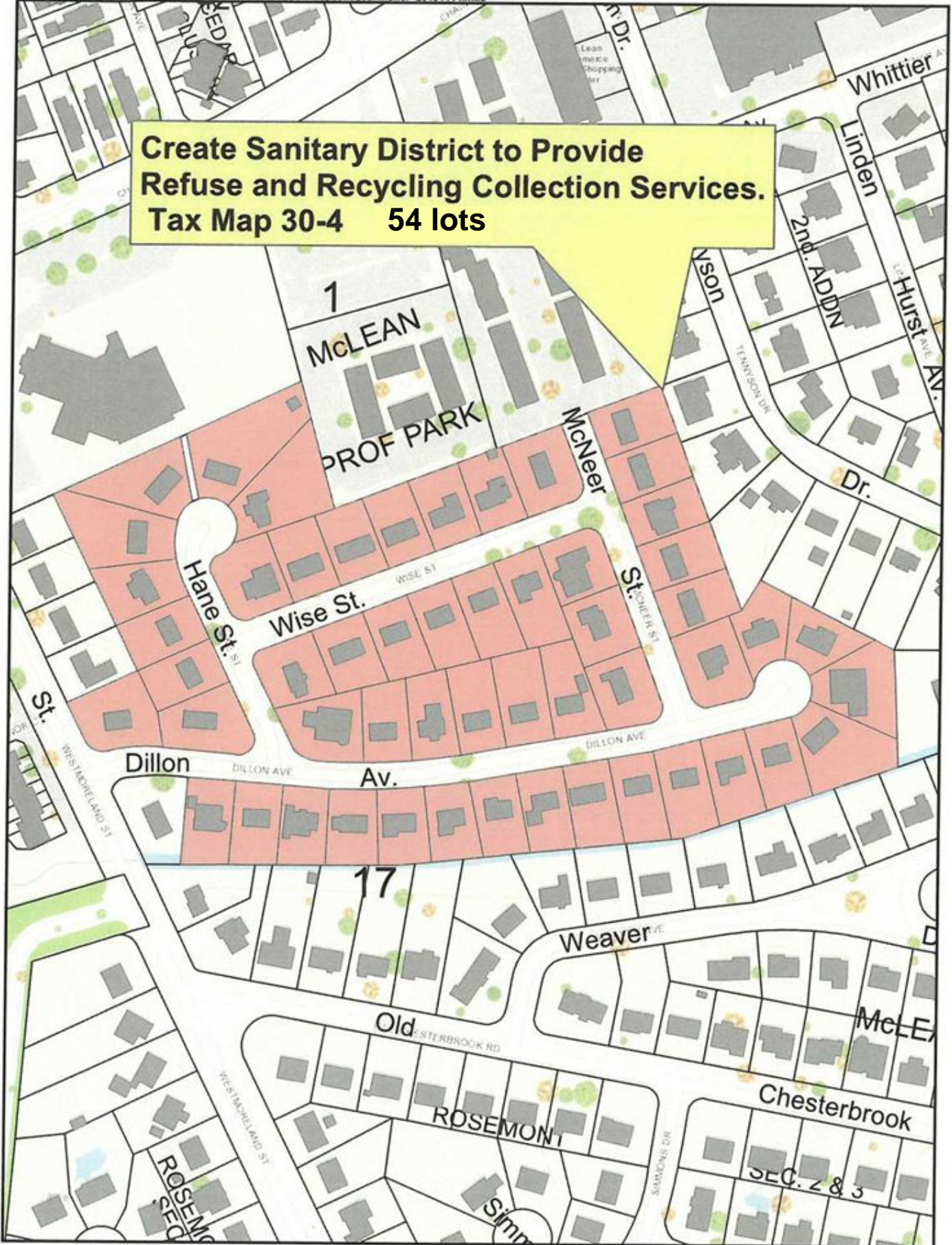
AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Local District 1-G within Dranesville District is hereby created to wit:

To provide refuse/recycling collection service for the citizens who reside therein.

Given under my hand this ____ day of July, 2021

Jill G. Cooper
Clerk for the Board of Supervisors

**Create Sanitary District to Provide Refuse and Recycling Collection Services.
Tax Map 30-4 54 lots**



Tax Maps 30-4

MCLEAN MANOR

DATA SHEET
Enlarge
Local District 1-A1
Within Dranesville District

Purpose: To provide County Refuse/Recycling Collection Service to the McLean Manor Area.

- Petition requesting service received March 10, 2020.
- Petition Area: 104 Properties.
- 63 Property Owners in favor.
- 15 property owners opposed.
- 26 Non-responsive / unable to contact.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved. If approved, services will be effective January 1, 2022.

Board Agenda Item
July 27, 2021

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO ENLARGE
LOCAL DISTRICT 1-A1
WITHIN DRANESVILLE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of July, 2021, it was proposed by said Board to adopt a resolution to enlarge a local district known as Local District 1-A1 within Dranesville District to include McLean Manor area for the purpose of providing for refuse/recycling collection to be effective January 1, 2022, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
October 5, 2021
COMMENCING AT 3:30 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section 15.2-858, as amended, provides for, among other things, the enlargement by the Board of Supervisors of Fairfax County, Virginia, of a small/local sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed local sanitary district will be benefited by enlarging the local sanitary district for the purpose of providing for refuse/recycling collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed enlargement of a local sanitary district, pursuant to Virginia Code Section 15.2-858, as amended, to be known as Local District 1-A1 within Dranesville District,

Board Agenda Item
July 27, 2021

Fairfax County, Virginia, which said enlargement of the local sanitary district shall be described as follows:

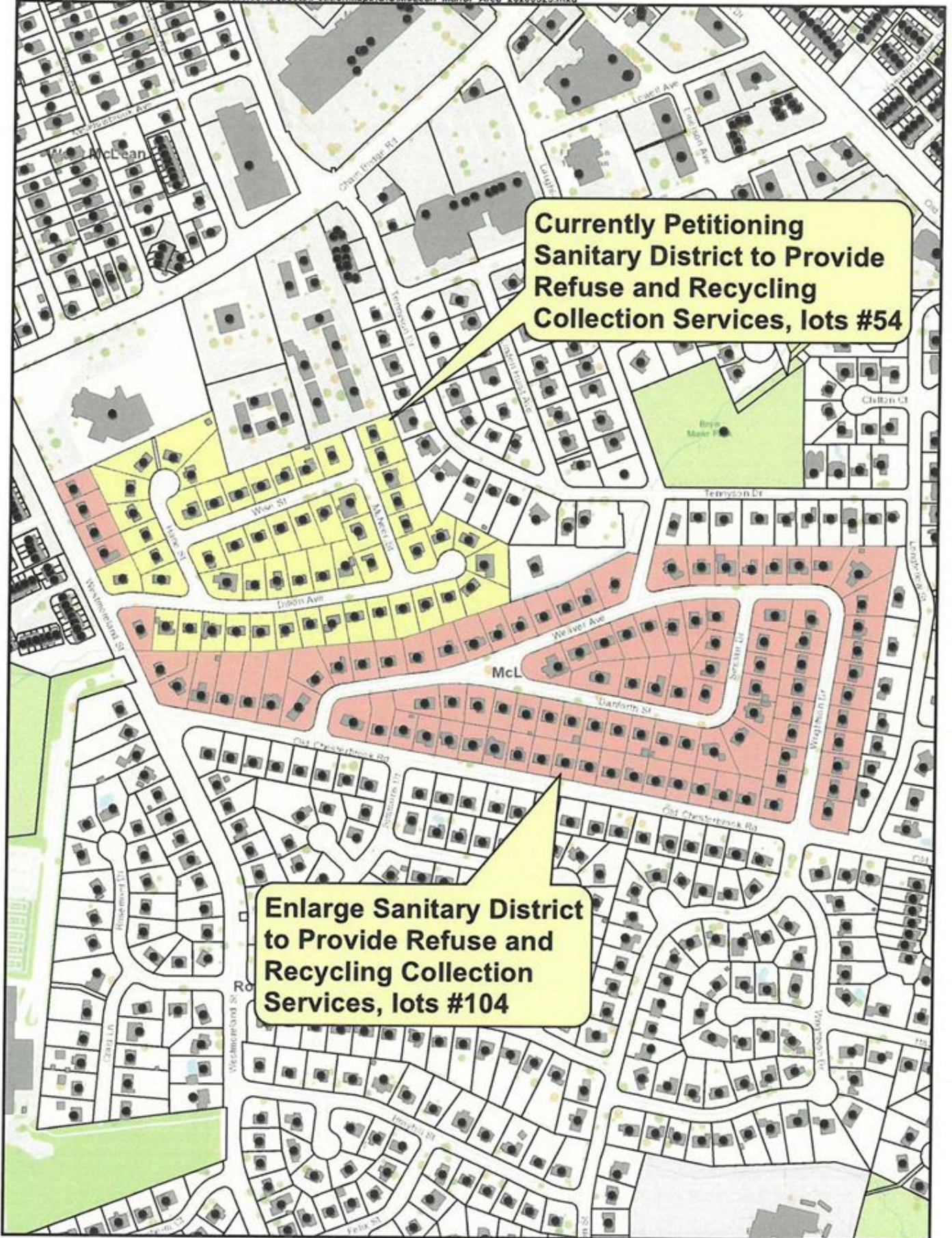
The enlargement of Local District 1-A1 within Dranesville District to include McLean Manor Area located in the County of Fairfax, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Local District 1-A1 within Dranesville District is hereby enlarged to wit:

To provide refuse/recycling collection service for the citizens who reside therein.

Given under my hand this ____ day of July, 2021

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map 30-4

McLean Manor Area

Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 13

Supplemental Appropriation Resolution AS 22011 for the Department of Family Services to Accept Grant Funding from the Virginia Community College System for the Return to Earn Grant Program to Help Virginians Transition Back to Work

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 22011 for the Department of Family Services to accept funding from the Virginia Community College System (VCCS) in the amount of \$626,372. The Governor has authorized funding from the state's Workforce Innovation and Opportunity Act (WIOA) set aside funds to serve as an incentive for unemployed workers to get back into the workforce while also helping employers fill vacant jobs. This initiative will match up to \$500 that a qualifying small business pays directly to a new employee hired after May 31, 2021, to offset the ongoing costs of child care, transportation, or other barriers to re-employment. No Local Cash Match is required. The grant period is from June 1, 2021 to December 31, 2021. When grant funding expires, the County is under no obligation to continue funding the program. Given the timing of the award and the need to begin work quickly, the award letter was signed by the Chairman of the Board of Supervisors on July 6, 2021. Therefore, Board approval of the award and entering into the grant agreement is also requested.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 22011 to accept funding from the Virginia Community College System in the amount of \$626,372 for the Return to Earn Grant Program to Help Virginians Transition Back to Work. There are no positions associated with this funding and no Local Cash Match is required. The County Executive also recommends the Board approve the execution of the award between the VCCS and the County.

TIMING:

Board approval is requested on July 27, 2021.

BACKGROUND:

The Workforce Innovation and Opportunity Act is funded by the Department of Labor through the Virginia Community College System. Fairfax County is the WIOA grant

Board Agenda Item
July 27, 2021

recipient for the Virginia Career Works-Northern Region that is comprised of Fairfax, Loudoun, and Prince William counties and the Cities of Fairfax, Falls Church, Manassas, and Manassas Park. SkillSource Group, Inc. (SSG) is a separate nonprofit entity and the fiscal agent for WIOA funds for the Virginia Career Works-Northern Region.

On June 11, 2021, Governor Northam announced \$3 million for the new Return to Earn Grant Program to support Virginians in their transition back to employment.

Unemployed Virginians are facing a variety of barriers to returning to the workforce, including child care and transportation, while some small businesses are struggling to find workers. The initiative will match up to \$500 that a qualifying small business pays directly to a new employee hired after May 31, 2021, with a maximum of 25 new hires per employer. Employers must match the full amount and provide funds directly to the new hires. This will either be as a lump sum or in installments, to offset the ongoing costs of child care, transportation, or other barriers to re-employment. To help address workforce shortages in child care, qualifying small childcare businesses may qualify for up to \$500 per new hire without the match requirement. Only employers with fewer than 100 employees across all Virginia locations may qualify for funds. Funds will only be reimbursed to businesses for new hires in positions that pay at least \$15 per hour and that qualify as W-2 employment, either full- or part-time.

The period of performance is from June 1, 2021, to December 31, 2021. The initial launch of this program will be funded through Virginia's federal Workforce Innovation and Opportunity Act set aside funds. Additional recovery funds may be allocated based on demand. A minimum of 50 percent of expenditure must be achieved by August 30, 2021. The variance of actual expenditure rate to the 50 percent will be recaptured and may be distributed to other Local Workforce Development Areas that have demonstrated a demand for additional funds.

FISCAL IMPACT:

Funding from the Virginia Community College System for the Return to Earn Grant Program to Help Virginians Transition Back to Work, in the amount of \$626,372, will serve as an incentive for unemployed workers to get back into the workforce while also helping employers fill vacant jobs. No Local Cash Match is required. As the designated fiscal agent for Virginia Career Works-Northern Region, funding will be administered by the SkillSource Group, Inc.; however, financial transactions will be reflected in the County's financial system. This action does not increase the expenditure level of the Federal-State Grant Fund as funds are held in reserve for unanticipated awards in FY 2022. Funding does not allow the recovery of indirect costs.

Board Agenda Item
July 27, 2021

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1: Award Letter from Virginia Community College System

Attachment 2: Supplemental Appropriation Resolution AS 22011

Attachment 3: Governor Northam's Press Release and Frequently Asked Questions

STAFF:

Christopher A. Leonard, Deputy County Executive

Michael Becketts, Director, Department of Family Services (DFS)

Theresa Byers, Finance Manager, DFS

Lisa Tatum, Division Director Self-Sufficiency, DFS



300 Arboretum Place, Suite 200
Richmond, VA 23236
804-819-4901 • info@vccs.edu
www.vccs.edu

David Hunn, Executive Director
Northern Virginia Workforce Development Board
8300 Boone Boulevard, Suite 450
Vienna, VA 22182

June 16, 2021

Dear Mr. Hunn:

Enclosed is a Workforce Innovation and Opportunity Act (WIOA) Notice of Obligation (NOO) for the Return to Earn Initiative. This grant award is released per the governor's press release dated June 11, 2021 titled Governor Northam Launches Return to Earn Grant Program to Help Virginians Transition Back to Work. The attached document, titled Return to Earn Initiative Guidance, provides the guidance for implementing this award.

To accept the award, the attached NOO should be signed by the grant recipient and returned to wioa@vccs.edu.

The period of performance for this award is June 1, 2021 through December 31, 2021. This is a cost reimbursable grant. Indirect costs, administration, staff time, supplies, and equipment purchase (goods at a cost of \$5,000 or more per item) are not allowable in this grant. VCCS will provide a Request for Reimbursement form which must be submitted monthly along with a performance report that will outline the activities that were completed with the federal funds. The request for reimbursement and monthly performance report must be completed within 25 days following the end of each month.

Use of funds will be evaluated during the performance period, and funding distribution adjustments will be made to maximize use of funds. The decision for re-distribution of funds among Local Workforce Development Areas (LWDA) will be on the basis of expenditure rate. A minimum of 50% of expenditure must be achieved by August 30th by each sub-recipient (LWDA). The variance of actual expenditure rate to the 50% will be recaptured and may be distributed to LWDA's that have demonstrated a demand for additional funds.

Closeout of the award will occur 45 days following the end of the performance period, or no later than February 15, 2022.

If you have any questions, please do not hesitate to contact Andrea Glaze, at (804) 819-5393 or aglaze@vccs.edu.

Sincerely,



George Taratsas
WIOA Title I Director of Administration and Compliance

Enclosures:

Notice of Obligation

Return to Earn Guidance

Return to Earn Governor Northam's Press Release

Return to Earn FAQ

Performance Report

cc:

Jeffrey C. McKay, Chairman Fairfax County Board of Supervisors, CEO

Christopher Rieley, Northern Virginia Workforce Development Board Chair

VIRGINIA COMMUNITY COLLEGE SYSTEM
Arboretum III - 300 Arboretum Place, Third Floor, Suite 200
Richmond, Virginia 23236

WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)

ISSUED BY: U. S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION
PASS-THROUGH ENTITY: VIRGINIA COMMUNITY COLLEGE SYSTEM

ISSUED DATE: June 16, 2021
Grant Number: AA-33260-19-55-A-51

NOTICE OF OBLIGATION

RETURN TO EARN

Period of Performance: June 1, 2021-December 31, 2021

Subrecipient: **Fairfax County**
DUNS #: 074837626

NOO No.: **RTE 11-19-01**
Effective Date: **June 1, 2021**
Program Code: **2100**

<u>CFDA</u>	<u>Fund Type</u>	<u>Amount</u>
17.278	PY19 Rapid Response for Statewide Activities	\$626,372.00

This Notice of Obligation awards U.S. Department of Labor Workforce Innovation and Opportunity Act (WIOA) funds for the RETURN TO EARN initiative in accordance with the attached guidelines. A monthly performance report must be submitted with each request for reimbursement by the 25th of each month. The final request for reimbursement and performance report must be submitted by February 15, 2022. Use of funds will be evaluated during the performance period, and funding distribution adjustments will be made to maximize use of funds. The decision for re-distribution of funds among Local Workforce Development Areas (LWDA) will be on the basis of expenditure rate. A minimum of 50% of expenditure must be achieved by August 30th by each sub-recipient (LWDA). The variance of actual expenditure rate to the 50% will be recaptured and may be distributed to LWDA's that have demonstrated a demand for additional funds.

This award is made under the WIOA Title I 2019 Grant Award Agreement between The Virginia Community College System and the grant subrecipient. The subrecipient must adhere to PY19 WIOA Terms and Conditions, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 Code of Federal Regulations (CFR) Part 200, and U.S. Department of Labor exceptions codified at 2 CFR Part 2900.

By my signature, I accept the Terms and Conditions of this subaward and agree to use the funds as outlined.



Authorized Signature
Jeffrey C. McKay
Print Name

7/6/2021

Date
Chairman, Board of Supervisors
Title

Approved by
George Taratsas
Director WIOA Title I Administration and Compliance
Academic and Workforce Programs
(804) 819-5387

Date

cc: Northern Virginia Workforce Development Board
SkillSource Group, Inc.
County of Fairfax, Department of Administration for Human Services

RETURN TO EARN INITIATIVE GUIDANCE

Amount Available: \$3,000,000 of WIOA Title I Governor's State Set-Aside Funds
Performance Period: June 1st, 2021 – December 31, 2021

Method of Awards: Notice of Obligation (NOO) will be issued to each LWDA WIOA Title I Grant Recipient

Funding Criteria:

- The initiative will match up to \$500 that a qualifying small business pays directly to a new employee hired after May 31st, 2021, with a maximum of 25 new hires per employer.
- Employer must match the full amount and provide funds directly to new hires. This can be in either one lump sum or in installments to cover the ongoing costs of childcare, transportation, or other barriers to re-employment. Verification of how funds are used by the new hire is not required.
- Qualifying small childcare businesses, who may be facing particularly challenging workforce shortages, may qualify for up to \$500 per new hire without the requirement to match.
- Only employers with fewer than 100 employees across all Virginia locations may qualify for funds. The employment facility where new hires will be placed must be located in the Commonwealth of Virginia, and the employer must also be incorporated in Virginia.
- Wages for new hires must be a minimum of \$15.00 per hour. The position must be W-2 employment but can be part- or full-time. Funds may only be provided to new employees hired by the employer, and the individual hired must be currently unemployed (as attested by the individual).

Funding Documentation Requirements:

- Agreement between Local Workforce Development Boards (LWDB) and participating employers
- Agreement shall include the following in the terms of award:
 - Employer Name
 - Employer ID
 - Employer Representative authorized to enter into agreement, including position title
 - Employer Representative's contact information
 - Number of employees (must be less than 100)
 - Confirmation that hiring wages must be at or above \$15.00 per hour
 - Attestation from the individual being hired that they are currently unemployed
 - Self attestation by employer that the employer is not currently disbarred from receiving federal or state funds and that the employer is current on all state obligations
 - Employer must be able to provide records of employees hired who received funding support through the Return to Earn initiative, including hiring date, hourly wages, position title and classification (Part or Full Time), the total amount provided to the employee as incentive to hire and over what time period, and the percent supported by WIOA Title I funds and/or other funding sources.
 - The agreement must include language that the funds will be rescinded and collection action will be initiated if future audit activity determines violation of any terms of the agreement, including any false statements.

Performance Reporting Requirements:

- Number of employers funded
- Amount issued to each employer

- Number of new hires that were funded per employer
- Wages per hour for new hires supported by the Return to Earn initiative
- Amount of Return to Earn award issued to each new hire, including breakdown of employer contribution, state match, and any other funding
- Employment classification (including if position is Part or Full Time)

***Note: Use of funds will be evaluated during the performance period, and funding distribution adjustments will be made to maximize use of funds. The decision for re-distribution of funds among Local Workforce Development Areas (LWDA) will be on the basis of expenditure rate. A minimum of 50% of expenditure must be achieved by August 30th by each sub-recipient (LWDA). The variance of actual expenditure rate to the 50% will be recaptured and may be distributed to LWDAs that have demonstrated a demand for additional funds.**

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 22011

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on July 27, 2021, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2022, the following supplemental appropriation is authorized, and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund:	500-C50000, Federal-State Grant Fund	
Agency:	G6767, Department of Family Services	
Grants:	1CV6717-2019, Return to Earn	\$626,372

Reduce Appropriation to:

Agency:	G8787, Unclassified Administrative Expenses	\$626,372
Fund:	500-C50000, Federal-State Grant Fund	

Source of Funds: Virginia Community College System, \$626,372

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



For Immediate Release: June 11, 2021

Contacts: Office of the Governor: Alena Yarmosky,
Alena.Yarmosky@governor.virginia.gov

Governor Northam Launches Return to Earn Grant Program to Help Virginians Transition Back to Work

Bonuses of up to \$1,000 available to new hires earning at least \$15 per hour

VIRGINIA BEACH—Governor Ralph Northam today announced a new \$3 million investment to pilot the Return to Earn Grant Program, which will match payments from eligible small businesses to provide new hires with up to \$1,000 to support their transition back into the workforce. While many companies are offering hiring bonuses, the Return to Earn Grant Program will serve businesses with less than 100 employees that may not have the resources to provide this financial support. The initial launch of this program will be funded through Virginia’s federal Workforce Innovation and Opportunity Act (WIOA) set aside and additional recovery funds may be allocated based on demand.

“Many Virginians who lost their jobs as a result of the COVID-19 pandemic still face a variety of barriers to returning to work like access to affordable child care, transportation, and a living wage,” **said Governor Northam.** “These bonuses will serve as an incentive for unemployed workers to get back into the workforce while also helping employers fill vacant jobs. The Virginia Return to Earn Grant Program is about empowering the true catalysts of our economic comeback—Virginia’s workers and small businesses.”

This initiative will match up to \$500 that a qualifying small business pays directly to a new employee hired after May 31, 2021, either as a lump sum or in installments to offset the ongoing costs of child care, transportation, or other barriers to re-employment. Funds will only be reimbursed to businesses for new hires in positions that pay at least \$15 per hour and that qualify as W-2 employment, either full- or part-time. To help address workforce shortages in child care, qualifying child care businesses may qualify for up to \$500 per new hire without the match requirement.

“For Virginia to fully recover from the impacts of the pandemic on our economy, we need targeted solutions,” **said Chief Workforce Development Advisor Dr. Megan Healy**. “One in three Virginia workers has applied for unemployment benefits over the course of the pandemic. The new Return to Earn Grant Program will accomplish a dual purpose of helping unemployed Virginians transition back into living wage jobs, particularly in the child care industry, and supporting small businesses with their hiring needs.”

The launch of the Return to Earn Grant Program coincides with the reinstatement of the weekly work search requirement in Virginia, which started the week of May 31, 2021. Virginians receiving unemployment benefits must make contact with employers each week and accept reasonable offers of employment.

On June 1, the Commonwealth also reopened its [Virginia Career Works Centers](#) for in-person services to ensure that Virginians making the transition back to the workforce have access to the resources they need to find high-quality jobs. Jobseekers can continue to access resources virtually through the [Virginia Career Works Referral Portal](#).

For additional information on requirements and to apply for Return to Earn grant funding, small businesses should contact their [local workforce development board](#). Answers to frequently asked questions about the program can be found [here](#).

#



FREQUENTLY ASKED QUESTIONS ON THE VIRGINIA RETURN TO EARN GRANT PROGRAM

1. What is the Virginia Return to Earn Grant Program?

Unemployed Virginians are facing a variety of childcare, transportation, and other barriers to returning to the workforce while some small businesses are struggling to find workers. To support Virginians in their transition back to employment, Governor Ralph Northam will invest \$3 million to pilot the Return to Earn Grant Program.

The pilot initiative will match up to \$500 that a qualifying small business pays directly to a new employee hired on or after May 31, 2021 to support their transition back to employment. Funds will only be reimbursed for new hires in positions that pay at least \$15 per hour and qualify as W-2 employment, either full- or part-time. Qualifying small childcare businesses, who may be facing particularly challenging workforce shortages, may qualify for up to \$500 per new hire without the requirement to match.

2. Which small businesses are eligible for funds through the Return to Earn Grant Program?

A business must have 100 or fewer employees and be incorporated in Virginia. The employee count is the sum of the business's employees across all Virginia locations.

Qualifying childcare businesses, who may be facing particularly challenging workforce shortages, are eligible for 100 percent reimbursement for up to \$500 per new hire. This means that no match is required from the childcare business to receive funding for new hires through the grant program.

3. What qualifies as a "child care business"?

A child care business may be a sole proprietorship, partnership or corporation, with services delivered in home- and/or center-based settings. These businesses may be licensed or legally exempted from licensing by the state.

4. Which job positions are eligible for funds through the Return to Earn Grant Program?

Funds will only be reimbursed for new hires in positions that pay at least \$15 per hour and qualify as W-2 employment, either full- or part-time.

5. Is there a limit to the number of new hires eligible for reimbursement through the Return to Earn Grant Program?

Yes, qualifying small businesses are eligible for a match of up to \$500 per new hire for up to 25 new employees. These must have been hired on or after May 31, 2021.

6. How can Return to Earn funds be used?

Funds are only reimbursable through the Return to Earn Grant Program if they are provided by a qualifying small business directly to a qualifying new hire, either as a lump sum or in installments to offset the ongoing costs of childcare, transportation, or other barriers to re-employment.

7. How should a qualifying small business apply for reimbursement of funds through the Return to Earn Grant Program?

For additional information on requirements and to apply for grant funding, small businesses should contact their local [workforce development board](#). Funds will only be reimbursed once they have been fully paid to the new hire.

8. This program matches up to \$500 provided to a new hire to support their re-employment, for a total of \$1000. If I am a qualifying small business, can I give the new hire a stipend that is more than \$1000?

Yes, it is at the discretion of the employer as to how much is provided to the new employee. The Return to Earn Program will reimburse for 50 percent of the funds provided but only up to \$500 per new hire. Childcare businesses will receive 100 percent reimbursement for up to \$500 per new hire.

9. How is the initial \$3 million in funding for the Return to Earn Grant Program being allocated across the Commonwealth? What happens if the money runs out?

Grant funds will be allocated across Virginia's [workforce development areas](#) proportional to the number of current continuing unemployment insurance claims in each region. The initial launch of this program will be funded through Virginia's federal Workforce Innovation and Opportunity Act (WIOA) set aside and additional recovery funds may be allocated based on demand.

10. What other strategies is the Commonwealth employing to support people with their return to work and ensure that employers have the workforce they need to fuel Virginia's economic recovery?

The launch of the new Return to Earn Grant Program coincides with the reinstatement of the Virginia work search requirement beginning the week of May 31, 2021. Virginians receiving unemployment benefits must make contact with employers each week and accept reasonable offers of employment. On June 1, the Commonwealth reopened its [Virginia Career Works Centers](#) for in-person services to ensure that Virginians making the transition back to the workforce have access to the resources they need to find a high-quality job. Jobseekers can continue to access resources virtually through the [Virginia Career Works Referral Portal](#).

Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 14

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Springfield District)

ISSUE:

Board endorsement of Traffic Calming measures as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends that the Board endorse the traffic calming plan for Golden Ball Tavern Court (Attachment I and Attachment II) consisting of the following:

- Six speed tables on Golden Ball Tavern Court (Springfield District)
- One speed hump on Golden Ball Tavern Court (Springfield District)

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

TIMING:

Board action is requested on July 27, 2021, in order to allow the proposed measures to be installed as soon as possible.

BACKGROUND:

As part of RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, or median islands to reduce the speed of traffic on a residential street. Staff performs engineering studies documenting the attainment of qualifying criteria. Staff works with the local Supervisor's office and community to determine the viability of the requested traffic calming measure to reduce the speed of traffic. Once the plan for the road under review is approved and adopted by staff, that plan is then submitted for approval to the residents within the ballot area in the adjacent community.

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On June 22, 2021, FCDOT received verification from Springfield District Supervisor's office confirming community support for the Golden Ball Tavern Court traffic calming plan.

FISCAL IMPACT:

Funding in the amount of \$70,000 is necessary to fund the traffic calming measures associated with this traffic calming project. Funds are currently available in Project 2G25-076-000, Traffic Calming Program, Fund 300-30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Golden Ball Tavern Court

Attachment II: Traffic Calming Plan for Golden Ball Tavern Court

STAFF:

Rachel Flynn, Deputy County Executive

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

Gregg Steverson, Deputy Director, FCDOT

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

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

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
TRAFFIC CALMING MEASURES
GOLDEN BALL TAVERN COURT
SPRINGFIELD DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, July 27, 2021, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents in the vicinity of Golden Ball Tavern Court have requested the Springfield District Supervisor's Office of Fairfax County to consider remedial measures to reduce the speed of traffic on Golden Ball Tavern Court; and

WHEREAS, an engineering study by the Fairfax County Department of Transportation (FCDOT) for Golden Ball Tavern Court indicates that all basic traffic calming criteria are met pertaining to functional classification of the roadway, identification of a significant speeding concern, and proof of community support; and

WHEREAS, the proposed Traffic Calming Plan was properly presented to the community in the affected survey area for their review and consideration; and

WHEREAS, the Traffic Calming Plan was subsequently approved by the occupied residences within the appropriate surveyed area; and

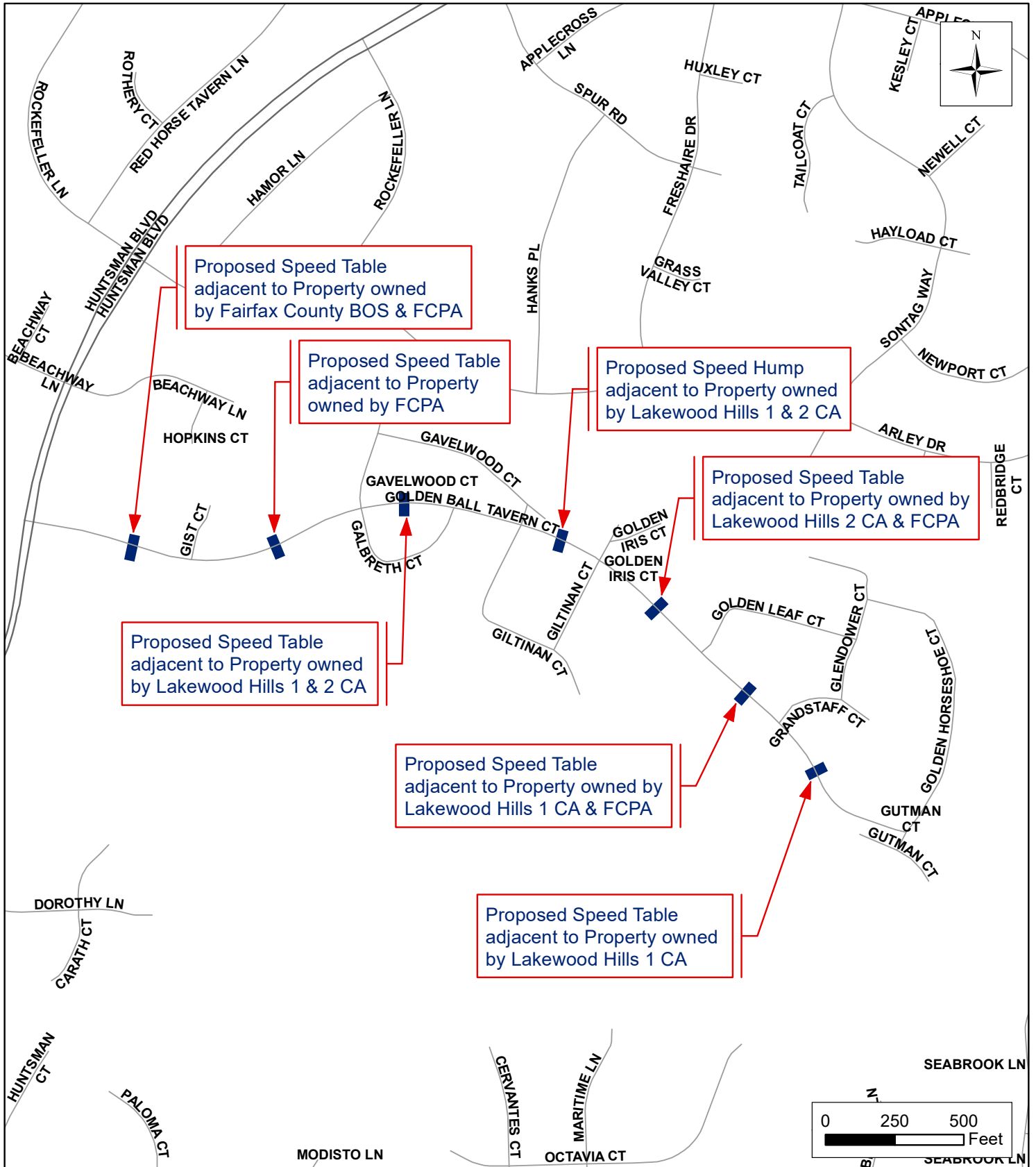
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors endorses the proposed Traffic Calming Plan and requests that the Virginia Department of Transportation review and approve the feasibility of implementing traffic calming measures on Golden Ball Tavern Court as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 27th day of July, 2021.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 88-4

Fairfax County Department of Transportation
 Residential Traffic Administration Program
 Traffic Calming Plan
 Golden Ball Tavern Court
 Springfield District

June 2021



Board Agenda Item
July 27, 2021

ADMINISTRATIVE - 15

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Dranesville District)

ISSUE:

Board endorsement of Traffic Calming measures as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends that the Board endorse the traffic calming plan for Bellview Road and Kimberwicke Road (Attachment I and Attachment II) consisting of the following:

- Three speed humps on Bellview Road (Dranesville District)
- Removal of one speed table on Bellview Road (Dranesville District)
- Two speed humps on Kimberwicke Road (Dranesville District)
- Edgeline striping on Kimberwicke Road at Old Dominion Drive (Dranesville District)

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

TIMING:

Board action is requested on July 27, 2021, in order to allow the proposed measures to be installed as soon as possible.

BACKGROUND:

As part of RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, or median islands to reduce the speed of traffic on a residential street. Staff performs engineering studies documenting the attainment of qualifying criteria. Staff works with the local Supervisor's office and community to determine the viability of the requested traffic calming measure to reduce the speed of traffic. Once the plan for the road under review is approved and adopted by staff, that plan is then

Board Agenda Item
July 27, 2021

submitted for approval to the residents within the ballot area in the adjacent community.

On June 7, 2021, FCDOT received verification from Dranesville District Supervisor's office confirming community support for the Bellview Road and Kimberwicke Road traffic calming plan.

FISCAL IMPACT:

Funding in the amount of \$65,000 is necessary to fund the traffic calming measures associated with this traffic calming project. Funds are currently available in Project 2G25-076-000, Traffic Calming Program, Fund 300-30050, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Resolution for Bellview Road and Kimberwicke Road
Attachment II: Traffic Calming Plan for Bellview Road and Kimberwicke Road

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Gregg Steverson, Deputy Director, FCDOT
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT

RESOLUTION

**FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
TRAFFIC CALMING MEASURES
BELLVIEW ROAD AND KIMBERWICKE ROAD
DRANESVILLE DISTRICT**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, July 27, 2021, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents in the vicinity of Bellview Road & Kimberwicke Road have requested the Dranesville District Supervisor's Office of Fairfax County to consider remedial measures to reduce the speed of traffic on Bellview Road & Kimberwicke Road; and

WHEREAS, an engineering study by the Fairfax County Department of Transportation (FCDOT) for Bellview Road & Kimberwicke Road indicates that all basic traffic calming criteria are met pertaining to functional classification of the roadway, identification of a significant speeding concern, and proof of community support; and

WHEREAS, the proposed Traffic Calming Plan was properly presented to the community in the affected survey area for their review and consideration; and

WHEREAS, the Traffic Calming Plan was subsequently approved by the occupied residences within the appropriate surveyed area; and

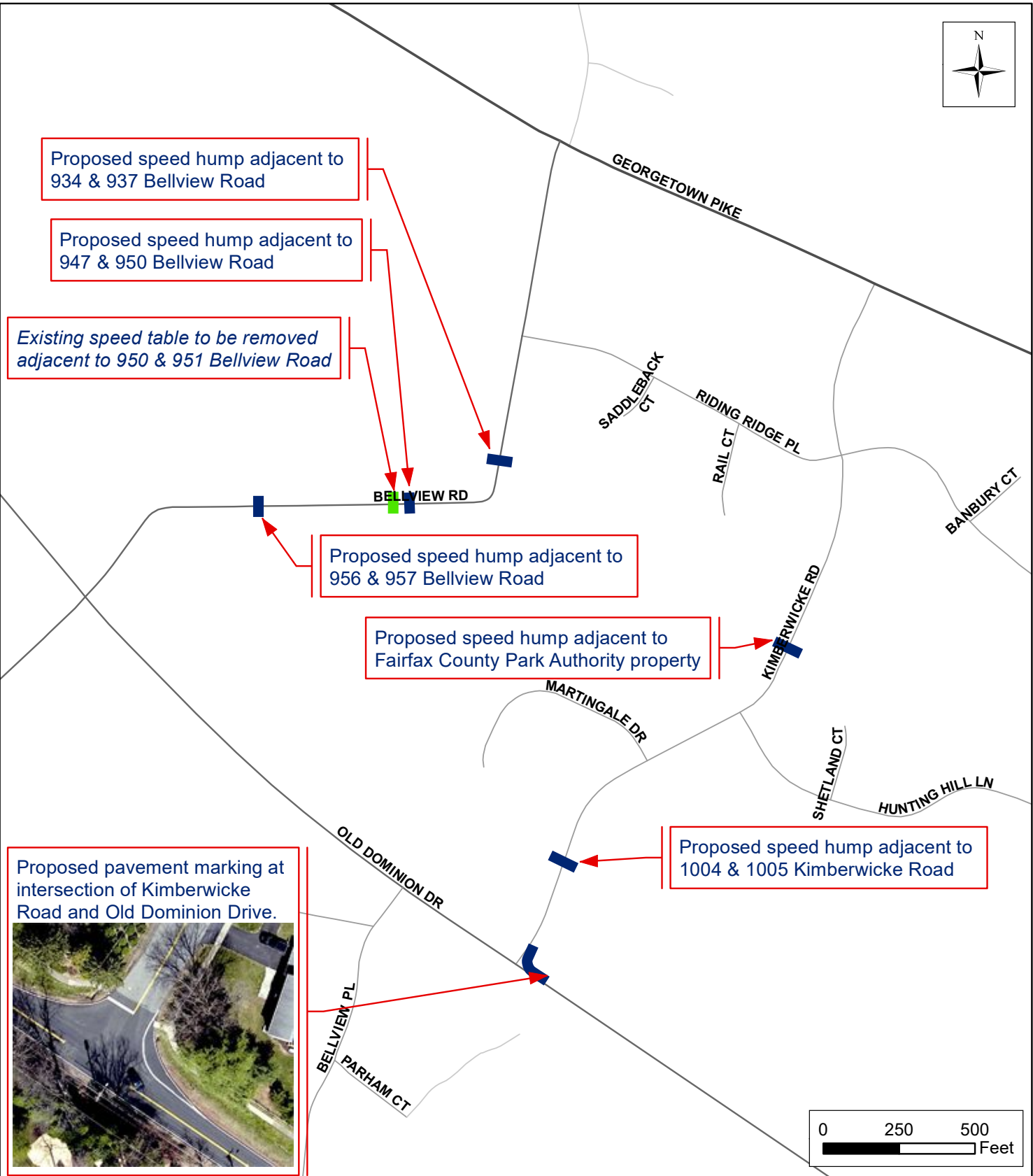
WHEREAS, the intended source of funding for the Traffic Calming Plan is Fairfax County.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors endorses the proposed Traffic Calming Plan and requests that the Virginia Department of Transportation review and approve the feasibility of implementing traffic calming measures on Bellview Road & Kimberwicke Road as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 27th day of July, 2021.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors



Tax Map: 20-1, 20-3

June 2021

**Fairfax County Department of Transportation
 Residential Traffic Administration Program
 Traffic Calming Plan
 Bellview Road & Kimberwicke Road
 Dranesville District**



ADMINISTRATIVE - 16

Supplemental Appropriation Resolution AS 22025 for the Health Department to Accept Grant Funding from the U.S. Department of Health and Human Services for The Stronger Partnership, Stronger Community: Using Health Literacy to Increase Resilience

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 22025 is requested for the Health Department (HD) to accept grant funding in the amount of \$3,875,000 from the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Health (OASH), Office of Minority Health (OMH) to implement “The Stronger Partnership, Stronger Community: Using Health Literacy to Increase Resilience (Stronger2).” This funding will help increase vaccination uptake as well as build capacity in culturally appropriate health literacy programs and practices among providers and community-based organizations which will facilitate systemic changes over time in the County’s healthcare delivery system. Stronger2 will increase the availability, acceptability and use of COVID-19 public health information and services by Hispanic/Latinx and Black/African American communities within five specific zip codes. No Local Cash Match is required. The grant period is from July 1, 2021 to June 6, 2023. When grant funding expires, the County is under no obligation to continue funding the program. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive, and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 22025 in the amount of \$3,875,000 from the U.S. Department of Health and Human Services for The Stronger Partnership, Stronger Community: Using Health Literacy to Increase Resilience. There are no grant positions associated with this funding and no Local Cash Match is required. The County Executive also recommends the Board to authorize the Chairman of the Board of Supervisors, the County Executive, and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Board Agenda Item
July 27, 2021

TIMING:

Board approval is requested on July 27, 2021.

BACKGROUND:

The new HHS OMH award will provide new project implementation funding to the Health Department and shall serve as part of the agency's overall pandemic response. As of the writing of the funding proposal, Fairfax County represented the highest number of COVID-19 cases in Virginia (74,689) or 6,417 per 100,000 people. Half of the county population identify as a racial/ethnic minority, a key factor that increases pandemic related morbidity and mortality. Following Office of Minority Health's required indicators, the grant intervention will focus on five targeted geographical zip code locations for an estimated population reach of 529,932 residents. Among these locations, COVID-19 infection rates exceed the median rate for the Health District as a whole and populations include a higher proportion of Black and Latinx residents, overcrowded households, and limited English-speaking residents. Higher death rates and lower immunization rates also characterize these zip codes. In the multi-year proposal to the U.S. Department of Health and Human Services, Office of Minority Health (HHS/OMH), the Health Department is proposing to increase vaccination uptake as well as build capacity in culturally appropriate health literacy programs and practices among providers and community-based organizations which will facilitate systemic changes over time in the County's healthcare delivery system.

Key HHS Office of Minority Health expectations include:

1. Addressing disparity impact and health equity promotion through the development of a health literacy plan, that incorporates the National CLAS Standards, to increase the availability, acceptability and use of COVID-19 public health information and services.
2. As part of the Health Literacy Plan, OMH expects awardees to develop implementation and sustainability plans that increase the use of COVID-19 public health information and services by racial and ethnic minority populations and others considered vulnerable for not receiving and using COVID-19 public health information.
3. OMH expects awardees to partner with local community-based organizations to develop and implement the health literacy plan, in order to ensure cultural and linguistic appropriateness for racial and ethnic minority populations and other vulnerable populations. Grant awardees and partners should: (a) increase the availability, dissemination, adaptation and use of culturally and linguistically appropriate, evidence-based health literacy practices and interventions; and (b) ensure accurate, accessible, acceptable, and actionable training and health literacy practices.

Funding will support benefits-eligible staff in the following capacity:

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- A Project Director will provide day to day oversight of the HHS Office of Minority Health grant activities, management of project staff, and submitting performance measures reports to HHS-OMH Project Officer;
- A Project Manager will provide day-to-day management and coordinate all facets of grant activities, management of project staff, and submitting performance measures reports; and
- A Community Health Specialist will provide outreach to medical providers and physicians and report to the Project Manager.

The Health Department will also work with community partners to implement culturally proficient, intergenerational, community immersion strategies focused on social support, service navigations, culturally appropriate messaging and distribution, and provider capacity to increase vaccination uptake, enhance culturally appropriate health literacy practices among providers and community members, and promote systemic changes in the healthcare delivery system to ensure equitable health outcomes. Per grantor requirements, the Health Department will partner with a Minority Serving Institution to establish and implement an ongoing quality improvement process and project evaluation.

FISCAL IMPACT:

Funding in the amount of \$3,875,000 has been awarded from the U.S. Department of Health and Human Services to advance health literacy by enhancing equitable community responses to COVID-19. No Local Cash Match is required. This action does not increase the expenditure level of Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards. This grant does allow the recovery of indirect costs and the Health Department anticipates that the County will recover \$23,716 in indirect costs for this grant.

CREATION OF NEW POSITIONS:

No new grant positions will be created as a result of this award.

ENCLOSED DOCUMENTS:

Attachment 1: Notice of Award

Attachment 2: Supplemental Appropriation Resolution AS 22025

STAFF:

Christopher A. Leonard, Deputy County Executive

Gloria Addo-Ayensu, MD, MPH, Director of Health

Anthony J. Mingo, Sr., Sr. Advisor, Community Outreach



Recipient Information

1. Recipient Name
 COUNTY OF FAIRFAX
 12000 Government Center Pkwy Ste 214
 Fairfax, VA 22035-0001
 703-324-8087

2. Congressional District of Recipient
 11

3. Payment System Identifier (ID)
 1540787833A2

4. Employer Identification Number (EIN)
 540787833

5. Data Universal Numbering System (DUNS)
 074837626

6. Recipient's Unique Entity Identifier

7. Project Director or Principal Investigator
 Mr. Anthony Mingo Sr.
 anthony.mingo2@fairfaxcounty.gov
 703-246-8797

8. Authorized Official
 Sherryn Craig
 sherryn.craig@fairfaxcounty.gov
 703-246-8664

Federal Agency Information
 OASH Grants and Acquisitions Management Division

9. Awarding Agency Contact Information
 Mrs. Jessica Hall-Shields
 Grants Specialist
 Jessica.Shields@hhs.gov
 240-453-8839

10. Program Official Contact Information
 Ms. Rashmita Subedi
 Project Officer
 Rashmita.Subedi@hhs.gov
 301-284-2289

Federal Award Information

11. Award Number
 1 CPIMP211247-01-00

12. Unique Federal Award Identification Number (FAIN)
 CPIMP211247

13. Statutory Authority
 42 U.S.C. § 300u-6, (Section 1707 of the Public Health Service Act)

14. Federal Award Project Title
 Stronger Partnership, Stronger Community: Using Health Literacy to Increase Resilience (Stronger2)

15. Assistance Listing Number
 93.137

16. Assistance Listing Program Title
 Community Program to Improve Minority Health

17. Award Action Type
 New

18. Is the Award R&D?
 No

Summary Federal Award Financial Information

19. Budget Period Start Date	07/01/2021	- End Date	06/30/2023
20. Total Amount of Federal Funds Obligated by this Action	\$3,875,000.00		
20a. Direct Cost Amount	\$3,851,284.00		
20b. Indirect Cost Amount	\$23,716.00		
21. Authorized Carryover	\$0.00		
22. Offset	\$0.00		
23. Total Amount of Federal Funds Obligated this budget period	\$0.00		
24. Total Approved Cost Sharing or Matching, where applicable	\$0.00		
25. Total Federal and Non-Federal Approved this Budget Period	\$3,875,000.00		
26. Project Period Start Date	07/01/2021	- End Date	06/30/2023
27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Project Period	Not Available		

28. Authorized Treatment of Program Income
 ADDITIONAL COSTS

29. Grants Management Officer - Signature
 Dr. Scott Moore
 OASH Grants Management Officer

30. Remarks

This action awards funding from the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (P.L. 116-260).



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Award

Award# 1 CPIMP211247-01-00

FAIN# CPIMP211247

Federal Award Date: 06/18/2021

Recipient Information
Recipient Name COUNTY OF FAIRFAX 12000 Government Center Pkwy Ste 214 Fairfax, VA 22035-0001 703-324-8087
Congressional District of Recipient 11
Payment Account Number and Type 1540787833A2
Employer Identification Number (EIN) Data 540787833
Universal Numbering System (DUNS) 074837626
Recipient's Unique Entity Identifier Not Available
31. Assistance Type Project Grant
32. Type of Award Other

33. Approved Budget (Excludes Direct Assistance)	
I. Financial Assistance from the Federal Awarding Agency Only	
II. Total project costs including grant funds and all other financial participation	
a. Salaries and Wages	\$237,162.00
b. Fringe Benefits	\$117,395.00
c. Total Personnel Costs	\$354,557.00
d. Equipment	\$69,750.00
e. Supplies	\$39,000.00
f. Travel	\$7,424.00
g. Construction	\$0.00
h. Other	\$1,891,441.00
i. Contractual	\$1,489,112.00
j. TOTAL DIRECT COSTS	\$3,851,284.00
k. INDIRECT COSTS	\$23,716.00
l. TOTAL APPROVED BUDGET	\$3,875,000.00
m. Federal Share	\$3,875,000.00
n. Non-Federal Share	\$0.00

34. Accounting Classification Codes					
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	OBJECT CLASS	AMT ACTION FINANCIAL ASSISTANCE	APPROPRIATION
1-199CVBE	CPIMP1247C5	MPD-52	41.51	\$3,875,000.00	75-2122-0140



35. Terms And Conditions

SPECIAL CONDITIONS

1. **Medium Risk Designation.** Your project is designated medium risk.

We based this designation on our experience with your prior experience managing awards with the Office of the Assistant Secretary for Health, concerns identified in your most recent single audit, and/or concerns about your proposed treatment of costs under the Cost Principles in 45 C.F.R. part 75. This designation is to protect the Federal Government's interest. We will reevaluate this designation after three months of reporting. This special condition remains in effect until you receive written approval from the Grants Management Officer.

To assure ongoing programmatic progress and financial compliance, you must submit a monthly progress report outlining specific and measurable progress toward meeting the objectives in the approved project work plan. The federal project officer and grants management specialist will provide information regarding the content and format of the report which are intended to supplement the 30-, 60-, and 90-day reporting for this initiative. The reporting period is every 30 days from the project start date. The report must be submitted in the Grant Notes module of Grant Solutions no later than 7 calendar days after the close of the period. For example, for a project beginning July 1, the first reporting period covers July 1 through July 30 and must be submitted no later than August 7.

This requirement is in addition to the standard reporting requirement described in the Standard Terms and Requirements below.

Failure to comply with this or any other Special Condition may result in an enforcement action such as disallowance of funds, drawdown restriction, suspension, or termination. Should we decide to terminate your award prior to the end of the project period based on your material failure to comply with the terms and conditions of the award, we must report the termination to a government-wide integrity and performance system.

SPECIAL TERMS AND REQUIREMENTS

1. **Limitations on Burn-rate.** Funding for this project has been awarded as a single budget period for the entire project period. OASH expects awardees appropriate management of funds including appropriate burn-rates to execute the awarded project in full. To protect the federal interest, OASH is placing a limitation on the burn-rate of the Total Federal Share awarded. Unless prior written approval has been obtained from the OASH Grants Management Officer, the awardee is authorized to drawdown:

- up to 30% of the Total Federal Share in the first 6 months of the project period;
- up to 55% of the Total Federal Share in the first 12 months of the project period; and
- up to 80% of the Total Federal Share in the first 18 months of the project period.

Prior written approval is required from the OASH Grants Management Officer to exceed these limits. Requests will only be considered after reviewing a submitted Budget Revision Amendment including a justification uploaded in Grant Solutions.

2. **Special Reporting.** For the first 6 months of the project, you must submit monthly reports in Grant Notes in Grant Solutions. The calendar month is the reporting period. The reports are due no later



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Office of the Secretary

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than 7 calendar days after the end of the month. Each report shall contain a summary of the previous month's accomplishments, difficulties, and a 30-, 60-, and 90-day outlook table. Your project officer will provide additional guidance regarding optional formats. After the sixth report, the reporting cadence will automatically revert to the quarterly reporting frequency noted in the Reporting Section of this Notice of Award unless your award has a different reporting cadence under Special Conditions. The monthly reporting cadence may be extended as necessary for appropriate monitoring of the project by the Grants Management Officer.

- 3. First 30 days.** The following item must be completed and submitted as a Grant Note(s) in Grant Solutions within the first 30 days of the project period.

a. Budget Revision. No later than 30 days after the project period start date, you must submit a revised budget via Grant Notes in Grant Solutions on SF-424A for non-construction projects with a revised, detailed budget justification. The budget must be broken down by year and cover the entire project period.

Awardee and contractor costs must be properly allocated in the budget categories (e.g., contractor salaries assigned to contracts and not awardee employee salaries) and correctly apply the indirect cost rate to the modified total direct costs (MTDC). Budgets must conform to the cost principles in 45 C.F.R. part 75. If you have a negotiated indirect cost rate, you must provide a copy of the documentation to support it.

b. Acquisition Process Timeline. No later than 30 days after the project period start date, you must submit a timeline for your acquisition/contracting process to be used to solicit and execute contracts to support this grant.

c. Staffing Plan. No later than 30 days after the project period start date, you must submit the staffing plan for the project indicating positions already filled as well as those that are currently vacant. You must include the anticipated onboarding dates for positions to be filled to execute the award.

d. Disparity Impact Statement (DIS). No later than 30 days after the project period start date, you must submit a Disparity Impact Statement (DIS) prepared according to the guidance posted by the Office of Minority Health at <https://minorityhealth.hhs.gov/disparities-impact>.

e. Audit Findings. No later than 30 days after the project period start date, you must submit your corrective action plan for any material weakness or material non-compliance finding that relates to internal controls or subrecipient monitoring in your most recent Single Audit.

- 4. First 60 Days.** The following item must be completed and submitted as a Grant Note(s) in Grant Solutions within the first 60 days of the project period.

a. Planning Documents. No later than 60 days after the project period start date, you must submit a detailed work plan, a health literacy plan incorporating the National standards for Culturally and Linguistically Appropriate Services in Health and Health Care, and an outcome evaluation plan. The plans should appropriately relate to and build upon each other.

b. Subrecipient Monitoring Plan. No later than 60 days after the project period start date, you must submit a comprehensive subrecipient monitoring plan specific to the subrecipient activities under this project.

- 5. First 90 days.** The following item must be completed and submitted as a Grant Note in Grant Solutions within the first 90 days of the project period.



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- a. Final Confidentiality Plan.** No later than 90 days after the project period start date, you must submit a final confidentiality plan.
- 6. Documentation of Agreements.** You are expected to submit all signed Memoranda of Understanding (MOUs) with all partners within the first 60 calendar days of the project period. Additional partners can and should be added throughout the duration of the award, at which point signed MOUs should be submitted within 10 calendar days of newly established formal partnerships. MOUs should detail roles and responsibilities of each partner.

You must submit a notification for each executed contract that includes a brief description of the contract scope of work, cost breakdown, the date executed, and the performance period of the contract. The notification is due 10 calendar days following execution of the contract. You should not send a copy of the contract.

MOUs, contract notifications, and any other supporting documentation for partners and subrecipients must be submitted via Grant Notes Module in GrantSolutions.

- 7. Institutional Review Board (IRB).** Institutional Review Board (IRB) approvals, when applicable, must be submitted via Grant Solutions Grant Notes within 5 business days of receipt from the IRB. No activities that require IRB approval may take place prior to your receipt of the IRB approval.

STANDARD TERMS

- 1. Compliance with Terms and Conditions.** You must comply with all terms and conditions outlined in the grant award, including grant policy terms and conditions contained in applicable Department of Health and Human Services (HHS) Grant Policy Statements (GPS), (note any references in the GPS to 45 C.F.R. Part 74 or 92 are now replaced by 45 C.F.R. Part 75, and the SF-269 is now the SF-425), and requirements imposed by program statutes and regulations, Executive Orders, and HHS grant administration regulations, as applicable; as well as any requirements or limitations in any applicable appropriations acts. By drawing or otherwise obtaining funds for the award from the grant payment system or office, you accept the terms and conditions of the award and agree to perform in accordance with the requirements of the award. The HHS Grants Policy Statement is available at: <http://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf> Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS awards are at 45 C.F.R. Part 75.
- 2. Grants Management Officer Prior Approval Requirements.** Certain changes to your project or personnel require prior approval from the Grants Management Officer (GMO). (See Part II, HHS Grants Policy Statement (GPS), any references in the GPS to 45 C.F.R. Part 74 or 92 are now replaced by 45 C.F.R. Part 75). All amendment requests requiring prior approval must be signed by the grantee authorizing official and or PI/PD and submitted through the GrantSolutions Amendment Module. Only responses signed by the GMO are considered valid. If you take action on the basis of responses from other officials or individuals, you do so at your own risk. Such responses will not be considered binding by or upon any OASH Office or HHS component. Any other correspondence not relating to a prior approval item should be uploaded to Grant Notes within the GrantSolutions system. Include the Federal grant number and signature of the authorized business official and the project director on all such correspondence.
- 3. Salary Limitation (Further Consolidated Appropriations Act, 2020, Div. A, Title II, sec. 202).** “None of the funds appropriated in this title shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level II.”



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The Salary Limitation is based upon the Executive Level II of the Federal Executive Pay Scale. Effective January 2021, the Executive Level II salary is \$199,300. For the purposes of the salary limitation, the direct salary is exclusive of fringe benefits and indirect costs. An individual's direct salary is not constrained by the legislative provision for a limitation of salary. The rate limitation simply limits the amount that may be awarded and charged to the grant.cooperative agreement. A recipient may pay an individual's salary amount in excess of the salary cap with non-federal funds.

4. Reporting Subawards and Executive Compensation.

A. Reporting of first-tier subawards.

1) Applicability.

Unless you are exempt as provided in paragraph D. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery Act funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2) Where and when to report.

You must report each obligating action described in paragraph A.1. of this award term to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FFRS). For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3) What to report.

You must report the information about each obligating action as specified in the submission instructions posted at <http://www.fsrs.gov>.

B. Reporting Total Compensation of Recipient Executives.

1) Applicability and what to report.

You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—



DEPARTMENT OF HEALTH AND HUMAN SERVICES Notice of Award

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FAIN# CPIMP211247

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a) The total Federal funding authorized to date under this award is \$25,000 or more;

b) In the preceding fiscal year, you received—

(1) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. §170.320 (and subawards); and

(2) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. §170.320 (and subawards); and

c) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at the Executive Compensation page of the SEC website.)

2) Where and when to report.

You must report executive total compensation described in paragraph B.1. of this award term:

a) As part of your registration profile in the System for Award Management (SAM).

b) By the end of the month following the month in which this award is made, and annually thereafter.

C. Reporting of Total Compensation of Subrecipient Executives.

1) Applicability and what to report.

Unless you are exempt as provided in paragraph D of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—



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a) In the subrecipient’s preceding fiscal year, the subrecipient received—

(1) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and

(2) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

b) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at the Executive Compensation page of the SEC website.)

2) Where and when to report.

You must report subrecipient executive total compensation described in paragraph C.1. of this award term:

a) To the recipient.

b) By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

D. Exemptions.

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

1) Subawards, and

2) The total compensation of the five most highly compensated executives of any subrecipient.

E. Definitions.

For purposes of this award term:

1) “Entity”

This term means all of the following, as defined in 2 C.F.R. Part 25:



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- a) A Governmental organization, which is a State, local government, or Indian tribe;
- b) A foreign public entity;
- c) A domestic or foreign nonprofit organization;
- d) A domestic or foreign for-profit organization;
- e) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2) “Executive”

This term means officers, managing partners, or any other employees in management positions.

3) “Subaward”:

- a) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ll .210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).
- c) A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4) “Subrecipient”

This term means an entity that:

- a) Receives a subaward from you (the recipient) under this award; and
- b) Is accountable to you for the use of the Federal funds provided by the subaward.

5) “Total compensation”

This term means the cash and noncash dollar value earned by the executive during the recipient’s or subrecipient’s preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):



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- a) Salary and bonus.
 - b) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - c) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - d) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - e) Above-market earnings on deferred compensation which is not tax-qualified.
 - f) Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
5. **Trafficking in Persons.** This award is subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104)



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A. Provisions applicable to a recipient that is a private entity.

- 1) You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not
 - a) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - b) Procure a commercial sex act during the period of time that the award is in effect; or
 - c) Use forced labor in the performance of the award or subawards under the award.
- 2) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity –
 - a) Is determined to have violated a prohibition in paragraph A.1 of this award term; or
 - b) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph A.1 of this award term through conduct that is either-
 - (1) Associated with performance under this award; or
 - (2) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 C.F.R. Part 376.

B. Provision applicable to a recipient other than a private entity.

We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity-



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- 1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
- 2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either
 - a) Associated with performance under this award; or
 - b) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. Part 376.

C. Provisions applicable to any recipient.

- 1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph A.1 of this award term
- 2) Our right to terminate unilaterally that is described in paragraph A.2 or B of this section:
 - a) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and
 - b) Is in addition to all other remedies for noncompliance that are available to us under this award.
- 3) You must include the requirements of paragraph A.1 of this award term in any subaward you make to a private entity.

D. Definitions. For purposes of this award term:

- 1) “Employee” means either:
 - a) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - b) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- 2) “Forced labor” means:

Labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- 3) “Private entity”:



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a) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25.

b) Includes:

(1) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b).

(2) A for-profit organization.

4) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion”

These terms have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102)

6. **Whistleblower Protections.** You are hereby given notice that the 48 C.F.R. § 3.908 (related to the enhancement of contractor employee whistleblower protections), implementing 41 U.S.C. § 4712, as amended (entitled “Enhancement of contractor protection from reprisal for disclosure of certain information”) applies to this award.

7. Reporting of Matters Related to Recipient Integrity and Performance.

A. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. § 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

B. Proceedings About Which You Must Report

Submit the information required about each proceeding that:



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- 1) Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- 2) Reached its final disposition during the most recent five-year period; and
- 3) If one of the following:
 - a) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - b) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - c) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - d) Any other criminal, civil, or administrative proceeding if:
 - (1) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
 - (2) It had a different disposition arrived at by consent or compromise with an acknowledgement of fault on your part; and
 - (3) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

C. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph B of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

D. Reporting Frequency

During any period of time when you are subject to this requirement in paragraph A of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

E. Definitions

For purposes of this award term and condition:



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- 1) Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- 2) Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- 3) Total value of currently active grants, cooperative agreements, and procurement contracts includes—
 - a) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - b) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

F. Disclosure Requirements.

Consistent with 45 C.F.R. § 75.113, applicants and recipients must disclose, in a timely manner, in writing to the HHS Awarding Agency, with a copy to the HHS Office of the Inspector General, all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS Office of the Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to the awarding agency and to the HHS OIG at the following addresses:

*HHS OASH Grants and Acquisitions Management
1101 Wootton Parkway, Plaza Level
Rockville, MD 20852*

AND

*US Department of Health and Human Services Office of Inspector General
ATTN: OIG HOTLINE OPERATIONS—MANDATORY GRANT DISCLOSURES
PO Box 23489
Washington, DC 20026*

URL: <http://oig.hhs.gov/fraud/report-fraud/index.asp>

(Include “Mandatory Grant Disclosures” in subject line)

Fax: 1-800-223-8164 (Include “Mandatory Grant Disclosures” in subject line)

Failure to make required disclosures can result in any of the remedies described in 45 C.F.R. § 75.371 (“Remedies for noncompliance”), including suspension or debarment (See also 2 C.F.R. Parts 180 & 376 and 31 U.S.C. § 3321).



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The recipient must include this mandatory disclosure requirement in all subawards and contracts under this award.

8. Intellectual Property.

A. Data. The federal government has the right to: 1) Obtain, reproduce, publish, or otherwise use the data produced under this award; and 2) Authorize others to receive, reproduce, publish, or otherwise use such data for federal purposes.

B. Copyright. The awardee may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a federal award. The federal government reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

C. Patents and Inventions. The awardee is subject to applicable regulations governing patents and inventions, including government- wide regulations issued by the Department of Commerce at 37 CFR part 401.

9. Acknowledgement of Federal Grant Support.

When issuing statements, press releases, publications, requests for proposal, bid solicitations and other documents --such as tool-kits, resource guides, websites, and presentations (hereafter "statements")--describing the projects or programs funded in whole or in part with U.S. Department of Health and Human Services (HHS) federal funds, the recipient must clearly state:

1) the percentage and dollar amount of the total costs of the program or project funded with federal money; and,

2) the percentage and dollar amount of the total costs of the project or program funded by non-governmental sources.

When issuing statements resulting from activities supported by HHS financial assistance, the recipient entity must include an acknowledgement of federal assistance using one of the following or a similar statement.

If the HHS Grant or Cooperative Agreement is NOT funded with other non-governmental sources:

This [project/publication/program/website, etc.] [is/was] supported by the [full name of the PROGRAM OFFICE] of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with 100 percent funded by [PROGRAM OFFICE]/OASH/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by [PROGRAM OFFICE]/OASH/HHS, or the U.S. Government. For more information, please visit [PROGRAM OFFICE website, if available].

The HHS Grant or Cooperative Agreement IS partially funded with other nongovernmental sources:



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This [project/publication/program/website, etc.] [is/was] supported by the [full name of the PROGRAM OFFICE] of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with XX percentage funded by [PROGRAM OFFICE]/OASH/HHS and \$XX amount and XX percentage funded by non-government source(s). The contents are those of the author (s) and do not necessarily represent the official views of, nor an endorsement, by [PROGRAM OFFICE]/OASH/HHS, or the U.S. Government. For more information, please visit [PROGRAM OFFICE website, if available].

The federal award total must reflect total costs (direct and indirect) for all authorized funds (including supplements and carryover) for the total competitive segment up to the time of the public statement.

Any amendments by the recipient to the acknowledgement statement must be coordinated with the OASH federal project officer and the OASH grants management officer.

If the recipient plans to issue a press release concerning the outcome of activities supported by this financial assistance, it should notify the the OASH federal project officer and the OASH grants management officer in advance to allow for coordination.

10. Prohibition on certain telecommunications and video surveillance services or equipment.

A. As described in CFR 200.216, recipients and subrecipients are prohibited to obligate or spend grant funds (to include direct and indirect expenditures as well as cost share and program) to:



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- 1) Procure or obtain,
- 2) Extend or renew a contract to procure or obtain; or
- 3) Enter into contract (or extend or renew contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - a) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - b) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - c) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

REPORTING REQUIREMENTS

1. **Financial Reporting Requirement—Federal Financial Report (FFR) SF 425.** Effective October 1, 2020, you must submit your SF-425 to OASH using the Department of Health and Human Services (HHS) Payment Management System for any OASH awards with a project period ending October 1, 2020 or later. Failure to submit the FFR in the correct system by the due date may delay processing of any pending requests or applications.

OASH and the Program Support Center are collaborating in the submission of the SF-425 to reduce the burden on grantees and assist with the reconciliation of expenditures and disbursements, and to allow for timely closeout of grants. Your submission must be through the HHS Payment Management System. SF-425 submissions through Grant Solutions will no longer be accepted for OASH awards.

You must use the SF-425 Federal Financial Report (FFR) for expenditure reporting. To assist in your preparation for submission you may find the SF-425 and instructions for completing the form on the Web at: <http://apply07.grants.gov/apply/forms/sample/SF425-V1.0.pdf>. You must complete **all** sections of the FFR.

A. Quarterly FFR Due Date.

Your FFR is due 30 days after the end of each Quarter in the federal fiscal year. That is for the:



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Quarter ending September 30, your FFR is due October 30

Quarter ending December 31, your FFR is due January 30

Quarter ending March 30, your FFR is due April 30

Quarter ending June 30, your FFR is due July 30.

B. Final FFR Due Date.

Your final FFR covering the entire project is due 90 days after the end date for your project period.

C. Past due reports.

If you have not submitted by the due date, you will receive a message indicating the report is **Past Due**. Please ensure your Payment Management System account and contact information are up to date so you receive notifications.

D. Electronic Submission.

Electronic Submissions are accepted only via the HHS Payment Management System – No other submission methods will be accepted without prior written approval from the GMO. You must be assigned to the grant with authorized access to the FFR reporting Module when submitting. If you encounter any difficulties, contact the HHS Payment Management System Help Desk or your assigned Grants Management Specialist. Please reference the CONTACTS section of NoA Terms and Conditions to locate the name of your assigned Grants Management Specialist.

- 2. Quarterly Progress Report Requirements.** You must submit quarterly progress reports 30 days after the end of each quarter of the performance period unless otherwise required under the Special Terms and Requirements for this award. Your progress reports must address content required by 45 CFR § 75.342(b)(2). **Additional progress reporting may be required under Special Terms and Requirements or Special Conditions as required by statute, regulation, or specific circumstances warranting additional monitoring.** Additional guidance may be provided by the Program Office. Reports must be submitted electronically via upload to Grant Notes in GrantSolutions.
- 3. Audit Requirements.** The Single Audit Act Amendments of 1996 (31 U.S.C. §§ 7501-7507) combined the audit requirements for all entities under one Act. An audit is required for all non-Federal entities expending Federal awards, and must be consistent with the standards set out at 45 CFR Part 75, Subpart F (“Audit Requirements”). The audits are due within 30 days of receipt from the auditor or within 9 months of the end of the fiscal year, whichever occurs first. The audit report when completed should be submitted online to the Federal Audit Clearinghouse at <https://harvester.census.gov/facides/Account/Login.aspx>.

CONTACTS

- 1. Fraud, Waste, and Abuse.** The HHS Inspector General accepts tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement in Department of Health and Human Services' programs. Your information will be reviewed promptly by a professional staff member. Due to the high volume of information that they receive, they are unable to reply to submissions. You may reach the OIG through various channels.



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Internet: <https://forms.oig.hhs.gov/hotlineoperations/index.aspx>

Phone: 1-800-HHS-TIPS (1-800-447-8477)

*Mail: US Department of Health and Human Services
Office of Inspector General
ATTN: OIG HOTLINE OPERATIONS
PO Box 23489
Washington, DC 20026*

For additional information visit <https://oig.hhs.gov/fraud/report-fraud/index.asp>

- 2. Payment Procedures.** Payments for grants awarded by OASH Program Offices are made through Payment Management Services (previously known as the Division of Payment Management) <https://pms.psc.gov/home.html> PMS is administered by the Program Support Center (PSC), HHS. NOTE: Please contact the Payment Management Services to establish an account if you do not have one.

Inquiries regarding payments should be directed to <https://pms.psc.gov/home.html>; or

Payment Management Services, P.O. Box 6021, Rockville, MD 20852;

or 1-877-614-5533.

- 3. Use of Grant Solutions.** GrantSolutions is our web-based system that will be used to manage your grant throughout its life cycle. Please contact GrantSolutions User Support to establish an account if you do not have one. Your Grants Management Specialist has the ability to create a GrantSolutions account for the Grantee Authorized Official and Principle Investigator/Program Director roles. Financial Officer accounts may only be established by GrantSolutions staff. All account requests must be signed by the prospective user and their supervisor or other authorized organization official.

For assistance on GrantSolutions issues please contact: GrantSolutions User Support at 202-401-5282 or 866-577-0771, email help@grantsolutions.gov, Monday – Friday, 8 a.m. – 6 p.m. ET. Frequently Asked Questions and answers are available at <https://grantsolutions.secure.force.com/>.

- 4. Grants Administration Assistance.** For assistance on **grants administration** issues please contact: Jessica Shields, Grants Management Specialist, at (240) 453-8839, or e-mail jessica.shields@hhs.gov or mail:

*OASH Grants and Acquisitions Management Division
Department of Health and Human Services
Office of the Secretary
Office of the Assistant Secretary for Health
1101 Wootton Parkway, Rockville, MD 20852.*

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 22025

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on July 27, 2021, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2022, the following supplemental appropriation is authorized, and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund: 500-C50000, Federal-State Grant Fund
Agency: G7171, Health Department
Grants: 1CV7111-2021, Stronger Partnership, Stronger Community \$3,875,000

Reduce Appropriation to:

Agency: G8787, Unclassified Administrative Expenses \$3,875,000
Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: U.S. Dept of Health and Human Services, Office of the Assistant Secretary of Health \$3,875,000

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

ADMINISTRATIVE - 17

Supplemental Appropriation Resolution 22010 to Accept Grant Funding and Authorization to Execute a Grant Project Contract with the Virginia Department of Environmental Quality for the Purchase of Electric Transit Buses and Charging Stations

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 22010 (Attachment 1) for the Department of Transportation to accept grant funding from the Virginia Department of Environmental Quality (DEQ) in the amount of \$2,997,784 for the purchase of four electric transit buses and the purchase and installation of three charging stations at the West Ox Bus Garage. The Total Project Estimate (TPE) is \$4,192,045, including Local Cash Match (LCM) of \$1,194,261. This project will be funded through a combination of the grant award in Fund 50000, Federal-State Grant Fund, and local funding in Fund 40000, County Transit Systems. The FY 2022 Adopted Budget Plan for Fund 40000, County Transit Systems, includes \$19.4 million for the purchase of replacement buses, and a portion of these funds will be used to satisfy the LCM requirement.

The grant period is from July 1, 2021, to June 30, 2023. When grant funding expires, the County has no obligation to continue funding the program. Authorization is also requested for the Director of the Fairfax County Department of Transportation (FCDOT) to execute the Clean Air Communities Program (CACP) Grant Project Contract, substantially in the form of Attachment 3, with DEQ, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors:

- Approve Supplemental Appropriation Resolution AS 22010 to accept grant funding from DEQ in the amount of \$2,997,784 for the purchase of four electric transit buses and the purchase and installation of three charging stations.
- Endorse the TPE of \$4,192,045 to be funded through the new grant approved by this Board item, as well as from Fund 40000, County Transit Systems.
- Approve a resolution (substantially in the form of Attachment 2) authorizing the Director of FCDOT to execute the CACP Grant Project Contract with DEQ (substantially in the form of Attachment 3).

Board Agenda Item
July 27, 2021

TIMING:

Board action is requested on July 27, 2021, to allow FCDOT to proceed with the purchase and installation of the buses and related equipment.

BACKGROUND:

DEQ administers over \$93 million in the Volkswagen Environmental Mitigation Trust (VW Trust) to reduce air pollution in Virginia. The VW Trust is the result of settlements resolving allegations that Volkswagen violated the Clean Air Act through the use of emission testing defeat devices designed to cheat on federal emissions tests. On October 13, 2020, DEQ announced that \$14.0 million in VW Trust funds were available for public transit electric bus projects through the Clean Air Communities Program. On May 21, 2021, Governor Northman announced that the County was awarded \$2,997,784 in CACP funds with an additional \$1,144,261 in Local Cash Match.

The DEQ grant award covers 75 percent of the cost to purchase four electric transit buses and three charging stations. The three charging stations will be installed at the West Ox Bus Garage and will provide sufficient power to charge four electric buses every night. Under the grant contract, the County is also responsible for \$195,000 in expenses that cannot be reimbursed by the VW Trust, including electric infrastructure upgrades, operator and maintenance training, and support for data collection and evaluation. The vehicles are the first zero emission buses for the Fairfax Connector. It is expected that FCDOT will put the buses in service in late 2022.

FISCAL IMPACT:

Grant funding of \$2,997,784 is available from the Virginia Department of Environmental Quality. This action does not increase the expenditure level in Fund 50000, Federal-State Grant Fund, as funds are held in reserve for unanticipated awards in FY 2022. This grant does not allow the recovery of indirect costs. The required Local Cash Match of \$1,194,261 has been identified in Fund 40000, County Transit Systems.

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1 – Supplemental Appropriation Resolution AS 22010

Attachment 2 – Resolution to Authorize Staff to Execute a Grant Project Contract with DEQ

Attachment 3 – Grant Project Contract with DEQ for Electric Bus Purchases

Board Agenda Item
July 27, 2021

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Gregg Steverson, Deputy Director, FCDOT
Dwayne Pelfrey, Chief, Transit Services Division, FCDOT
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Ray Johnson, FCDOT, Chief Funding Section, FCDOT
Jennifer Miller, Transportation Planner, FCDOT
Christina Farrar, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Joanna Faust, Assistant County Attorney

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 22010

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center in Fairfax, Virginia, on July 27, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that the following supplemental appropriation is authorized, and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund: 500-C50000, Federal-State Grant Fund

Agency: G4040, Department of Transportation \$2,997,784
Grant: 1400160-2022, Purchase of Electric Buses

Reduce Appropriation to:

Agency: G8787, Unclassified Administrative Expenses \$2,997,784
Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: Virginia Department of Environmental Quality, \$2,997,784

A Copy - Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center in Fairfax, Virginia, on July 27, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

AGREEMENT EXECUTION RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County's Department of Transportation to execute, on behalf of the County of Fairfax, the Grant Project Contract with the Virginia Department of Environmental Quality for the funding of electric buses, and related equipment. Project administration will be handled by Fairfax County.

Adopted this 27th day of July 2021, Fairfax, Virginia

ATTEST _____
Jill G. Cooper
Clerk for the Board of Supervisors

CONTRACT NO. 17095**CLEAN AIR COMMUNITIES PROGRAM (CACP)
GRANT PROJECT CONTRACT**

This grant project contract is made by and between the **Department of Environmental Quality** (hereinafter referred to as the “Department”) and the **Fairfax County Department of Transportation** (hereinafter referred to as the “Grantee”). The parties to this contract, in consideration of the mutual covenants and stipulations set out herein, agree as follows:

CACP PROJECT DESCRIPTION: The purchase of four (4) heavy-duty battery electric shuttle buses and associated charging infrastructure to replace four (4) older engine model year diesel shuttle buses. The

Grantee shall carry out the project as set forth in the Contract Documents.

PROJECT PERIOD: The project shall commence upon full execution of the contract and shall terminate no later than two years from the contract execution date.

CACP Project Award Amount: \$2,997,783.75

CACP Project Grantee Cost-Share Amount: \$1,194,261.25

Total CACP Project Amount: \$4,192,045.00

Project Funding Source: This project is partially funded with dollars allocated to the Commonwealth of Virginia from the *Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries* (hereinafter, the “State Trust Agreement” or “State Trust”) to mitigate excess diesel emissions. The obligation of funds resulting from this Contract is subject to the availability of funds and requirement pursuant to the State Trust Agreement.

Reimbursement: Reimbursement of eligible project costs to the Grantee shall not exceed the CACP project award amount of **\$2,997,783.75**:

- Eligible Project Costs: Purchase of four (4) heavy-duty battery electric shuttle buses and associated electric charging infrastructure, including customer-side charger installation costs (i.e., “eligible project costs”).
- Ineligible Project Cost: Any costs other than “eligible project costs” including but not limited to:
 - Administrative costs.
 - Project costs for which the Grantee has received, or will receive, full payment from another source or under another program.
 - Any Grantee cost-share portion of the approved project.
 - Any cost presented for reimbursement not procured or contracted in a manner compliant with the applicable jurisdiction’s public procurement and contracting laws or where proof that the jurisdiction’s public procurement and contracting laws were followed has not been provided.
 - Work done or purchases made prior to official notice of DEQ project authorization.
 - Costs incurred for work or purchases not included in the approved project scope.

- “Front-Of-The-Meter /Utility-Side” charging infrastructure costs (e.g., Distribution Line, Transformer, Service Connection or any charging installation costs incurred from in-kind services.
- Operating expenses and fuel costs.
- **Reimbursement for authorized eligible project cost shall be issued in two (2) stages:**

Stage 1: Reimbursed for up to 50% of the eligible project costs after the Grantee submits the following documentation to the Department:

- Proof of cost estimate for vehicle(s), charging infrastructure, and installation services were obtained based on jurisdictional contracting laws;
- Invoices (submitted by the Grantee to the Department for reimbursement) shall include:
 - Name, mailing address and phone number of the Grantee;
 - Project contract/grant number and signature of Grantee;
 - Itemization of expenses to identify the amount paid by the Grantee, the amount to be paid by State Trust funds, and the total amount the Grantee is requesting for reimbursement not to exceed 50% of the eligible project costs;
 - Copy of the original purchase order(s) and sale receipt(s) that shall include (a) total price, (b) price for each product and/or service, (c) a detailed description of each product and/or service, (c) vendor delivery date for the vehicle(s) and charging infrastructure, (d) charging infrastructure installation cost, and (e) charging infrastructure installation start date;
 - Proof of the Grantee’s 50% payment to the vendor(s) (e.g., copy of the canceled check or credit card statement); and
 - Any other documentation requested by the Department as required by the State Trust to verify reimbursement requests submitted to the Trustee by the Department.

Stage 2: Reimbursed for remaining amount of the eligible project costs project after the Grantee submits the following documentation to the Department:

- Invoices (submitted by the Grantee to the Department for reimbursement) shall include:
 - Name, mailing address and phone number of the Grantee;
 - Itemization of expenses to identify the total amount reimbursed for Stage 1, the amount paid by the Grantee, the amount to be paid by State Trust funds, and the total amount the Grantee is requesting for reimbursement not to exceed the remaining balance of the eligible project costs;
 - Project contract number and signature of Grantee;
 - Copy of the original purchase order(s) and vendor-issued sale receipt(s) that shall include (a) total price, (b) price for each product and/or service, (c) a detailed description of each product and/or service (including VIN for each invoiced vehicle), (d) vendor delivery date for the vehicle(s) and charging infrastructure, (e) charging infrastructure installation costs, and (f) charging infrastructure installation completion date;
 - Proof of the Grantee’s payment to the vendor(s) (e.g. copy of the canceled check or credit card statement);
 - Certificate of Engine/Chassis Destruction;
 - Digital photos documenting that the equivalent diesel vehicle has been scrapped and rendered inoperable as specified in the Certificate of Engine/Chassis Destruction. Documentation must include JPEG images of the following, with corresponding file names: 1) Side profile of vehicle, 2) VIN,

- 3) Engine label, 4) Chassis rail cut in half, 5) Engine block, prior to hole, 6) Engine block, after hole, and 7) Others, as needed;
 - Documentation from the Grantee that the invoiced vehicle is successfully operating for its intended use (photos, video, or site visit); and
 - Any other documentation requested by the Department as required by the State Trust to verify reimbursement requests submitted to the Trustee by the Department.
- Upon submission of all reimbursement documentation of eligible project costs per stage (as specified in the "Reimbursement Documentation" requirements below) to the Department, and their acceptance by the Department, the Department will submit approved reimbursement requests to the Trustee of the State Trust Agreement, and direct reimbursement payment to the Grantee. The Grantee will receive reimbursement in accordance with section 5.216 and 5.216.1 of the State Trust.
 - Reimbursed expenses for purchases made with public funds are public records and are subject to public information requests and audits. The Department will provide these requests and documentation to the State Trust trustee and the public, upon request: Documentation regarding funded projects (including, but not limited to purchase orders, invoices, procurement and contract laws, funding requests approved for reimbursement). Note that vehicle and equipment cost, including charging infrastructure costs, are not eligible for trade secret protection under Virginia law.

Submittal of Reimbursement Request to the Department: The Grantee shall transmit required documentation for reimbursement of eligible project cost electronically to:
vwtrustproject_invoice@deq.virginia.gov.

REPORTING REQUIREMENTS – Grantee shall submit the following reports electronically to the Department Project Manager (Angela Conroy, or her designee) at angela.conroy@deq.virginia.gov:

- **Progress Reports:** Project progress report every quarter for the duration of the project period, or as otherwise requested by the Department.
- **Final Report:** A closing activity and fiscal report to the Department within thirty (30) calendar days after completion of the project.

PROJECT COMMUNICATION: The Grantee shall direct all project communication to the Department Project Manager (Angela Conroy, or her designee).

THE CONTRACT DOCUMENTS SHALL CONSIST OF:

- This signed contract;
- Appendix A: CACP Project Workplan and Budget (i.e., Grantee CACP application documents);
- Attachment A-1: CACP Project Progress Reporting Form;
- Attachment A-2: CACP Project Certificate of Destruction;
- Environmental Mitigation Trust Agreement for State Beneficiaries; and
- General Terms and Conditions for State Funded Grant Contracts.

PRECEDENCE OF TERMS: In the event of a conflict between or among terms in requirements of certain documents included in this contract, the following documents control in order from the most important to the least

important: “Environmental Mitigation Trust Agreement for State Beneficiaries”; Signed Contract, Appendix A: CACP Project Workplan and Budget, and “General Terms and Conditions for State Funded Grant Contracts.”

IN WITNESS THEREOF, the parties have caused this grant award contract to be duly executed intending to be bound thereby.

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION

Signature *Date*
NAME:
TITLE:

DEPARTMENT OF ENVIRONMENTAL QUALITY

Signature *Date*
NAME: Valerie E. Thomson
TITLE: Director of Administration and Non-Regulatory Programs



Clean Air Communities Program

Appendix A: Application Template

Updated October 27, 2020

The Virginia Department of Environmental Quality (DEQ) is accepting applications to fund electrification projects through the Clean Air Communities Program. Through this competitive grant process, DEQ will award \$20 million from its share of the Volkswagen Mitigation Trust. Each eligible applicant may submit up to three project applications. The applicant must submit a separate application per eligible project. An application containing more than one eligible project will not be considered for funding.

Electronic submittals are preferred and should be sent to VWmitigation@DEQ.virginia.gov, however paper submittals will also be accepted and should be mailed to:

Virginia Department of Environmental Quality
 Division of Air and Renewable Energy
 Attn: VW Settlement
 PO Box 1105
 Richmond, VA 23218

DEQ is not accepting applications delivered by courier or hand delivered. Application must be received by January 11, 2021.

Applicants must provide all information requested. Late or incomplete applications will not be considered. Applicants may submit responses to the application in a separate Word or PDF file. In addition to any required attachments to the application, applicants may also attach information to support their applications if needed (e.g., project budget table). DEQ may contact applicants for clarification and/or additional information. Send questions regarding the application to VWmitigation@DEQ.virginia.gov.

Applicant Contact Information

Applicant Name	Fairfax County Department of Transportation
Applicant Address	4050 Legato Road Suite 400
City, state, zip code	Fairfax, Va. 22033
Contact Name	Christina Farrar
Title/Position	Transportation Planner
Phone Number	703-877-5629
Email Address	christina.farrar@fairfaxcounty.gov

Project Information

Project name	Fairfax County Battery Electric Bus Demonstration
Eligible project category	Class 4-8 shuttle buses: Shuttle buses used for transporting people with a gross vehicle weight rating GVWR greater than 14,001 lbs.
Project priority	If submitting more than one application, what is the applicant's priority of this application? Priority# <u> 1 </u> of <u> 1 </u> applications? (Note: applicants may only submit up to three applications)
Project budget	Please see supplemental attachment "Attachment 1 - Detailed Cost Estimate" for the project budget.



Clean Air Communities Program

Appendix A: Application Template

Updated October 27, 2020

<p>Cost Estimate(s) and Public Procurement and Contracting Law</p>	<ol style="list-style-type: none"> 1. Provide a detailed cost estimate(s) from the vendor from whom the applicant intends to purchase vehicles, equipment or engines and associated charging infrastructure. Please see supplemental attachment "Attachment 1 - Detailed Cost Estimate" for the project budget. 2. The applicant is responsible for providing proof that the jurisdiction's public procurement and contracting law were followed. If awarded funding and the vendor who provided a cost estimate submitted with the grant application is not the same vendor selected to purchase vehicles, equipment, or engines and associated charging infrastructure, DEQ will not increase funding above the original award amount. Please see supplemental attachment "Attachment 2 - Fairfax County Purchasing Resolution" for Fairfax County's procurement procedures. 3. If purchasing vehicles, equipment, or engines and associated charging infrastructure from a current public contract, applicant must provide actual pricing for the vehicles, equipment or engines and associated charging infrastructure that the applicant intends to purchase. Please see supplemental attachment "Attachment 3 - New Flyer Electric Contract" for the Virginia State Contract that FCDOT intends to use to purchase the electric buses and charging stations. 4. The applicant must certify all vehicles, equipment, or engines and associated charging infrastructure presented for funding in the application were/will be procured in a manner compliant with the jurisdiction's public procurement and contracting law and will provide proof that the jurisdiction's public procurement and contracting law were followed. If awarded funding, the applicant certifies that it understands that if all or part of the eligible project expenses presented for reimbursement were not procured or contracted in a manner compliant with the jurisdiction's public procurement and contracting law, those eligible project costs are ineligible for reimbursement through CACP (see Appendix F - Statement of Certification). Please see supplemental attachment "Appendix F - Statement of Certification" for Fairfax County's signed statement of certification.
<p>Project Partners-</p>	<ol style="list-style-type: none"> 1. Fairfax County Department of Transportation 2. Transdev (Contracted Fairfax Connector Service Provider) 3. New Flyer Industries

	4. Dominion Energy
Project Description	<p>The purchase of four (4) New Flyer Battery Electric Buses will replace four (4) older model year New Flyer Clean Diesel Buses. The four electric buses will be utilized as part of a demonstration program to learn how this ‘zero-emission’ technology can meet the service needs of the Fairfax Connector.</p> <p>The New Flyer Industries 40-foot Xcelsior XE40 buses with the 466 kWh ESS system will be purchased off the Virginia State Contract. The Fairfax County Department of Transportation (FCDOT) has a working relationship with New Flyer Industries for its clean diesel bus procurements. Once grant approval is obtained, pre-production engineering meetings will commence. FCDOT has a pending bus order scheduled for Summer 2021 and preliminary discussions indicate that New Flyer Industries is open to including the electric buses in that period.</p> <p>The buses will be based out of the Fairfax Connector’s West Ox Bus Garage. The project will include the procurement and installation of three (3) vehicle chargers. The 150kW ABB chargers for this location are included in the State Contract. The selection of a charger with a higher kW rate will accommodate more than one bus and still maintain an acceptable charging time compared to a less expensive charger with a lower kW rating. The third charger will be utilized on a regular basis, but if one charger is out of commission, the remaining two can meet the charging needs until all are back online. The chargers will be in the West Ox Bus Yard near the Service Lane building. This location is near the main electrical connections from Dominion Energy. Engineering discussions with FCDOT, New Flyer Industries and Dominion Energy will occur to facilitate the proper connections to the electrical grid.</p> <p>Once the electric buses and chargers are installed and ready for operation, FCDOT will begin working with both New Flyer Industries and Transdev Operations and Maintenance personnel with electric battery bus familiarization and training. These training initiatives will continue throughout the first year of the demonstration and will be the basis for determining future needs and costs. Operations training will include vehicle familiarization, driving and charging. Maintenance training will be more in-depth as technicians are trained on the maintenance requirements of the new propulsion system.</p> <p>The Bus Evaluation phase of the Demonstration is the basis for FCDOT’s understanding two major areas, they are:</p> <ul style="list-style-type: none"> • What are requirements and costs to maintain/operate electric buses, and • What is the capability of the electric buses to meet the different duty cycles of the Fairfax Connector.

	<p>The evaluation phase is scheduled for an 18-to-24-month period as FCDOT will be evaluating electric bus performance year-round to determine the impacts of summer and winter temperatures.</p> <p>FCDOT will manage record-keeping on daily use and performance of the electric buses which will allow staff to better understand energy performance, utilization, availability lifetime costs, emissions reduction, and fleet comparisons. Data to be collected will include, but not limited to:</p> <ul style="list-style-type: none"> • Daily energy consumption • Energy levels • Range data (time and miles) • Daily weather temperatures • Miles between service interruptions • Availability/Out of Service Days • Cost calculations (per mile, per hour) <p>The battery electric bus demonstration is included as part of the FCDOT Transportation Development Plan in 2020. The Fairfax County Board of Supervisors expressed support for zero emission vehicles as part of the November 10, 2020, Transportation Committee Meeting and directed FCDOT to follow up on implementing a battery electric bus demonstration. The demonstration is the initial step in evaluating the progress of this maturing technology and how it can meet the service needs of the Fairfax Connector. The outcomes from the demonstration project will help determine future funding needs and associated transitional considerations that FCDOT will determine.</p> <p>Please see supplemental attachment 4 “Attachment 4 - BOS Transportation Committee Meeting Minutes 11.10.20” for Fairfax County Board of Supervisor’s support of applying for grant funds and implementing the demonstration project. A board resolution will be provided if funds are awarded.</p>
<p>Priority Area</p>	<p>Fairfax County is classified as a second priority area. The four vehicles for this project will operate in one of the busiest corridors within Fairfax County: Interstate 66 (I-66) which runs from the western portion of the County to the eastern boundary of the County, linking Fairfax County to Washington, D.C. There are over 130,000 vehicle trips per day on this corridor.</p> <p>The project will use these vehicles on three different service route types. The first service route will be circulator Routes 461 and 466 operating between the Vienna Metrorail Station and the residential areas just north of I-66. The second service route will be peak-period service on Routes 631, 632, 651, and 652 linking portions of Centreville and Chantilly in the western portion of the County with the Vienna Metrorail Station by way of I-66. The third service route will be an express Route 698 operating along I-66 between the Vienna Metrorail Station and the Pentagon in Arlington County. All these routes link to the Vienna Metrorail Station, which allows riders to access the regional Metrorail system. Please see supplemental attachment 6 “Attachment 6- Proposed Electric Bus Routes. This</p>

	<p>interconnection between the Fairfax Connector bus routes and the Metrorail system increases regional access and improves mobility.</p> <p>The buses will operate from the County's West Ox facility. The charging facilities for these vehicles will also be located at the County's West Ox facility.</p> <p>The pre-COVID total annual ridership for these routes was approximately 225,900, which equates to about three percent of the Connector's pre-COVID total annual ridership. The pre-COVID total average daily ridership for these routes was approximately 1,940. The performance for these routes was approximately 15.6 passengers per revenue hour. At an estimated use of eight to ten hours per day for each vehicle, the total estimated daily ridership is 600 passengers.</p> <p>For the I-66 corridor, the population breakdown is as follows:</p> <ul style="list-style-type: none"> • Children: 12,350 • Seniors: 18,340 • Minorities: 100,500 <p>Switching to fully electric buses will provide a reduction in pollution within the I-66 corridor, which will benefit the health of over 30,000 individuals from the sensitive populations within this corridor.</p> <p>Please see supplemental attachments "Attachment 5 - EPA Maps and Attachment 6 - Proposed Electric Bus Routes" for EJSCREEN tool analysis.</p>
Project Experience	<p>FCDOT launched a Connected Autonomous Vehicle (CAV) shuttle pilot program on October 22, 2020. This pilot program is a public-private partnership between Fairfax County, Dominion Energy, EDENS (Mosaic District developer), Virginia Department of Rail and Public Transportation (VDRPT), Virginia Department of Transportation (VDOT), Virginia Tech Transportation Institute (VTI), and George Mason University (GMU). The project explores the use of CAV as a first-mile, last-mile mobility solution to connect major transit hubs such as the metro stations along the Orange, Silver and Blue/Yellow Lines with emerging activity centers.</p> <p>The pilot is currently scheduled to operate one shuttle from Dunn Loring Metro Station to the Merrifield/Mosaic area until September 30, 2020. VDRPT has provided 50 percent of the project funding through a demonstration grant awarded in FY 2020. In FY 2022, Fairfax County plans to apply for VDRPT funding for the continuation of an additional 12-month pilot.</p>
Fleet data sheet	<p>Please see supplemental attachment "Appendix C - Fleet Data Spreadsheet" for the required fleet data.</p>
Additional project information	<p>FCDOT plans to apply for the DEQ grant funding managed by VDRPT. This Clean Air Communities Program application is our priority. The VDRPT application is intended to be a backup in case we are not awarded the funding requested in this application. The VDRPT grant application is due February 1, 2021, and FCDOT will be using the same project budget and</p>



Clean Air Communities Program

Appendix A: Application Template

Updated October 27, 2020

	cost estimates to apply for the purchase of 4 electric buses and 3 charging stations.
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Virginia Environmental Mitigation Trust Fund: Public Transit Electrification Project Funding Application

Part III (c) 1b: Project Budget (Attachment 1)

Applicant Name: Fairfax County Department of Transportation

Contact Name: Christina Farrar

PROJECT BUDGET								
Project Cost				Project Funding Source				
Category	Unit Cost \$	No.	Total Cost \$	Federal \$	State Capital \$	Local \$	VW Trust \$	Other \$
New Flyer Base Price	\$786,900.00	4	\$3,147,600.00	\$0.00	\$0.00	\$786,900.00	\$2,360,700.00	\$0.00
Additional Options:	\$20,000.00	4	\$80,000.00	\$0.00	\$0.00	\$20,000.00	\$60,000.00	\$0.00
1. Clever Devices	\$25,500.00	4	\$102,000.00	\$0.00	\$0.00	\$25,500.00	\$76,500.00	\$0.00
2. Celrado VoIP	\$4,000.00	4	\$16,000.00	\$0.00	\$0.00	\$4,000.00	\$12,000.00	\$0.00
3. MG90 Router	\$1,800.00	4	\$7,200.00	\$0.00	\$0.00	\$1,800.00	\$5,400.00	\$0.00
Delivery and Inspection	\$14,500.00	4	\$58,000.00	\$0.00	\$0.00	\$14,500.00	\$43,500.00	\$0.00
Charging Unit	\$145,415.00	3	\$436,245.00	\$0.00	\$0.00	\$109,061.25	\$327,183.75	\$0.00
Charger Engineering & Installation estimate	\$150,000.00	1	\$150,000.00	\$0.00	\$0.00	\$37,500.00	\$112,500.00	\$0.00
Dominion Energy Infrastructure estimate	\$120,000.00	1	\$120,000.00	\$0.00	\$0.00	\$120,000.00	\$0.00	\$0.00
Operator and Maintenance Training	\$25,000.00	1	\$25,000.00	\$0.00	\$0.00	\$25,000.00	\$0.00	\$0.00
Data Collection and Evaluation	\$50,000.00	1	\$50,000.00	\$0.00	\$0.00	\$50,000.00	\$0.00	\$0.00
Totals	\$1,343,115.00		\$4,192,045.00	\$0.00	\$0.00	\$1,194,261.25	\$2,997,783.75	\$0.00



Clean Air Communities Program

Appendix F: Statement of Certification


NEW October 27, 2020

Please have the Authorizing Agent read the Statement of Certification below and sign the certification statement. Submit this Appendix as an attachment to the Clean Air Communities Program (CACP) application. If the project is selected for funding, this statement will become a legally binding exhibit in the grant agreement.

Statement of Certification

The applicant certifies all vehicles, equipment, or engines and associated charging infrastructure presented for funding in the CACP application were/will be procured in a manner compliant with the jurisdiction's public procurement and contracting law and will provide proof that the jurisdiction's public procurement and contracting law were followed. If awarded funding, the applicant certifies that it understands that if the vendor who provided the cost estimate or the public contract used for pricing and submitted with the grant application is not the same vendor/contract used to purchase vehicles, equipment, or engines and associated charging infrastructure, DEQ will not increase the funding above the original award amount, and that it understands it is responsible for providing proof that the jurisdiction's public procurement and contracting law were/will be followed. If awarded funding, the applicant certifies that it understands that if all or part of the eligible project expenses presented for reimbursement were not procured or contracted in a manner compliant with the jurisdiction's public procurement and contracting law, those eligible project costs are ineligible for reimbursement from the Volkswagen Environmental Mitigation Trust Fund.

Applicant Certification Signature

Signature of Applicant Authorizing Agent	
Date	01/08/2021
Name	Thomas J Reynolds
Title or relationship to applicant organization	Transportation Planner V / Project mgr.
Contact information (If different from the person identified in the Application)	(703) 877-5973



**Volkswagen (VW) Environmental Mitigation Trust Agreement for State Beneficiaries (State Trust Agreement)
Clean Air Communities Program Project Progress Report Form**

Grant Recipient Name	
Grant #	
Project Name	
Eligible Mitigation Action (EMA)	
Reporting Period:	

Instructions: Complete all highlighted fields.

PROJECT BUDGET	
Total State Trust Funds Awarded	
Total Mandatory Cost-Share	
Total Voluntary Matching Funds	
Total Project Costs	\$0.00

Table 1. Record all funds expended for each project budget category.						
Budget Category	State Trust Funds Expended this Reporting Period	Mandatory Cost-Share Expended this Reporting Period	Voluntary Match Expended this Reporting Period	Cumulative State VW Funds Expended	Cumulative Mandatory Cost-Share Expended	Cumulative Voluntary Match Expended
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Table 2. Narrative Responses	
Topic	Response
What actual accomplishments or other significant measures of progress towards key project objectives occurred during the reporting period (e.g., ordered vehicles and associated chargers and include the anticipated delivery date/ vehicles and chargers delivered/vehicles and chargers operational).	
Enter a very brief summary of whether or not the project is on target to meet its project completion date? Is the project on target to meet its budget?	

<p>Provide a brief report of any parts of the project that are NOT progressing as planned. Indicate any significant risks that are in danger of occurring or have occurred. Explain the key reason (s) for and and what is being done to remedy problems. Identify how and the date you will get back on course to meet the anticipated timelines and milestones.</p>	
<p>Describe any modifications made to your project activities, schedule, and budget.</p>	
<p>Describe any recognition you received for your project (Please include copies of news articles, awards, or photos about your project.)</p>	
<p>What project activities are planned for the next reporting period?</p>	

Clean Air Communities Program

Fleet Data Spreadsheet

**On-Road Vehicles: Eligible Class 8 Trucks (EMA 1), Class 4-7 Trucks
and Eligible Class 4-8 Shuttle Buses (EMA 2)**

Vehicle Information: Please provide the following information for each EXISTING vehicle to be added

Fleet Owner	Make	Model	Engine Model (Manufacturer)	Vehicle Model Year	Engine Model Year	Virginia Priority/Non-Priority Area where Existing Vehicle Operates

cks (EMA 6),

ressed in this project. [Insert additional rows as nee					Please provide the following information			
Virginia Priority/Non-Priority Area Existing Vehicle is Registered	VIN #	Virginia Vehicle Registration # or Vehicle International Registration Plan (IRP) #	Is this Registration # an IRP? [Yes/No]	Date Scraped	Fleet Owner	Vendor Name	Make	Model

for each NEW All-Electric Vehicle and Charger

Model Year	Vehicle GVWR in lbs.	Vehicle Useful Life in Years	Virginia Priority/Non-Priority Area where New All-Electric Vehicle Will Operate	Virginia Priority/Non-Priority Area where New All-Electric Vehicle Will Be Registered	Operational Date

Date Paid by Grantee	Amount Paid by State Trust	Mandatory Cost-share Amount Paid by Grantee	Charger Type (Vendor Name)	Charger Type (Make and Model)

Charger Installation Date	Charger Commissioning/Operational Date	Date Paid by Grantee	Amount Paid by State Trust	Mandatory Cost-share Amount Paid by Grantee	ADDITIONAL leveraged funds

Instructions: (Please have this certification statement signed by
must have two signatures in order to accept the report.)

CERTIFICATION: I certify the information to be correct and ε

Signature, Title, Date)

(Signature, Title, Date)

the Fiscal Agent and either the Project Director or the Authorizing Agent for the grant. We

accurately reflect the progress and status of the project.



Clean Air Communities Program

Certificate of Destruction

Old Vehicle/Chassis Information

CACP Grantee Name:		CACP Contract No.:	
Vehicle Owner Name:			
Vehicle Owner Address:			
Make:		Vehicle ID Number:	
Model:		Odometer Reading:	_____ miles
Year:			

Old Engine Information

Make:		Horsepower:	
Model:		ID or Serial No.:	
Year:			

Name of Dismantler:	
Address of Dismantler:	
Date Vehicle Accepted by Dismantler:	

Signature of Dismantler: _____

CACP Grantee Authorized Representative:

Date engine/chassis disabled: _____

Statement: I certify that within 90 days of replacement, the old engine and chassis (where applicable) have been permanently disabled. Disabling the engine consists of cutting, drilling, or punching a three inch by three inch (3" x 3") hole in the engine block. Disabling the chassis consists of cutting completely through the frame/frame-rails on each side of the vehicle/equipment at a point located between the front and rear axles. Photos of the disabled engine/chassis that are required pursuant to the CACP grant agreement are attached to this Certificate of Vehicle/Engine Destruction.

Authorized Name: _____
Print Name

Authorized Signature: _____ Date: _____

**ENVIRONMENTAL MITIGATION TRUST AGREEMENT
FOR STATE BENEFICIARIES (as modified on May 19, 2020)**

On October 25, 2016, the Court entered a Partial Consent Decree (“First Partial Consent Decree”) in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), among Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC (collectively, the “Settling Defendants”), the United States, and the State of California. In that case, the Court also entered a Second Partial Consent Decree (Dkt. No. 3228-1) on May 17, 2017, among the Settling Defendants, Dr. Ing. h.c. F. Porsche AG, and Porsche Cars North America, Inc. (collectively, the “Defendants”), the United States, and the State of California. Pursuant to the First Partial Consent Decree and the Second Partial Consent Decree, the Defendants and Wilmington Trust, N.A. (the “Trustee”): (1) hereby enter into this Environmental Mitigation Trust Agreement for State Beneficiaries (i.e., for the 50 States, Puerto Rico, and the District of Columbia) (hereinafter, the “State Trust Agreement”) and establish the environmental mitigation trust described herein (the “State Mitigation Trust” or “State Trust”); and (2) concurrently enter into a separate Environmental Mitigation Trust Agreement for Indian Tribe Beneficiaries (i.e., for federally-recognized Indian Tribes) (hereinafter, the “Indian Tribe Trust Agreement”) and establish the environmental mitigation trust described in that agreement (“Indian Tribe Mitigation Trust” or “Indian Tribe Trust”). The Defendants and the Trustee acknowledge that the purpose of the State Mitigation Trust and the Indian Tribe Mitigation Trust is to fulfill the Settling Defendants’ environmental mitigation obligations under the First Partial Consent Decree and the Defendants’ environmental mitigation obligations under the Second Partial Consent Decree. All payments to and expenditures from the State Mitigation Trust and the Indian Tribe Mitigation Trust shall be for the sole purpose of fulfilling the Settling Defendants’ environmental mitigation obligations under the First Partial Consent Decree and the Defendants’ environmental mitigation obligations under the Second Partial Consent Decree, and for the costs and expenses of administering each trust as set forth in the State Mitigation Trust and the Indian Tribe Mitigation Trust. The State Mitigation Trust and the Indian Tribe Mitigation Trust shall be funded with Mitigation Trust Payments according to the terms of the First Partial Consent Decree and the Second Partial Consent Decree (jointly, the “Consent Decree”), and in accordance with the following allocation: (1) 97.99% of the Mitigation Trust Payments from the First Partial Consent Decree shall be allocated to the State Mitigation Trust and 2.01% to the Indian Tribe Mitigation Trust; and (2) 97.7% of the Mitigation Trust Payments from the Second Partial Consent Decree shall be allocated to the State Mitigation Trust and 2.3% to the Indian Tribe Mitigation Trust.

PURPOSE AND RECITALS

Whereas, the Defendants are required to establish this State Mitigation Trust and to fund it with funds to be used for environmental mitigation projects that reduce emissions of nitrogen oxides (“NOx”) where the Subject Vehicles were, are, or will be operated (“Eligible Mitigation Actions”), and to pay for Trust Administration Costs as set forth in this State Trust Agreement;

Whereas, the funding for the Eligible Mitigation Actions provided for in the State Trust Agreement and the Indian Tribe Trust Agreement is intended to fully mitigate the total, lifetime excess NOx emissions from the Subject Vehicles where the Subject Vehicles were, are, or will be operated;

Whereas, the Defendants hereby establish this State Mitigation Trust to provide funds for Eligible Mitigation Actions and Trust Administration Costs;

Whereas, the Trustee has been selected to be the trustee under this State Trust Agreement in accordance with the requirements set forth in the First Partial Consent Decree;

Whereas, the Trustee is willing to act as trustee in accordance with the terms of this State Trust Agreement;

Whereas, the United States and the Trustee agreed in writing to certain minor modifications and clarifying amendments to the State Trust Agreement, and the modified Trust Agreement became effective on April 12, 2019;

Whereas, the United States and the Trustee agreed in writing to certain additional minor modifications and clarifying amendments to the State Trust Agreement that are reflected herein (“proposed amendments”), and the United States will file these proposed amendments with the Court;

Whereas, the Trustee will provide notice of these proposed amendments to the Beneficiaries via Interlinks and by posting the proposed amendments on the public-facing website; and

Whereas, the proposed amendments to the State Trust Agreement shall be effective on the Trust Modification Effective Date;

Now, therefore, the Defendants and the Trustee agree as follows:

I. DEFINITIONS

1.0 Unless otherwise defined in this State Trust Agreement, all capitalized terms used herein shall have the meaning set forth in the Consent Decree.

1.1 “Beneficiary” shall mean each governmental entity among the 50 States, Puerto Rico, and District of Columbia that is determined to be a Beneficiary pursuant to Section IV (State Mitigation Trust Beneficiaries).

1.2 “Business Day” means, with respect to any delivery requirement, deadline, or payment under this State Trust Agreement, each Monday, Tuesday, Wednesday, Thursday, and Friday that is not a day on which the Trustee in the State of Delaware or, as to a specific Beneficiary, a day on which that Beneficiary under this State Trust is authorized or obligated by law, regulation, or executive order to close.

1.3 “Claims” shall mean any and all losses, liabilities, claims, actions, suits, or expenses, of any nature whatsoever, including legal fees and expenses.

1.4 “Consent Decree” shall mean the First Partial Consent Decree in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), and the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

1.5 “Court” shall mean the United States District Court for the Northern District of California.

1.6 “Day” shall mean a calendar day unless expressly stated to be a Business Day. In computing any period of time under this State Trust Agreement, where the last day would fall on a Saturday, Sunday, or federal or Delaware holiday, the period shall run to the close of business of the next Business Day;

1.7 “Delaware Act” shall mean the Delaware Statutory Trust Act, Del. Code Ann. tit.12, §§ 3801-3826.

1.8 “DERA” shall mean the Diesel Emission Reduction Act, Title VII, Subtitle G, of the Energy Policy Act of 2005 (codified at 42 U.S.C. §§ 16131-16139).

1.9 “Eligible Mitigation Action” shall mean any of the actions listed in Appendix D-2 to this State Trust Agreement.

1.10 “Eligible Mitigation Action Administrative Expenditure” shall mean those administrative expenditures by Beneficiaries specified in Appendix D-2 to this State Trust Agreement, and shall not include Trust Administration Costs.

1.11 “Federal Agency” shall mean any agency of the United States government.

1.12 “First Partial Consent Decree” shall mean the Partial Consent Decree entered by the Court in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), on October 25, 2016.

1.13 “Force Majeure” shall have the same meaning as in Paragraph 54 of the First Partial Consent Decree.

1.14 “Indian Land” shall mean the lands of any Indian Tribe or within Indian country.

1.15 “Indian Tribe” shall mean any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe as provided in the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. § 5130. Pursuant to 25 U.S.C. § 5131, the Bureau of Indian Affairs of the Department of the Interior published a current list of federally acknowledged Indian Tribes at 82 Fed. Reg. 4,915 (Jan. 17, 2017), which will be updated from time to time.

1.16 “Investment Manager” shall mean Wilmington Trust, N.A., acting solely in its role as the professional investment manager of Trust Assets in accordance with subparagraph 3.2.2 of this State Trust Agreement and the Investment Management Agreement entered into on the Trust

Effective Date. In subparagraphs 2.2.4, 3.1.2.8, 3.5.3 (last sentence), 3.5.6, and 3.5.7 of the State Trust Agreement, each reference to the Investment Manager shall include the Investment Manager and its officers, directors, and employees.

1.17 “IRS” shall mean the Internal Revenue Service.

1.18 “Liquidation Allocation Rates” shall mean the allocation rates set forth in Appendix D-1B, excluding the Tribal Trust Allocation, the Tribal Administration Cost Subaccount, and the State Trust Administration Cost Subaccount (collectively, the “Excluded Allocations”), and with the Excluded Allocations reallocated among the Beneficiaries in accordance with their allocation rates set forth in Appendix D-1B.

1.19 “Shared State and Indian Tribe Administration Costs” shall mean the costs, fees, and expenses of: (1) establishing and maintaining the Trustee’s public-facing website; and (2) establishing and maintaining a secure method of internet-based communication for the Trustee and Beneficiaries.

1.20 “Start-up Costs” shall mean all fees, costs, and expenses incurred in connection with establishing the State Mitigation Trust and the Indian Tribe Mitigation Trust and setting them up for operation. Start-up costs shall not include the cost of premiums for insurance policies.

1.21 “State Trust Agreement” shall mean the Environmental Mitigation Trust Agreement for State Beneficiaries approved by the Court on September 19, 2017, *United States v. Volkswagen AG, et al.*, No. 16-cv-295 (N.D. Cal.), Dkt. No. 49, as modified on February 28, 2019, a copy of which was fully executed and filed with the Court on March **, 2019.

1.22 “Subject Vehicles” shall mean: (i) the “2.0 Liter Subject Vehicles,” as defined in the First Partial Consent Decree in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1); and (ii) the “3.0 Liter Subject Vehicles,” as defined in the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

1.23 “Tax” or “Taxes” shall mean all federal, state, and local taxes that may be imposed on the Trust by any taxing authority.

1.24 “Tax Professionals” shall mean all accountants and tax lawyers hired to assist the Trustee with the Trust’s reporting obligations, tax filings, audits, and all other tax and accounting-related activities, including efforts to obtain and, if granted, maintain the IRS Private Letter Ruling as described in subparagraphs 2.1.5.1, 2.1.5.2, and 3.1.2.7, and Paragraph 6.7 of this State Trust Agreement.

1.25 “Tax Return” or “Tax Returns” shall mean all required federal, state, and local tax returns and information returns, including any returns associated with compliance with withholding and reporting requirements.

1.26 “Termination Date” shall mean the date that the State Trust terminates pursuant to Paragraph 6.8 of this State Trust Agreement.

1.27 “Trust Administration Costs” shall mean all expenditures of Trust Assets by the Trustee.

1.28 “Trust Effective Date” shall mean October 2, 2017, the date that the United States filed the fully executed final version of the State Trust Agreement with the Court.

1.29 “Trust Modification Effective Date” shall be 30 Days after the following two requirements are satisfied: (1) the United States files with the Court the fully executed version of the State Trust Agreement, as modified on May 19, 2020; and (2) the Trustee provides notice to the Beneficiaries of the proposed amendments to the State Trust Agreement as required by Paragraph 6.5.

1.30 “Trustee” shall mean Wilmington Trust, N.A., acting solely in its role as the Trustee of this State Mitigation Trust as appointed in accordance with Paragraph 3.0, or a successor trustee pursuant to subparagraph 3.7.2. In subparagraphs 2.2.4, 3.1.2.8, 3.5.2, 3.5.3, 3.5.6, and 3.5.7 of this State Trust Agreement, each reference to the Trustee shall include the Trustee and its officers, directors, and employees.

1.31 “United States” shall mean the United States of America, acting on behalf of the U.S. Environmental Protection Agency (“EPA”).

II. STATE MITIGATION TRUST

2.0 Establishment of the State Mitigation Trust

2.0.1 Irrevocable Establishment. The Defendants hereby and irrevocably establish this State Mitigation Trust on behalf of the Beneficiaries in the form of a statutory trust under the Delaware Act, which shall bear the name “Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia.” In connection with the Trustee’s power hereunder, the Trustee may use this name or a variation thereof. The Trustee is hereby authorized and directed to execute and file a Certificate of Trust for the State Mitigation Trust in the form attached hereto as Appendix D-5. The Trustee hereby accepts and agrees to hold the assets owned by the State Mitigation Trust (“Trust Assets”) for the benefit of the Beneficiaries and for the purposes described herein and in the Consent Decree.

2.0.2 Trustee. In accordance with Paragraph 3.0 below, on the Trust Effective Date, the Trustee, not individually but solely in the representative capacity of trustee, shall be appointed as the Trustee in accordance with the Consent Decree to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree.

2.0.3 Trust Purpose. It shall be the purpose of the State Mitigation Trust to timely and efficiently fund Eligible Mitigation Actions to be proposed and administered by the Beneficiaries subject to the requirements of the Consent Decree and this State Trust Agreement, and to provide funds for the administration and operation of this State Trust in

accordance with this State Trust Agreement. The goal of each Eligible Mitigation Action shall be to achieve reductions of NOx emissions in the United States.

2.0.4 Creation and Use of State Trust Account. Within 15 Days following the Trust Effective Date, the Trustee shall establish a trust account (“State Trust Account”), and file with the Court a designation and identification of the State Trust Account. The purpose of the State Trust Account shall be to receive deposits from the Defendants (directly or through the Court Registry) pursuant to the First Partial Consent Decree and the Second Partial Consent Decree, to hold them in trust, to receive income and gains from any investment of Trust Assets (collectively, “Trust Funds”), and to make disbursements to fund Eligible Mitigation Actions by Beneficiaries and to pay Trust Administration Costs, all in accordance with the Consent Decree and this State Trust Agreement. Disbursements shall be directed by each Beneficiary pursuant to a Beneficiary Eligible Mitigation Action Certification (Appendix D-4) delivered to the Trustee in accordance with Paragraph 5.2. Unless otherwise agreed by the parties to the Consent Decree (“Consent Decree Parties”), the State Trust Account shall be the only account that may be used for these purposes.

2.0.4.1 State Trust Account Divisions. The State Trust Account may be divided into such number of discrete trust subaccounts dedicated for specific purposes as may be deemed necessary in the discretion of the Trustee to comply with the terms of, and to implement, the Consent Decree and this State Trust Agreement.

2.1 Funding of the State Mitigation Trust: The Settling Defendants shall fund the State Mitigation Trust as required by the First Partial Consent Decree, and the Defendants shall fund the State Mitigation Trust as required by the Second Partial Consent Decree. The Trustee shall allocate to the State Mitigation Trust the following amounts: (1) 97.99% of the Mitigation Trust Payments from the First Partial Consent Decree plus any income earned on that amount while deposited with the Court Registry account, and (2) 97.7% of the Mitigation Trust Payments from the Second Partial Consent Decree plus any income earned on that amount while deposited with the Court Registry account.

2.1.1 Intentionally Reserved.

2.1.1.1 Intentionally Reserved.

2.1.1.2 Intentionally Reserved.

2.1.1.3 Intentionally Reserved.

2.1.1.4 Intentionally Reserved.

2.1.1.5 Intentionally Reserved.

2.1.2 Intentionally Reserved.

2.1.3 Funding of the Trust Administration Cost Subaccount. As soon as practicable after the Trust Effective Date, the Trustee's receipt of the Trust Funds from the Court Registry pursuant to subparagraph 2.0.4, and the funding of the State Mitigation Trust pursuant to Paragraph 2.1, the Trustee shall fund a subaccount to pay for Trust Administration Costs ("Trust Administration Cost Subaccount") by transferring into it from the State Trust Account the funds allocated to the Trust Administration Cost Subaccount in accordance with Appendix D-1 (Initial 2.0 Liter Allocation) and Appendix D-1A (Initial 3.0 Liter Allocation). The Trustee may further subdivide the Trust Administration Cost Subaccount into such number of additional subaccounts as may be deemed necessary in the discretion of the Trustee to comply with the terms of, and implement, the Consent Decree and this State Trust Agreement. No additional Trust Assets may be directed to the Trust Administration Cost Subaccount, or to the payment of Trust Administration Costs, other than investment earnings on the Trust Administration Cost Subaccount, absent further order of the Court.

2.1.3.1 Allocation of Trust Administration Costs. The funds in the Trust Administration Cost Subaccount shall be internally allocated in accordance with each Beneficiary's allocation rate as set forth in Appendices D-1 and D-1A. The Trustee shall debit those Trust Administration Costs associated with a particular Eligible Mitigation Action request against the Trust Administration Cost Subaccount allocation of the Beneficiary that requested the funds associated with that Eligible Mitigation Action. The Trustee shall debit all other Trust Administration Costs ("Shared Administration Costs") among all Beneficiaries, weighted in accordance with each Beneficiary's Trust Administration Cost Subaccount allocation in place at the time such costs are incurred. Pursuant to Paragraph 3.6, the State Mitigation Trust shall pay 98% of the Trustee's Start-up Costs, and shall pay 98% of the Shared State and Indian Tribe Administration Costs. These costs shall be allocated to each Trust Administration Cost Subaccount consistent with the weighted average allocation rates set forth in Appendix D-1B.

2.1.3.2 Intentionally Reserved.

2.1.4 Intentionally Reserved.

2.1.5 Tax Payment Subaccount. As soon as practicable after the Trust Effective Date, the Trustee's receipt of the Trust Funds from the Court Registry pursuant to subparagraph 2.0.4, and the funding of the State Mitigation Trust pursuant to Paragraph 2.1, the Trustee shall deduct an amount equal to the estimated taxes owed on earnings of the Trust Funds while on deposit in the Court Registry that have been allocated to the State Mitigation Trust pursuant to Paragraph 2.1. The amount of the deduction shall be based on applicable income tax withholding and reporting requirements, and consistent with Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. Such amount shall be deposited into a dedicated, non-interest bearing account ("Tax Payment Subaccount"). In addition, prior to the allocation of any investment income pursuant to subparagraph 3.2.3, the Trustee shall deduct an amount equal to the estimated

taxes owed on such earnings and deposit that sum into the Tax Payment Subaccount. The amounts in this Tax Payment Subaccount shall be used for the express purpose of paying all applicable taxes with respect to the State Trust in a manner consistent with Paragraph 6.7. If at any time the funds on deposit in this Tax Payment Subaccount are insufficient to pay all Taxes then due and owing, the Trustee shall seek to resolve any dispute pursuant to the dispute resolution procedures of Paragraph 6.2.

2.1.5.1 Within 30 Days of receipt of a Private Letter Ruling from the IRS determining that all investment income earned on the Trust Assets is excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115, the Trustee shall allocate all amounts held in the Tax Payment Subaccount to the Beneficiaries, consistent with the allocation rates included in Appendix D-1B.

2.1.5.2 Upon receipt of a Private Letter Ruling from the IRS, which determines that all or a portion of the investment income earned on the Trust Assets is not excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115, the Trustee shall pay any additional taxes owed from the Tax Payment Subaccount. Within 30 Days of receipt of such a letter ruling, the Trustee shall amend its calculation of estimated taxes and deposits to the Tax Payment Subaccount to reflect the proportion of investment income that is determined to be taxable by the IRS.

2.1.5.3 Within 120 Days of each tax-year end, the Trustee shall reconcile the amount of taxes owed and paid from the Tax Payment Subaccount, if any, and return all remaining amounts in the Tax Payment Subaccount to the Beneficiaries, consistent with the allocation rates included in Appendix D-1B. All overpayments of estimated taxes or refunds of taxes paid by, or on behalf of, the Trust shall be allocated to the Beneficiaries consistent with the allocation rates included in Appendix D-1B.

2.1.5.4 Pursuant to the secure internet-based communication established in Paragraph 6.0, the Trustee shall provide the Beneficiaries a copy of all communications from the IRS related to the payment or non-payment of taxes within 15 Days of receipt.

2.2 Trust Limitations

2.2.1 No Consent Decree Party or Beneficiary, nor any of their components, agencies, officers, directors, agents, employees, affiliates, successors, or assigns, shall be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the State Mitigation Trust.

2.2.2 All Trust Assets shall be used solely for the purposes provided in the Consent Decree and this State Trust Agreement.

2.2.3 This State Mitigation Trust is irrevocable. The Defendants: (i) shall not retain any ownership or residual interest whatsoever with respect to any Trust Assets, including, but not limited to, the funds transferred by the Defendants to fund the State Trust pursuant to the terms of the Consent Decree, (ii) shall not have any liabilities or funding obligations with respect to the State Trust (to the Trustee, the Beneficiaries or otherwise) other than the funding obligations expressly set forth in the Consent Decree, and (iii) shall not have any liability or obligation to pay tax on any income or gains from any investments of Trust Assets. Nor shall the Defendants have any rights or role with respect to the management or operation of the State Trust, or the Trustee's approval of requests for Eligible Mitigation Action funding.

2.2.4 Exculpation. Neither the Trustee and its officers, directors, and employees, the Investment Manager and its officers, directors, and employees, the Tax Professionals nor the State Mitigation Trust shall have any liability whatsoever to any person or party for any liability of the Defendants; provided, however, that the State Mitigation Trust shall be liable to the Beneficiaries for funding of Eligible Mitigation Actions in accordance with the terms of this State Trust Agreement and the Consent Decree.

III. TRUSTEE RESPONSIBILITIES

3.0 Appointment: Pursuant to Paragraph 15.e. of the First Partial Consent Decree, the Court appointed Wilmington Trust, N.A., as Trustee of the Environmental Mitigation Trust. Dkt. No. 3030 at 2. Wilmington Trust, N.A., not individually but in its representative capacity as Trustee, is hereby appointed to serve as the Trustee to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree. The Trustee hereby accepts such appointment and agrees to serve, commencing on the Trust Effective Date, in such capacity to the State Mitigation Trust and for the benefit of the Beneficiaries.

3.0.1 Wilmington Trust, N.A. is acting in two separate and distinct roles under the State Mitigation Trust: (1) as the Trustee of the State Mitigation Trust; and (2) as the Investment Manager of the Trust Assets. These roles are subject to different standards of care. Wilmington Trust, N.A., acting as Trustee, is subject to the standard of care set forth in subparagraphs 3.1.1 and 3.5.2. In its role as Investment Manager, Wilmington Trust, N.A. is subject to the standard of care set forth in subparagraph 3.2.2.

3.1 Powers of the Trustee

3.1.1 Except as set forth in this State Trust Agreement, the Trustee shall have the power to perform those acts necessary and desirable to accomplish the purposes of the State Mitigation Trust, which shall be exercised in an efficient and expeditious manner in furtherance of and in a manner consistent with the purposes of this State Trust Agreement and the Consent Decree. Subject to the limitations on liability set forth in subparagraph 3.5.2, the Trustee shall act in accordance with the current professional standards of care and with the diligence, skill, and care expected for the administration of such a Trust. The Trustee shall have only such duties, rights, powers, and privileges expressly set forth in the Consent Decree, this State Trust Agreement, and as otherwise provided by the Delaware

Act. No implied duties (including fiduciary duties) shall be read into this State Trust against Wilmington Trust, N.A., acting as the Trustee.

3.1.2 Upon the Trust Effective Date, the powers of the Trustee shall include the following:

- 3.1.2.1 To receive, manage, invest, reinvest, supervise, and protect the Trust Assets as provided in Paragraph 3.2 of this State Trust Agreement or to engage a professional investment manager (“Investment Manager”) to receive, manage, invest, reinvest, supervise, and protect the Trust Assets as provided in Paragraph 3.2 for the benefit of the Beneficiaries. The Trustee appoints Wilmington Trust, N.A. as the Investment Manager for the State Mitigation Trust pursuant to an Investment Management Agreement entered into on the Trust Effective Date to manage the Trust Assets in accordance with Paragraph 3.2;
- 3.1.2.2 To establish and maintain a public-facing website onto which it will post all materials as required hereunder;
- 3.1.2.3 To establish and maintain a secure method of internet-based communications for the use of the Trustee and the Beneficiaries;
- 3.1.2.4 To hold title to property in the name of the Trustee in its capacity as such;
- 3.1.2.5 To incur, and pay from the Trust Administration Cost Subaccount, any and all customary and commercially reasonable charges and expenses upon or connected with the administration of this State Mitigation Trust in the discharge of its obligations hereunder, including 98% of Start-up Costs and 98% of Shared State and Indian Tribe Administration Costs;
- 3.1.2.6 To engage and compensate professionals to assist the Trustee in accordance with this State Trust Agreement, including, but not limited to, legal, environmental, investment, accounting, tax, website, and third-party auditing professionals, or internet service providers, or insurance providers. Such third-party auditing professionals may be used by the Trustee to audit and/or review expenditures to verify that they comport with the requirements and limitations on use of Trust Funds, as set forth herein. The Trustee may initiate such an audit and/or review on its own initiative or in response to credible reports or suggestions that such review or audit is appropriate. The Trustee shall have an annual independent audit of the Trust’s annual financial statements prepared and posted on the website. In its sole discretion, the United States may waive the requirement of an annual independent audit of the Trust’s annual financial statements and the requirement of a semi-annual independent review of the Trust’s financial statement for any semi-annual

period, starting in year ten or at an earlier time in order to preserve Trust Funds;

- 3.1.2.7 To engage and compensate professionals to assist the Trustee in requesting a Private Letter Ruling from the IRS: (1) that the State Mitigation Trust will be treated as a Qualified Settlement Fund under 26 C.F.R. § 1.468B-1; (2) that all investment income earned on the Trust Assets will be excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115; and (3) on any federal tax matter that the Tax Professionals reasonably believe is necessary to support the rulings in (1) and (2) or otherwise prudent to clarify an uncertain application of federal tax law to the State Mitigation Trust, and to take such actions as may be reasonably necessary to secure such ruling and to ensure that the State Trust continues to comply with such ruling upon the advice of the Tax Professionals;
- 3.1.2.8 To purchase any insurance policies as the Trustee may determine to be prudent to protect the State Mitigation Trust, the Trust Assets, the Trustee and its officers, directors, and employees, Wilmington Trust, N.A., in its role as Investment Manager, and its officers, directors, and employees, and to cover Tax Professionals, if required, from any and all Claims that might be asserted against each;
- 3.1.2.9 To distribute Trust Assets for the purposes contemplated in this State Trust Agreement and the Consent Decree, including distributions of funds to Beneficiaries for approved Eligible Mitigation Actions;
- 3.1.2.10 To file documents in Court on behalf of itself and the State Trust;
- 3.1.2.11 To make all necessary state and federal filings and to provide information as required by law;
- 3.1.2.12 To vote shares or other investments;
- 3.1.2.13 To open or maintain any additional bank accounts, or close bank accounts or open securities accounts as are necessary or appropriate to manage the Trust Assets;
- 3.1.2.14 To apply, as soon as practicable after the Trust Effective Date, for an employer identification number for the State Trust pursuant to IRS Form SS-4, and in accordance with Treasury Regulation Section 1.468B-2(k)(4), 26 C.F.R. § 1.468B-2(k)(4);
- 3.1.2.15 To deduct and withhold from allocation of investment earnings to the Beneficiaries under subparagraph 3.2.3 all Taxes that the Trustee may be required to deduct and withhold under any provision of tax law, and any allocation of investment income under subparagraph 3.2.3 to a State Trust

subaccount shall be reduced to the extent such withheld amounts are remitted to the appropriate taxing authority;

3.1.2.16 To file on behalf of the State Trust all required Tax Returns, which shall be completed in consultation with Tax Professionals, ensure compliance with withholding and reporting requirements, and pay any and all Taxes, including estimated Taxes, due and owing with respect to the State Trust from amounts in the Tax Payment Subaccount pursuant to subparagraph 2.1.5; and

3.1.2.17 Subject to applicable requirements of this State Trust Agreement (including the limitations on liability set forth in subparagraph 3.5.2), the Consent Decree, and other applicable law, to effect all actions and execute and deliver all contracts, instruments, agreements, or other documents that may be necessary to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree, each in accordance with its duties and the current professional standards of care, and with the diligence, skill, and care expected for the administration of such a State Trust for the benefit of the governmental entities identified in Appendix D-1 and Appendix D-1A.

3.1.2.18 Duty to Comply with Law. The Trustee shall not be required to take any action that would violate a law or regulation to which it is subject.

3.1.2.19 Relation-Back Election. If applicable, the Trustee and the Defendants shall fully cooperate in filing a relation-back election under Treasury Regulation Section 1.468B-1(j)(2), 26 C.F.R. § 1.468B-1(j)(2), to treat the State Trust as coming into existence as a settlement fund as of the earliest possible date.

3.2 Investment of Trust Assets: The Trustee shall engage the Investment Manager to invest and reinvest the principal and income of the Trust Assets in those investments that are reasonably calculated to preserve the principal value, taking into account the need for the safety and liquidity of principal as may be required to fund Eligible Mitigation Actions and Trust Administration Costs.

3.2.1 Any investment income that is not reinvested shall be deposited into the State Trust Account for distribution among the Beneficiaries or Supplemental Funding Eligible Beneficiaries, weighted in accordance with the allocation in place at the time of such deposit.

3.2.2 In investing, reinvesting, exchanging, selling, and managing Trust Assets, the Trustee or Investment Manager must perform its duties solely in the interest of the Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent investor, acting in a like capacity and familiar with such matters, would exercise in the conduct of an enterprise of like character and with like aims. The

Investment Manager shall comply with all applicable laws and shall be held to a fiduciary standard of care with respect to the investment and reinvestment of the principal and income of Trust Assets; except that the right and power of the Investment Manager to invest and reinvest the Trust Assets shall be limited to: (i) demand and time deposits, such as certificates of deposit, in banks or other savings institutions whose deposits are federally insured; (ii) U.S. Treasury bills, bonds, and notes, including, but not limited to, long-term U.S. Treasury bills, bonds, notes, and other Government Securities as defined under Section 2(a)(16) of the Investment Company Act of 1940, 15 U.S.C. § 80a-2(a)(16), including, but not limited to, Fannie Mae, Freddie Mac, Federal Home Loan Bank, and Federal Farm Credit; (iii) repurchase agreements for U.S. Treasury bills, bonds, and notes; (iv) AA or AAA corporate bonds (with the rating awarded by at least two of the three major rating agencies (Standard & Poor's, Moody's, or Fitch)); or (v) open-ended mutual funds owning only assets described in subparts (i) through (iv) of this subsection; *provided*, however, that the value of bonds of any single company and its affiliates owned by the State Trust directly rather than through a mutual fund shall not exceed \$10 million when purchased, but may be held, despite increase in value, so long as such amount does not exceed \$16 million. Any such investments shall be made consistently with the Uniform Prudent Investor Act. The determination of the rating of any investments made by the Investment Manager shall be made on the date of acquisition of any such investment or on the date of re-investment. The Investment Manager shall reconfirm that all investments of Trust Assets still meet the original rating requirement on a quarterly basis. If the Investment Manager determines that any particular investment no longer meets the rating requirement, the Investment Manager shall substitute that investment with an investment that meets the ratings requirement as promptly as practicable, but in no event later than the next reporting period. Previously purchased securities downgraded below AA may be held for a reasonable and prudent period of time if the Investment Manager believes it is in the interest of the State Trust to do so. The borrowing of funds or securities for the purpose of leveraging, shorting, or other investments is prohibited. Investment in non-U.S. dollar denominated bonds is prohibited. This subparagraph 3.2.2 shall act as a standing default investment instruction for all cash in any account or subaccount that holds any Trust Assets in cash, which shall be invested in the BlackRock Fed Fund (CUSIP 09248U809). Except for actions or omissions of the Investment Manager that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, the Investment Manager and its officers, directors, or employees shall have no liability for any and all Claims.

3.2.3 Allocation of Investment Income. Any and all earnings, interest, and other investment income realized on the investment of the Trust Assets shall be allocated to each State Trust subaccount on the basis of the respective subaccount balances at the end of each month. Any and all earnings, interest, and other investment income realized on the investment of the assets held in the Trust Administration Cost Subaccount shall be allocated to each administration subaccount on the basis of the respective administration subaccount balance at the end of each month.

3.2.4 Nothing in this Section shall be construed as authorizing the Trustee to cause the State Mitigation Trust to carry on any business or to divide the gains therefrom. The sole purpose of this Section is to authorize the investment of the Trust Assets or any portion

thereof as may be reasonably prudent pending use of the proceeds for the purposes of the State Mitigation Trust.

3.3 Accounting: The Trustee shall maintain the books and records relating to the Trust Assets and income and the payment of expenses of and liabilities against the State Mitigation Trust. The detail of these books and records and the duration the Trustee shall keep such books and records shall be such as to allow the Trustee to make a full and accurate accounting of all Trust Assets, as well as to comply with applicable provisions of law and standard accounting practices, including Generally Accepted Accounting Principles (“GAAP”). The United States, by and through EPA, and each Beneficiary, shall have the right upon 14 Days’ prior written notice to inspect such books and records, as well as all supporting documentation. Except as otherwise provided herein, the Trustee shall not be required to file any accounting or seek approval of the Court with respect to the administration of the State Mitigation Trust, or as a condition for making any payment or distribution out of the Trust Assets.

3.3.1 Semi-Annual Reporting. Within 180 Days of the Trust Effective Date in the first year, and thereafter by February 15 (for the preceding six-month period of July 1 to December 31) and August 15 (for the preceding six-month period of January 1 to June 30) of each year, and then at least 30 Days prior to the filing of a motion to terminate pursuant to Paragraph 6.8 hereof (each a “Financial Reporting Date”), the Trustee shall file with the Court and provide each Beneficiary and the Defendants with:

3.3.1.1 A statement: (i) confirming the value of the Trust Assets; (ii) itemizing the investments then held by the State Trust (including applicable ratings on such investments); and (iii) including a cumulative and calendar year accounting of the amount the Trustee has paid out from the State Trust Account and all subaccounts to any recipient;

3.3.1.2 For each Beneficiary, cumulative and calendar year accounting, as of the Financial Reporting Date, of: (i) such Beneficiary’s initial allocation of Trust Assets; (ii) any allocation adjustments pursuant to this State Trust Agreement; (iii) line item descriptions of completed disbursements on account of approved Eligible Mitigation Action; and (iv) such Beneficiary’s remaining and projected allocation. Such accounting shall also include, for each Beneficiary, a balance statement and projected annual budget of disbursements taking into account those Eligible Mitigation Actions that have been approved as of the Financial Reporting Date;

3.3.1.3 For the Trust Administration Cost Subaccount, cumulative and calendar year accounting, as of the Financial Reporting Date, of: (i) line item disbursements of Total Administration Costs; (ii) balance statements; (iii) 3-year projected annual budgets of disbursements on account of Trust Administration Costs; and (iv) line by line accounting of Trust Administration Costs recorded against each Beneficiary’s allocation pursuant to subparagraph 2.1.3.1;

3.3.1.4 For the State Trust Account and all subaccounts, including, but not limited to, the Trust Administration Cost Subaccount, balance statements and 3-year projected annual budgets that itemize all assets, income, earnings, expenditures, allocations, and disbursements of Trust Assets by State Trust Account and by each subaccount;

3.3.1.5 (1) Financial statements for the semi-annual period ending June 30 of each year, accompanied by a review report thereon from an independent certified public accounting firm; and (2) financial statements for the annual period ending December 31 of each year, accompanied by an audit opinion thereon from an independent certified public accounting firm. All semi-annual and annual period's financial statements shall include disclosure of the disposition of Trust Assets from the previous year end date through the calendar quarter immediately preceding the Financial Reporting Date, and a supplemental schedule presenting a reconciliation of the Trustee's prior budget projections for Trust Administration Costs to actual performance for that period. The independent certified public accounting firm shall perform its review of the semi-annual financial statements and its audit of the annual financial statements in accordance with auditing standards generally accepted in the United States (i.e., audit standards issued by the Association of International Certified Professional Accountants);

3.3.1.6 A description of any previously unreported action taken by the State Trust in performance of its duties which, as determined by the Trustee, counsel, accountants, or other professionals retained by the Trustee, affects the State Trust in a materially adverse way;

3.3.1.7 A brief description of all actions taken in accordance with this State Trust Agreement and the Consent Decree during the previous year; and

3.3.1.8 On each Financial Reporting Date, the Trustee shall simultaneously publish on the State Trust's public-facing website all information required to be provided under Paragraph 3.3.

3.3.2 After the Termination Date, the Trustee intends to destroy all records retained pursuant to this State Trust Agreement. The Trustee shall notify the United States and the Defendants at least 90 Days prior to the destruction of the records. Upon request by the United States or the Defendants, the Trustee shall deliver any such records to EPA or the Defendants, respectively.

3.4 Limitation of the Trustee's Authority: The Trustee is not authorized to engage in any trade or business with respect to the Trust Assets or proceeds therefrom. This provision does not prevent Wilmington Trust, N.A. from acting as the Investment Manager. In addition, this provision does not prevent Wilmington Trust, N.A. from separately contracting with any

Beneficiary for additional services, as permitted by this State Trust Agreement, in conjunction with disbursement of Trust Assets to that Beneficiary from that Beneficiary's designated allocation.

3.5 Conditions of Trustee's Obligations: The Trustee accepts appointment as the Trustee subject to the following express terms and conditions:

3.5.1 No Bond. Notwithstanding any state law to the contrary, the Trustee, including any successor Trustee, shall be exempt from giving any bond or other security in any jurisdiction.

3.5.2 Limitation of Liability and Standard of Care for the Trustee. In no event shall the Trustee be held personally liable for any and all Claims asserted against the Trustee and/or State Mitigation Trust except for actions or omissions of the Trustee that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct by the Trustee. The Trustee shall not be held personally liable for carrying out the express terms of this State Mitigation Trust or carrying out any directions from the Beneficiaries or the United States issued in accordance with this State Trust Agreement or in accordance with any Court Order entered in connection with or arising out of the State Mitigation Trust. The Trustee shall not be held personally liable for any failure or delay in the performance of its obligations hereunder arising from causes beyond the control of the Trustee ("Force Majeure"). The Trustee may consult with legal counsel, accounting and financial professionals, environmental professionals, and other professionals, and shall not be personally liable for any action taken or omission made by it in accordance with advice given by such professionals, except in the case of a final, non-appealable judgment of the Court determining fraud, negligence, or willful misconduct on the part of the Trustee in following such advice. The Trustee shall not be held liable for the negligence, fraud, or willful misconduct of any professional hired by it hereunder provided that the Trustee appointed and engaged the professional with due care. In the absence of willful misconduct, negligence, or fraud by the Trustee, as determined by a final, non-appealable judgment of the Court, the Trustee shall not be personally liable to persons seeking payment from or asserting any and all Claims against the State Mitigation Trust or the Trustee. The Trustee, which is a trustee of this State Trust that has been established under the Delaware Act, shall only be held to the standards of care set forth in this subparagraph 3.5.2; the standards of common law trust laws or the personal trust laws of any state shall not apply in any circumstances hereunder.

3.5.2.1 Limitation of Liability for Tax Professionals. In no event shall the Tax Professionals engaged by the Trustee to assist it with the administration of the State Mitigation Trust be held personally liable for any and all Claims asserted against them except for actions or omissions of the Tax Professionals that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct by the Tax Professionals.

3.5.3 Indemnification. Except for actions or omissions of the Trustee, the Investment Manager, and the Tax Professionals that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, in each

separate case, by the Trustee, the Investment Manager, or the Tax Professionals, each of the Trustee, the Investment Manager, and the Tax Professionals hired hereunder are entitled to indemnification from the Trust Assets, solely as provided in this subparagraph 3.5.3, to hold them harmless against any and all Claims brought against any of them arising out of or in connection with the acceptance or administration of their duties under this State Mitigation Trust, including any and all Claims in connection with enforcing their rights hereunder and defending themselves against any and all Claims. In asserting any indemnification claim against Trust Assets pursuant to this subparagraph 3.5.3, the Trustee, the Investment Manager, and the Tax Professionals shall first seek to recover the amount by asserting a claim against the Trustee's insurance policies purchased pursuant to subparagraph 3.1.2.8 to protect the Trustee, the Investment Manager, and the Tax Professionals hired hereunder against any and all Claims. With respect to any and all amounts that: (1) are not fully and timely paid to the Trustee, the Investment Manager, or the Tax Professionals pursuant to the insurance policies purchased pursuant to subparagraph 3.1.2.8, and (2) are not determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, in each separate case, by the Trustee or the Investment Manager or the Tax Professionals, each of the Trustee, the Investment Manager, and the Tax Professionals hired hereunder are entitled to indemnification solely from the portion of Trust Assets in (1) the Trust Administration Cost Subaccount established pursuant to subparagraph 2.1.3; and (2) the investment earnings on the Trust Administration Cost Subaccount. Any indemnification amounts shall constitute Shared Administration Costs under subparagraph 2.1.3.1. Indemnification under this subparagraph 3.5.3 covers only the amounts not fully and timely paid or covered by insurance policies purchased pursuant to subparagraph 3.1.2.8. The Trustee, the Investment Manager, and the Tax Professionals shall reimburse the State Mitigation Trust for any amount advanced to them or paid from the Trust Administration Cost Subaccount for any Claim if any proceeds are paid on such Claim from insurance policies purchased pursuant to subparagraph 3.1.2.8. If insurance payments are denied in whole or part, the Trustee shall confer with legal counsel and consider whether to affirmatively pursue such insurance payments including, without limitation, an insurance coverage suit arising out of a wrongful denial of coverage. For the avoidance of doubt, subparagraphs 3.5.2, 3.5.2.1, and 3.5.3 do not create for the State Mitigation Trust, the Trustee, the Investment Manager, and the Tax Professionals hired hereunder any express or implied right to indemnification from any Consent Decree Party for any and all Claims asserted against the Trustee, the State Mitigation Trust, the Investment Manager, or the Tax Professionals, and no Consent Decree Party shall be liable for any and all Claims asserted against the Trustee, the State Mitigation Trust, the Investment Manager, or Tax Professionals.

3.5.4 Reliance on Documentation. The Trustee may rely on, and shall be protected in acting upon, any notice, requisition, request, consent, certificate, order, affidavit, letter, or other paper or document reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons. The Trustee may rely upon, with no further duty of inquiry, and shall be protected in acting upon, the certifications made by and delivered to it by the Beneficiaries, including the Certification for Beneficiary Status under Environmental Mitigation Trust Agreement (Appendix D-3) and each Beneficiary Eligible Mitigation Action Certification form (Appendix D-4). The Trustee shall have no duty to monitor or

supervise the use of Trust Funds paid in accordance with Beneficiary Eligible Mitigation Action Certification and Funding Direction forms or any Beneficiary's compliance with an Eligible Mitigation Action.

3.5.5 Right to Demand Documentation. Notwithstanding anything else in this State Trust Agreement, in the administration of the Trust Assets, the Trustee shall have the right, but shall not be required, to demand from the relevant Beneficiary before the disbursement of any cash or in respect of any action whatsoever within the purview of this State Mitigation Trust, any showings, certificates, opinions, appraisals, or other information, or action or evidence thereof, in addition to that required by the terms hereof that the Trustee reasonably believes to be necessary or desirable.

3.5.6 Limitation on Consequential Damages. Unless the Trustee, the Investment Manager, or the Tax Professionals are determined in a final, non-appealable judgment of the Court to have engaged in fraudulent or willful misconduct, the United States or any Beneficiary of the State Mitigation Trust shall not have any right to recover, and the State Mitigation Trust, the Trustee, the Investment Manager, or the Tax Professionals shall not be liable for, any special, indirect, punitive, or consequential loss or damages, of any kind whatsoever, against the State Mitigation Trust, the Trustee, the Investment Manager, or the Tax Professionals. When the Trustee, the Investment Manager, or the Tax Professionals are determined in a final, non-appealable judgment of the Court to have been negligent, any and all Claims by the United States or any Beneficiary of the State Mitigation Trust shall be limited to direct damages.

3.5.7 No Consequential Damages. In no event shall the Trustee, the Investment Manager, the Tax Professionals, or the State Mitigation Trust be held responsible or liable for special, indirect, punitive, or consequential loss or damages of any kind whatsoever in connection with any and all Claims brought against them by any third party.

3.6 Payment of Trust Administration Costs: Subject to the limits set forth in Appendix D-1 and Appendix D-1A, the State Mitigation Trust shall pay from the Trust Administration Cost Subaccount its own reasonable and necessary costs and expenses, and shall reimburse the Trustee for the actual reasonable out-of-pocket fees, costs, and expenses to the extent incurred by the Trustee in connection with the administration of the State Trust, including payment of professionals hired in connection with the duties and responsibilities of the State Trust, payment of insurance premiums for policies purchased pursuant to subparagraph 3.1.2.8, payment of a deductible incurred under an insurance policy for the State Trust, Trustee, Investment Manager, or Tax Professionals hired hereunder purchased pursuant to subparagraph 3.1.2.8 in cases in which the State Trust, Trustee, Investment Manager, or Tax Professionals would be entitled to indemnification under subparagraph 3.5.3, and any indemnification amounts as provided in accordance with subparagraph 3.5.3. The Trustee also shall be entitled to receive reasonable compensation for services rendered on behalf of the State Mitigation Trust, in accordance with the projected annual budgets for administration of the State Mitigation Trust required under subparagraph 3.3.1 hereof, and shall be entitled to pay itself from the Trust Administration Cost Subaccount its initial fee and its annual administration fee

as set forth in its fee letter dated as of the Trust Effective Date (“Trustee Fee Letter”). The Trustee shall provide a copy of the Trustee Fee Letter to each Beneficiary via the secure internet site established by the Trustee pursuant to subparagraph 3.1.2.3. The State Mitigation Trust shall pay from the Trust Administration Cost Subaccount 98% of Start-up Costs and 98% of Shared State and Indian Tribe Administration Costs, which shall be allocated to each Trust Administration Cost Subaccount consistent with the weighted average allocation rates set forth in Appendix D-1B. Notwithstanding the foregoing, the total amount of allowable Trust Administration Costs shall not exceed the specific allocation established for the Trust Administration Cost Subaccount in Appendix D-1 and Appendix D-1A, plus any and all earnings, interest, and other investment income realized on the investment of the assets held in the Trust Administration Cost Subaccount. The Trustee shall not use the Trust Administration Cost Subaccount to pay: (1) the fees and expenses of the Investment Manager; or (2) any and all Taxes due and owing with respect to the State Trust. To the extent that the Trustee provides additional services requested by a particular State Beneficiary, payment for such additional services shall be made from that State Beneficiary’s allocation account only. In accordance with the terms of the Investment Management Agreement, the Investment Manager’s fees and expenses shall be deducted directly from the investment earnings on the Trust Assets, and not from the corpus of the Trust Assets. All Taxes shall be paid from amounts on deposit in the Tax Payment Subaccount established in subparagraph 2.1.5. The Trustee shall include in its semi-annual reporting, and post on its public-facing website, all Trust Administration Costs (including the costs and descriptions of the Trustee’s services rendered on behalf of the State Trust) at least 15 Days prior to the payment of any such expense; provided, however, that the requirement to post all Trust Administrative Costs at least 15 Days prior to payment shall first take effect when the website is established and ready for use, and shall not initially apply to Start-up Costs and to Shared State and Indian Tribe Administration Costs. After the Trust Administration Cost Subaccount is funded pursuant to subparagraph 2.1.3, the Trustee, after receipt of invoices from any third party service providers, shall pay as promptly as practical any and all fees, costs, and expenses incurred by the Trustee to establish the State Mitigation Trust including, but not limited to: (1) the invoices of third party service providers (e.g., legal, accounting, website developer, and hosting provider); (2) fees, costs, and expenses necessary to commence the operations of the State Trust (e.g., Intralinks, Pacer, and insurance premiums); and (3) the Trustee’s acceptance fee and first quarter portion of the Trustee’s annual fee for the first year. All Trust Administration Costs that are paid prior to the establishment of the website shall be posted on the website as promptly as practicable after the website is established. Such information shall remain available on the website until the Termination Date.

3.7 Termination, Resignation, and Removal of the Trustee

3.7.1 Termination of Trustee. The rights, powers, duties, and obligations of the Trustee to the State Mitigation Trust and the Beneficiaries will terminate on the Termination Date.

3.7.2 Resignation of Trustee and Successor Trustee. The Trustee may commence the resignation process at any time by providing 90 Days' notice to the United States, the Defendants, and the Beneficiaries. Resignation of the Trustee shall only be effective upon: (i) selection of a successor pursuant to the procedures set forth in the First Partial Consent Decree; and (ii) order of the Court. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the appointment of a successor trustee or as otherwise ordered by the Court, the Trustee shall transfer all State Trust records to the successor trustee, and shall take all actions necessary to assign, transfer, and pay over to the successor trustee control of all Trust Assets (including the public website maintained by the Trustee). In the event that the Trustee ceases to exist or ceases to operate its corporate trust business, the Court may, upon motion by the United States or any Beneficiary, appoint an interim Trustee until such time as a successor trustee is appointed in accordance with the procedures set forth in the First Partial Consent Decree. Any successor Trustee appointed hereunder shall file an amendment to the Certificate of Trust as required by the Delaware Act.

IV. STATE MITIGATION TRUST BENEFICIARIES

4.0 Determination of Beneficiary Status: The States, Puerto Rico, and the District of Columbia may elect to become a Beneficiary hereunder by filing with the Court a Certification for Beneficiary Status under Environmental Mitigation Trust Agreement (Appendix D-3), containing each of the certifications required by subparagraphs 4.2.1 through 4.2.9, not later than 60 Days after the Trust Effective Date. At the time of filing the Certification Form with the Court, the States, Puerto Rico, and the District of Columbia shall also provide a copy of the Certification Form to the Trustee in electronic format and by mail pursuant to Paragraph 6.0 and subparagraph 6.0.1. Each governmental entity that timely files such certifications shall be a "Certifying Entity." Each governmental entity that fails to timely file such certifications shall be an "Excluded Entity," and shall be permanently enjoined from asserting any rights with respect to Trust Assets or any other matter relating to the implementation of this Trust. The Trustee shall be responsible for ensuring that the form of each certification complies with the requirements hereof prior to deeming any Certifying Entity to be a Beneficiary hereunder.

4.0.1 Notice of Objection. If the United States determines that a certification filed by any Certifying Entity fails to comply with the requirements of this Section, the United States may file with the Court a notice of objection within 30 Days after a Certifying Entity files its certifications with the Court. Such notice shall explain the basis of objection with specificity. Any such objections shall be resolved according to the procedures set forth in Paragraph 6.2.

4.0.2 Notice of Beneficiary Designation. Not later than 120 Days after the Trust Effective Date, the Trustee shall file with the Court, publish on its public-facing website, and serve on each Consent Decree Party and Certifying Entity lists indicating:

4.0.2.1 Which Certifying Entities filed certifications as to which no notice of objection has been filed. Upon the filing of this Notice of Beneficiary

Designation, each such Certifying Entity shall be deemed a “Beneficiary” hereunder;

4.0.2.2 Which governmental entity did not timely file the certifications pursuant to Paragraph 4.0. Each such governmental entity shall be deemed an “Excluded Entity” hereunder; and

4.0.2.3 Which Certifying Entities timely filed certifications as to which a notice of objection has been filed pursuant to subparagraph 4.0.1, together with an explanation of the status of any such objection. Each such Certifying Entity shall be a “Pending Beneficiary.” Upon final resolution of each objection, the Pending Beneficiary shall either be deemed a Beneficiary or an Excluded Entity hereunder.

4.1 Beneficiary Mitigation Plan: After being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, each Beneficiary, not later than 30 Days prior to submitting its first funding request pursuant to Paragraph 5.2, shall submit and make publicly available a “Beneficiary Mitigation Plan” that summarizes how the Beneficiary plans to use the mitigation funds allocated to it under this Trust, addressing: (i) the Beneficiary’s overall goal for the use of the funds; (ii) the categories of Eligible Mitigation Actions the Beneficiary anticipates will be appropriate to achieve the stated goals and the preliminary assessment of the percentages of funds anticipated to be used for each type of Eligible Mitigation Action; (iii) a description of how the Beneficiary will consider the potential beneficial impact of the selected Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden within its jurisdiction; and (iv) a general description of the expected ranges of emission benefits the Beneficiary estimates would be realized by implementation of the Eligible Mitigation Actions identified in the Beneficiary Mitigation Plan. The Beneficiary Mitigation Plan need only provide the level of detail reasonably ascertainable at the time of submission. This Plan is intended to provide the public with insight into a Beneficiary’s high-level vision for use of the mitigation funds and information about the specific uses for which funding is expected to be requested. Nothing in this provision is intended to make the Beneficiary Mitigation Plan binding on any Beneficiary, nor does it create any rights in any person to claim an entitlement of any kind. Beneficiaries may adjust their goals and specific spending plans at their discretion and, if they do so, shall provide the Trustee with updates to their Beneficiary Mitigation Plan. The Trustee has no duty to monitor or supervise any Beneficiary’s compliance with its Beneficiary Mitigation Plan. To the extent a Beneficiary intends to avail itself of the DERA Option described in Appendix D-2, that Beneficiary may use its Final Approved DERA Workplan as its Beneficiary Mitigation Plan as to those Eligible Mitigation Actions funded through the DERA Option. The Beneficiary Mitigation Plan shall explain the process by which the Beneficiary shall seek and consider public input on its Beneficiary Mitigation Plan.

4.2 Required Certifications in Appendix D-3

4.2.1 Identification of Lead Agency and Submission to Jurisdiction. Each Certification Form (Appendix D-3) must include a designation of lead agency, certified by the Office of the Governor (or if not a state, the analogous chief executive) of the State, Puerto Rico, or the District of Columbia on whose behalf the Certification Form is

submitted, indicating which agency, department, office, or division will have the delegated authority to act on behalf of and legally bind such governmental entity. The Certification Form shall also include confirmation by the Certifying Entity that: (i) it has the authority to sign the Certification Form; and (ii) it agrees, without limitation, to be bound by the terms of this State Trust Agreement, including the allocations of Trust Assets provided hereunder, and to be subject to the jurisdiction of the Court for all matters concerning the interpretation or performance of, or any disputes arising under, this State Trust Agreement. The Certifying Entity's agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

4.2.2 Consent to Trustee Authority. Each Certification Form (Appendix D-3) must include an agreement by the Certifying Entity that the Trustee has the authorities specified in this State Trust Agreement, including, but not limited to, the authority: (i) to approve, deny, request modifications, or request further information related to any request for funds hereunder; and (ii) to implement this State Trust Agreement in accordance with its terms.

4.2.3 Certification of Legal Authority. Each Certification Form (Appendix D-3) must certify that: (i) the laws of the Certifying Entity do not prohibit it from being a Beneficiary hereunder; (ii) prior to requesting any funds hereunder, the Certifying Entity shall obtain full legal authority to receive and/or direct payments of such funds; and (iii) if the Certifying Entity fails to demonstrate that it has obtained such legal authority within two years of submitting its Certification Form, it shall become an Excluded Entity hereunder and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1.

4.2.4 Certification of Legal Compliance. Each Certification Form (Appendix D-3) must include a certification and agreement that, in connection with all actions related to this State Trust, the Certifying Entity has followed and will follow all applicable law and that such Certifying Entity will assume full responsibility for its decisions in that regard.

4.2.5 Certification of Eligible Mitigation Action Accounts. Each Certification Form (Appendix D-3) shall include a certification by the Certifying Entity that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trustee for credit to the allocation of such Certifying Entity.

4.2.6 Waiver of Claims for Injunctive Relief under Environmental or Common Laws. Each Certification Form (Appendix D-3) shall include an express waiver by the Certifying Entity, on behalf of itself and all of its agencies, departments, offices, and divisions, in favor of the parties to the Consent Decree (including the Defendants) of all claims for injunctive relief to redress environmental injury caused by the Subject Vehicles, whether based on the environmental or common law within its jurisdiction. Such waiver shall be binding on all agencies, departments, offices, and divisions of such Beneficiary asserting, purporting to assert, or capable of asserting such claims. The waiver need not waive, and the Certifying Entities may expressly reserve, their rights, if any, to seek fines or

penalties. California's entry in the Consent Decree shall satisfy its certification obligations under this subparagraph.

4.2.7 Publicly Available Information. Each Certification Form (Appendix D-3) must include a certification by the Certifying Entity that it will maintain and make publicly available all documentation and records: (i) submitted by it in support of each funding request; and (ii) supporting all expenditures of Trust Funds by the Certifying Entity, each until the Termination Date, unless the laws of the Certifying Entity require a longer record retention period. This certification shall include an explanation of the procedures by which the records may be accessed, which procedures shall be designed to support access and limit the burden for the general public, and for the Beneficiary Mitigation Plan required under Paragraph 4.1, the procedures by which public input will be solicited and considered. This certification can be made subject to applicable laws governing the publication of confidential business information and personally identifiable information.

4.2.8 Notice of Availability of Mitigation Action Funds. Each Certification Form (Appendix D-3) must certify that, not later than 30 Days after being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, the Certifying Entity will provide a copy of this State Trust Agreement with Attachments to the U.S. Department of the Interior, the U.S. Department of Agriculture, and any other Federal Agency that has custody, control, or management of land within or contiguous to the territorial boundaries of the Certifying Entity and has by then notified the Certifying Entity of its interest hereunder, explaining that the Certifying Entity may request Eligible Mitigation Action funds for use on lands within that Federal Agency's custody, control, or management (including, but not limited to, Clean Air Act Class I and II areas), and setting forth the procedures by which the Certifying Entity will review, consider, and make a written determination upon each such request. For the U.S. Department of the Interior and the U.S. Department of Agriculture, Beneficiaries may provide notice as required by this subparagraph to the following:

Department of the Interior:

National Park Service, Air Resources Division
VW Settlement
P.O. Box 25287
Denver, CO 80225-0287
Or via email to: vwsettlement@nps.gov.

Tim Allen or other designated representative
U.S Fish and Wildlife Service
National Wildlife Refuge System
Branch of Air Quality
Re: VW Settlement
7333 W. Jefferson Ave., Suite 375
Lakewood, CO 80235-2017
Or via email to: VW_Settlement@fws.gov

Department of Agriculture:

Linda Geiser or other designated representative
National Air Program Manager
lgeiser@fs.fed.us
(202) 756-0068

Bret Anderson or other designated representative
National Air Modeling Coordinator
baanderson02@fs.fed.us
(970) 295-5981

4.2.9 Registration of Subject Vehicles. Each Certification Form (Appendix D-3) must state, for the benefit of the parties to the Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that the Certifying Entity:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall, or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the First Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or
 - iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall, or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Certifying Entity by the Defendants.

(d) Notwithstanding the foregoing, a Certifying Entity may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Certifying Entity's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act, 42 U.S.C. §§ 7543, 7507, and not explicitly excluded in subparagraphs 4.2.9(a)-(b).

V. DISTRIBUTION OF STATE MITIGATION TRUST ASSETS

5.0 Initial Allocation: Each State, Puerto Rico, and the District of Columbia shall have the right under this State Trust Agreement, upon becoming a Beneficiary pursuant to Section IV (State Mitigation Trust Beneficiaries), to request its share of Eligible Mitigation Action funds in accordance with the weighted average allocation rates set forth in Appendix D-1B ("Initial Allocation Rates").

5.0.1 Together with the Notice of Beneficiary Designation required to be filed pursuant to subparagraph 4.0.2, the Trustee shall also file with the Court and serve upon each Consent Decree Party, Beneficiary, and Pending Beneficiary, a corresponding recalculation of the Initial Allocation Rates to reallocate each Excluded Entity's share among the Beneficiaries and Pending Beneficiaries of this State Mitigation Trust, in accordance with the weighted average allocation rates set forth in Appendix D-1B, but excluding the Excluded Entities, the Tribal Trust Allocation, and the Tribal Administration Cost Subaccount ("Final Allocation Rates"). If any Pending Beneficiary is deemed an Excluded Entity hereunder, its share shall be reallocated among the Beneficiaries and remaining Pending Beneficiaries, weighted in accordance with the Final Allocation Rates. The Trustee shall file with the Court and serve upon each Consent Decree Party, Beneficiary, and Pending Beneficiary a notice of reallocation in the event that the Final Allocation Rates are adjusted in accordance with this State Trust Agreement.

5.0.2 Upon being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, each Beneficiary shall have the right under this State Trust Agreement to request Eligible Mitigation Action funds up to the total dollar amount allocated to it. Provided, however, that no Beneficiary may request payout of more than: (i) one-third of its allocation during the first year after the Settling Defendants make the Initial Deposit, or (ii) two-thirds of its allocation during the first two years after the Settling Defendants make the Initial Deposit.

5.0.3 Allocation of Appendix A Mitigation Trust Payments. Ninety-Seven and Ninety-Seven/One Hundredths (97.97) percent of any "National Mitigation Trust Payment" made pursuant to Section VI (Recall Rate) of Appendix A (Buyback, Lease Termination, and Vehicle Modification Recall Program) of the First Partial Consent Decree or Section X (Recall Rate) of Appendix A (Buyback, Lease Termination, Vehicle Modification, and Emissions Compliant Recall Program) of the Second Partial Consent Decree shall be allocated among all Beneficiaries (other than California) of this State Mitigation Trust and the Trust Administration Cost Subaccount, in accordance with the weighted average

allocation percentages in Appendix D-1C. Any “California Mitigation Trust Payment” made pursuant to Appendix A of the First Partial Consent Decree or the Second Partial Consent Decree shall be allocated as follows: 99.86% to California and 0.14% to the Trust Administration Cost Subaccount.

5.0.4 Allocation of Appendix B Mitigation Trust Payments. Ninety-Seven and Ninety-Seven/One Hundredths (97.97) percent of any Mitigation Trust Payments made pursuant to Appendix B (Vehicle Recall and Emissions Modification Program) of the First Partial Consent Decree or Appendix B (Vehicle Recall and Emissions Modification Program for 3.0 Liter Subject Vehicles) of the Second Partial Consent Decree or any Consent Decree provisions related thereto shall be allocated among all Beneficiaries of this State Mitigation Trust and to the Trust Administration Cost Subaccount, weighted in accordance with the Final Allocation Rates.

5.0.5 Intentionally Reserved:

5.0.5.1 Intentionally Reserved.

5.0.5.2 Intentionally Reserved.

5.0.5.2.1 Intentionally Reserved.

5.0.5.2.2 Intentionally Reserved.

5.0.5.2.3 Intentionally Reserved

5.0.5.2.4 Intentionally Reserved.

5.0.5.2.5 Intentionally Reserved.

5.0.5.2.6 Intentionally Reserved.

5.0.5.2.7 Intentionally Reserved.

5.0.5.3 Nothing herein precludes any Beneficiary from using any share of its allocation for Eligible Mitigation Projects on Indian Land.

5.1 Eligible Mitigation Actions and Expenditures: The Trustee may only disburse funds for Eligible Mitigation Actions, and for the Eligible Mitigation Action Administrative Expenditures specified in Appendix D-2.

5.2 Funding Requests: Beneficiaries may submit requests for Eligible Mitigation Action funding at any time by filing with the Trustee a Beneficiary Eligible Mitigation Action Certification form (Appendix D-4), containing each of the certifications required by subparagraphs 5.2.1 through 5.2.13, as applicable. Each request for Eligible Mitigation Action funding must be submitted to the Trustee in electronic and hard-copy format, and include:

- 5.2.1 An explanation of how the funding request fits into the Beneficiary's Mitigation Plan;
- 5.2.2 A detailed description of the proposed Eligible Mitigation Action, including its community and air quality benefits;
- 5.2.3 An estimate of the NOx reductions anticipated as a result of the proposed Eligible Mitigation Action;
- 5.2.4 A project management plan for the proposed Eligible Mitigation Action, including a detailed budget and an implementation and expenditure timeline;
- 5.2.5 A certification that all vendors were or will be selected in accordance with state public contracting laws;
- 5.2.6 For each proposed expenditure exceeding \$25,000, detailed cost estimates from selected or potential vendors;
- 5.2.7 A detailed description of how the Beneficiary will oversee the proposed Eligible Mitigation Action, including, but not limited to:
 - 5.2.7.1 Identification of the specific governmental entity responsible for reviewing and auditing expenditures of Eligible Mitigation Action funds to ensure compliance with applicable law; and
 - 5.2.7.2 A commitment by the Beneficiary to maintain and make publicly available all documentation submitted in support of the funding request and all records supporting all expenditures of Eligible Mitigation Action funds, subject to applicable laws governing the publication of confidential business information and personally identifiable information, together with an explanation of the procedures by which the Beneficiary shall make such documentation publicly available;
- 5.2.8 A description of any cost share requirement to be placed upon the owner of each NOx source proposed to be mitigated;
- 5.2.9 A description of how the Beneficiary complied with subparagraph 4.2.8;
- 5.2.10 If applicable, a description of how the Eligible Mitigation Action mitigates the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions; and
- 5.2.11 A detailed plan for reporting on Eligible Mitigation Action implementation.

5.2.12 DERA Option. To the extent a Beneficiary intends to avail itself of the DERA Option described in Appendix D-2, that Beneficiary may use its DERA proposal as support for its funding request for those Eligible Mitigation Actions funded through the DERA Option.

5.2.13 Joint Application. Two or more Beneficiaries may submit a joint request for Eligible Mitigation Action funds. Joint applicants shall specify the amount of requested funding that shall be debited against each requesting Beneficiary's allocation.

5.2.14 Publication of Funding Requests. The Trustee shall post each funding request on the State Trust's public-facing website upon receipt.

5.2.15 Reliance on Form. The Trustee may rely on, with no further duty of inquiry, and shall be protected in acting upon, any Beneficiary Eligible Mitigation Action Certification form (Appendix D-4) reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons.

5.2.16 Approval of Funding Requests. The Trustee shall approve any funding request that meets the requirements of this State Trust Agreement and its Appendices. If a Beneficiary submits multiple pending Eligible Mitigation Action funding requests that exceed the allocated funds available to the Beneficiary, the Trustee shall contact the Beneficiary for direction regarding the allocation and timing of payments for each such request. Within 60 Days after receipt of each Eligible Mitigation Action funding request, the Trustee shall transmit to the requesting Beneficiary and post on the State Trust's public-facing website a written determination either: (i) approving the request; (ii) denying the request; (iii) requesting modifications to the request; or (iv) requesting further information. A Beneficiary may use such written determination as proof of funding for any DERA project application that includes Trust Funds as a non-federal voluntary match, as described in Appendix D-2. The Trustee shall respond to any modified or supplemental submission within 30 Days of receipt. Each written determination approving or denying an Eligible Mitigation Action funding request shall include an explanation of the reasons underlying the determination, including whether the proposed Eligible Mitigation Action meets the requirements set forth in Appendix D-2 or Appendix D-4. The Trustee's decision to approve, deny, request modifications, or request further information related to a request shall be reviewable, upon petition of the United States or the submitting Beneficiary, by the Court.

5.2.16.1 Disbursement of Funds. The Trustee shall begin disbursing funds within 15 Days of approval of an Eligible Mitigation Action funding request according to the written instructions and schedule provided by the Beneficiary, unless such date is not a Business Day and then the payment shall be made on the next succeeding Business Day.

5.2.17 Unused Eligible Mitigation Action Funds. Upon the termination or completion of any Eligible Mitigation Action, any unused Eligible Mitigation Action funds shall be returned to the State Trust and added back to the Beneficiary's allocation.

5.3 Beneficiary Reporting Obligations: For each Eligible Mitigation Action, no later than six months after receiving its first disbursement of Trust Assets, and thereafter no later than January 30 (for the preceding six-month period of July 1 to December 31) and July 30 (for the preceding six-month period of January 1 to June 30) of each year, each Beneficiary shall submit to the Trustee a semiannual report describing the progress implementing each Eligible Mitigation Action during the six-month period leading up to the reporting date (including a summary of all costs expended on the Eligible Mitigation Action through the reporting date). Such reports shall include a complete description of the status (including actual or projected termination date), development, implementation, and any modification of each approved Eligible Mitigation Action. Beneficiaries may group multiple Eligible Mitigation Actions and multiple sub-beneficiaries into a single report. These reports shall be signed by an official with the authority to submit the report for the Beneficiary and must contain an attestation that the information is true and correct and that the submission is made under penalty of perjury. To the extent a Beneficiary avails itself of the DERA Option described in Appendix D-2, that Beneficiary may submit its DERA Quarterly Programmatic Reports in satisfaction of its obligations under this Paragraph as to those Eligible Mitigation Actions funded through the DERA Option. The Trustee shall post each semiannual report on the State Trust’s public-facing website upon receipt.

5.4 Supplemental Funding for Eligible Beneficiaries and Final Disposition of Trust Assets

5.4.1 Estimate of Remainder Balance. On the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, deliver to the United States, by and through EPA, and to each Beneficiary, and publish on its public-facing website, an accounting of all Trust Assets that have not by that date been expended on or obligated to approved Eligible Mitigation Actions or prior Trust Administration Costs, together with an estimate of funding reasonably needed to cover the remaining Trust Administration Costs. The difference between these two amounts shall be referred to as the “Remainder Balance.”

5.4.2 Application for Supplemental Funding Eligible Beneficiary Status. On the tenth anniversary of the Trust Effective Date, each Beneficiary may seek to supplement its remaining allocation by filing with the Court and delivering to the Trustee a written report demonstrating that it has by that date obligated at least eighty percent (80%) of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1 (as determined with specific reference to the reports submitted pursuant to Paragraph 5.3).

5.4.3 Publication of Remainder Balance and Supplemental Funding Eligible Beneficiary Status. Within 90 Days after the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, notify the United States, by and through EPA, and each Beneficiary, and publish on its website, a report indicating: (i) the Remainder Balance; and (ii) which of the Beneficiaries has demonstrated that it had in fact expended at least 80% of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1, each of which shall be deemed a “Supplemental Funding Eligible Beneficiary.”

5.4.4 Distribution of Remainder Balance to Supplemental Funding Eligible Beneficiaries. On the later of: (i) 180 Days after the tenth anniversary of the Trust Effective Date, or (ii) the resolution of any disputes arising from the Trustee's accountings or determinations pursuant to subparagraphs 5.4.1 or 5.4.3, the Remainder Balance shall be divided among the Supplemental Funding Eligible Beneficiaries in accordance with their weighted share of the Final Allocation Rates.

5.4.5 Final Disposition of State Trust Assets. Not later than the fifteenth anniversary of the Trust Effective Date, any and all unused funds held by any Beneficiary shall be returned to the State Trust. After the fifteenth anniversary of the Trust Effective Date, any Trust Assets held in the State Trust Account or any subaccount (including, but not limited to, the Trust Administration Cost Subaccount) that are not expended for final Trust Administration Costs shall initially be distributed in accordance with the Liquidation Allocation Rates among each Beneficiary through its Lead Agency, as identified by such Beneficiary on its Appendix D-3 as filed with the Court, and any remaining Trust Assets after such initial distribution shall also be distributed entirely among the Beneficiaries of the Trust.

VI. MISCELLANEOUS PROVISIONS

6.0 Correspondence with State Trust: In accordance with subparagraph 3.1.2.3, the Trustee shall establish and maintain a secure method of internet-based communications for the use of the Trustee and the Beneficiaries that will: (1) enable each Beneficiary to deliver the required documentation under this State Trust Agreement in an electronic format; (2) enable secure communications between the Trustee and each Beneficiary; and (3) provide each Beneficiary with access to its own document base. In addition, each Beneficiary will have the ability to view its own balance in its individual subaccount via the Wilmington Trust Online Portfolio product or a similar product then in use.

6.0.1 Addresses for Delivery of Physical Copies of Documentation and Notices.

State Trust or Trustee:

Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries,
Puerto Rico, and the District of Columbia
c/o Wilmington Trust, N.A. as Trustee
Wilmington Trust, National Association
Rodney Square North
1100 North Market Street
Attn: Capital Markets & Agency Services
Wilmington, DE 19890
Facsimile: 302 636-4145

EPA:

Director, Air Enforcement Division
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
William J. Clinton South Building
MC 2242A
Washington, DC 20460
E-mail: VW_settlement@epa.gov

U.S. Department of Justice:

Chief, Environmental Enforcement Section
Re: DJ # 90-5-2-1-11386
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
E-mail: eescdcopy.enrd@usdoj.gov
Re: DJ # 90-5-2-1-11386

Defendants:

As to Volkswagen AG by mail:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Company Secretary

With copies to each of the following:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Group General Counsel

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Audi AG by mail:

Audi AG
Auto-Union-Strasse 1

85045 Ingolstadt, Germany
Attention: Company Secretary

With copies to each of the following:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Group General Counsel

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Volkswagen Group of America, Inc. by mail:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: Company Secretary

With copies to each of the following:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: President

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Volkswagen Group of America Chattanooga Operations, LLC by mail:

Volkswagen Group of America Chattanooga Operations, LLC
8001 Volkswagen Dr.
Chattanooga, TN 37416
Attention: Company Secretary

With copies to each of the following:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171

Attention: President

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Dr. Ing. h.c. F. Porsche AG by mail:

Dr. Ing. h.c. F. Porsche Aktiengesellschaft
Porscheplatz 1
D-70435 Stuttgart
Attention: GR/ Rechtsabteilung/ General Counsel

As to Porsche Cars North America, Inc.:

Porsche Cars North America, Inc.
1 Porsche Dr.
Atlanta, GA 30354
Attention: Secretary
With copy by email to: offsecy@porsche.us

As to one or more of the Defendants by email:

Robert J. Giuffra, Jr.
Sharon L. Nelles
Granta Nakayama
Cari Dawson

giuffrar@sullcrom.com
nelless@sullcrom.com
gnakayama@kslaw.com
cari.dawson@alston.com

As to one or more of the Defendants by mail:

Robert J. Giuffra, Jr.
Sharon L. Nelles
Sullivan & Cromwell LLP
125 Broad Street
New York, N.Y. 10004

Granta Nakayama
King & Spalding LLP
1700 Pennsylvania Ave., N.W., Suite 200
Washington, DC 20006

Cari Dawson
Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424

6.1 Jurisdiction: The U.S. District Court for the Northern District of California shall be the sole and exclusive forum for the purposes of enforcing this State Mitigation Trust and resolving disputes hereunder, including the obligations of the Trustee to perform its obligations hereunder, and each of the Consent Decree Parties, the State Mitigation Trust, the Trustee, and each Beneficiary, expressly consents to such jurisdiction.

6.2 Dispute Resolution: Unless otherwise expressly provided for herein, the dispute resolution procedures of this Paragraph shall be the exclusive mechanism to resolve any dispute between or among the entities listed in Appendix D-1 and Appendix D-1A hereto, the Consent Decree Parties, and the Trustee arising under or with respect to this State Trust Agreement.

6.2.1 Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this State Trust Agreement shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when the disputing party sends to the counterparty a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 30 Days from the date the dispute arises, unless that period is modified by written agreement. If the disputing parties cannot resolve the dispute by informal negotiations, then the disputing party may invoke formal dispute resolution procedures as set forth below.

6.2.2 Formal Dispute Resolution. The disputing party shall invoke formal dispute resolution procedures, within the time period provided in the preceding subparagraph, by serving on the counterparty a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting the disputing party's position and any supporting documentation and legal authorities relied upon by the disputing party. The counterparty shall serve its Statement of Position within 30 Days of receipt of the disputing party's Statement of Position, which shall also include, but need not be limited to, any factual data, analysis, or opinion supporting the counterparty's position and any supporting documentation and legal authorities relied upon by the counterparty. If the disputing parties are unable to consensually resolve the dispute within 30 Days after the counterparty serves its Statement of Position on the disputing party, the disputing party may file with the Court a motion for judicial review of the dispute in accordance with the following subparagraph.

6.2.3 Judicial Review. The disputing party may seek judicial review of the dispute by filing with the Court and serving on the counterparty and the United States, a motion requesting judicial resolution of the dispute. The motion must be filed within 45 Days of receipt of the counterparty's Statement of Position pursuant to the preceding subparagraph. The motion shall contain a written statement of disputing party's position on the matter in

dispute, including any supporting factual data, analysis, opinion, documentation, and legal authorities, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly administration of the State Trust. The counterparty shall respond to the motion within the time period allowed by the Local Rules of the Court, and the disputing party may file a reply memorandum, to the extent permitted by the Local Rules.

6.3 Choice of Law: The validity, interpretation, and performance of this State Mitigation Trust shall be governed by the laws of the State of Delaware and the United States, without giving effect to the rules governing the conflicts of law that would require the application of the law of another jurisdiction. The duties, rights, protections, and immunities of the Trustee, as a trustee of a statutory trust under the Delaware Act, shall be governed by the laws of the State of Delaware and the United States, without giving effect to the rules governing the conflicts of law that would require the application of the law of another jurisdiction. This State Trust Agreement shall not be subject to any provisions of the Uniform Trust Code as adopted by any State, now or in the future. This State Trust Agreement shall be interpreted in a manner that is consistent with the Consent Decree, provided, however, that in the event of a conflict between the Consent Decree and this State Trust Agreement, this State Trust Agreement shall control.

6.4 Waiver of Jury Trial: Each party hereto and each Beneficiary hereof hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this State Trust.

6.5 Modification: Material modifications to the State Mitigation Trust or Appendix D-2 (Eligible Mitigation Actions and Mitigation Action Expenditures) may be made only with the written consent of the United States and upon order of the Court, and only to the extent that such modification does not change or inhibit the purpose of this State Mitigation Trust. Any modification of this State Mitigation Trust that affects the rights, powers, duties, obligations, liabilities, or indemnities of the Trustee requires the written consent of the Trustee. Minor modifications or clarifying amendments to the State Mitigation Trust, Appendix D-2 (Eligible Mitigation Actions and Mitigation Action Expenditures) or Appendix D-4 (Beneficiary Eligible Mitigation Action Certification) may be made upon written agreement between the United States and the Trustee, as necessary to enable the Trustee to effectuate the provisions of this State Mitigation Trust, and shall be filed with the Court. To the extent the consent of the Defendants is required to effectuate the modification or amendment, such consent shall not be unreasonably withheld. Notwithstanding the foregoing sentence, without the express written consent of the Defendants, no modification shall: (i) require the Defendants to make any payments to the State Trust other than the Mitigation Trust Payments required by the Consent Decree; or (ii) impose any greater obligation on Defendants than those set forth in the State Trust Agreement that is being modified. The Trustee shall provide to the Beneficiaries not less than 30 Days' notice of any proposed modification to the State Mitigation Trust, whether material or minor, before such modification shall become effective.

6.6 Severability: If any provision of this State Trust Agreement or application thereof to any person or circumstance shall be finally determined by the Court to be invalid or unenforceable to any extent, the remainder of this State Trust Agreement, or the application of such

provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this State Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

6.7 Taxes: The State Trust is intended to be a qualified settlement fund (“QSF”) pursuant to Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. The Trustee is intended to be the State Trust’s “administrator,” within the meaning of Treasury Regulation Section 1.468B-2(k)(3), 26 C.F.R. § 1.468B-2(k)(3). The Trustee shall use its best efforts to submit, within six months after the Trust Effective Date, an application and all necessary supporting documentation to the IRS to obtain a Private Letter Ruling from the IRS: (1) that the State Mitigation Trust will be treated as a Qualified Settlement Fund under 26 C.F.R. § 1.468B-1; (2) that all investment income earned on the Trust Assets will be excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115; and (3) on any federal tax matter that the Tax Professionals reasonably believe is necessary to support the rulings in (1) and (2) or otherwise prudent to clarify an uncertain application of federal tax law to the State Mitigation Trust. Within ten Days after any application has been made to the IRS, the Trustee shall provide a copy of the application and accompanying documentation to the United States (pursuant to subparagraph 6.0.1) and to the Beneficiaries (pursuant to the secure internet-based communication in Paragraph 6.0). Within seven Days after receipt of any IRS Private Letter Ruling, the Trustee shall provide a copy to the United States (pursuant to subparagraph 6.0.1) and the Beneficiaries (pursuant to the secure internet-based communication established in Paragraph 6.0). If the IRS determines that the investment income earned on Trust Assets is taxable, the Trustee, the Investment Manager, the United States, and the State Beneficiaries shall meet and confer to discuss possible resolutions to this issue, and may seek a modification of this State Trust Agreement as appropriate pursuant to Paragraph 6.5. The Trustee shall be responsible for filing all required Tax Returns, ensuring compliance with income tax withholding and reporting requirements, and paying applicable Taxes with respect to the State Trust in a manner consistent with Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. All Taxes shall be paid from amounts on deposit in the Tax Payment Subaccount established pursuant to subparagraph 2.1.5. The Defendants shall provide to the Trustee and the IRS the statement described in Treasury Regulation Section 1.468B-3(e)(2), 26 C.F.R. § 1.468B-3(e)(2), no later than February 15th of the year following each calendar year in which the Settling Defendants make a transfer to the State Trust.

6.8 Termination: After all funds have been expended pursuant to subparagraph 5.4.5, final reports have been delivered pursuant to Paragraph 3.3 and subparagraph 3.3.1, and notice regarding retained documents has been provided pursuant to subparagraph 3.3.2, the Trustee may file a motion with the Court requesting an order to begin the process under the Delaware Act to terminate this State Trust. The United States and the Beneficiaries shall be given not less than 60 Days to oppose such motion. After the Court approves the motion to terminate, the Trustee shall begin the dissolution and winding up processes under the Delaware Act. On the date that the Trustee completes all the statutory requirements under the Delaware Act and files a certificate of cancellation, this State Trust shall terminate (the “Termination Date”).

6.9 Counterparts and Electronic Signatures: Notwithstanding anything to the contrary contained herein, this Agreement and all documents required to be delivered hereunder

may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. Modifications to this Agreement under Paragraph 6.5, written agreements concerning such modifications, and certain other documents required to be delivered hereunder (as identified by the Trustee) may be signed electronically. When used in or in connection with any such document, the words “execute,” “execution,” “signed,” and “signature,” and words of similar import, shall include electronic signatures and the keeping of records in electronic form. For these documents, electronic signatures and electronic records shall have the same legal effect, validity or enforceability as a manually executed signature in ink or the use of a paper-based recordkeeping system, as applicable, to the fullest extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, and any other similar state laws based on the Uniform Electronic Transactions Act. The Trustee is not under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Trustee pursuant to its security procedures approved by Trustee. The Trustee will send a notice to the Beneficiaries via Intralinks indicating which documents required hereunder may be signed or executed using an electronic signature and will update that notice in accordance with its current security procedures from time to time. The Trustee may subsequently request hard copies, with inked signatures, for any document previously accepted in electronic form, and the Beneficiaries shall provide such requested hard copies as soon as practicable. For purposes of the State Trust, any reference to “Intralinks” shall also include not only this particular method of secure electronic communication between the Trustee and the Beneficiaries but also any future secure method of electronic communications between the Trustee and the Beneficiaries used for delivery of documents and notices required hereunder.



Clean Air Communities Program

General Terms and Conditions for State-Funded Grant Contracts
Rev. 11-13-2019

1. **Applicable Laws:** This Contract shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the Commonwealth of Virginia.
2. **Application for Assistance:** If grant funding assistance is continued year to year, the Grantee shall submit a complete application, including the proposed work plan, to the Virginia Department of Environmental Quality (DEQ) at least 75 days prior to the beginning of the next project period unless otherwise specified in the Special Terms and Conditions.
3. **Availability of Funds:** It is understood and agreed between the parties herein that DEQ shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Contract.
4. **Certification - Conflict of Interest:** The Grantee warrants that it has fully complied with the Code of Virginia State and Local Government Conflict of Interests Act (<http://law.lis.virginia.gov/vacode/title2.2/chapter31/>).
5. **Certification - Drug-Free Workplace:** The Grantee warrants that it shall comply with the provisions of Public Law 100-690, Title V, Subtitle D, "Drug-Free Workplace Act of 1988", and all applicable federal implementing regulations, including 15 CFR Part 26 or 40 CFR Part 32, which require that the Grantee take steps to provide a drug-free workplace.

The Grantee certifies that it will or will continue to provide a drug free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace
 - (2) The Grantee's policy of maintaining a drug free workplace
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs, and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the Contract, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying DEQ in writing, within ten calendar days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction.
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted:
 - (1) Taking appropriate personnel action against such employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
6. **Certification - Nondiscrimination:** During the performance of this Contract, the Grantee agrees as follows:
 - (a) The Grantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a

bona fide occupational qualification reasonably necessary to the normal operation of the Grantee. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) The Grantee, in all solicitations or advertisements for employees placed by or on its behalf, will state that such Grantee 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 section.

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

7. Collateral Contracts: Where there exists any inconsistency between this Contract and other provisions of collateral contracts which are made a part of this Contract by reference or otherwise, the provisions of this Contract shall control.
8. Creation of Intellectual Property (not applicable to contracts with other state agencies): All copyrightable material created pursuant to this Contract shall be considered work made for hire and shall belong exclusively to DEQ. Neither party intends any copyrightable material created pursuant to this Contract, together with any other copyrightable material with which it may be combined or used, to be a "joint work" under the copyright laws. If any copyrightable material created pursuant to this Contract cannot be deemed work made for hire or is deemed part of a joint work, the Grantee agrees to irrevocably assign, and does hereby irrevocably assign, its entire copyright interest in such material or work to DEQ and shall execute and deliver such further documents as DEQ may reasonably request for the purpose of acknowledging such assignment.

The Grantee warrants that no individual, other than regular employees of the Grantee or DEQ working within the scope of their employment, shall participate in the creation of any copyrightable material to be delivered under this Contract, unless such individual and his or her employer, if any, have signed an intellectual property contract satisfactory to DEQ before commencing such participation.

DEQ shall have all rights, title and interest in or to any invention reduced to practice pursuant to this Contract. The Grantee shall not patent any invention conceived in the course of performing this Contract.

The Grantee hereby agrees that, notwithstanding anything else in this Contract, in the event of any breach of this Contract by DEQ, the Grantee's remedy shall not include any right to rescind or otherwise revoke or invalidate the provisions of this Section. Similarly, no termination of this contract by DEQ shall have the effect of rescinding the provisions of this Section.

This provision applies only to materials or documents developed with Contract funds. It does not apply to materials or documents previously copyrighted or registered under the Grantee's copyright or trademark or to materials or documents which are developed with other funds.

9. Disclaimer: Nothing in this Contract shall be construed as authority for either party to make commitments which will bind the other party beyond the project or work contained herein. Furthermore, the Grantee shall not assign, sublet, or subcontract any work related to this Contract or any interest it may have herein without the prior written consent of DEQ.
10. Documents: The Grantee may retain any reports, studies, photographs, negatives, or other documents prepared by the Grantee in the performance of its obligations under this Contract and not required to be delivered to DEQ. DEQ shall have the copyright to all such materials, and unlimited rights to use any such materials. Where necessary for DEQ's full enjoyment of its copyrights and other rights referenced in this Contract, the Grantee shall provide a clear, reproducible copy of such materials (machine readable upon request) to DEQ.



The Grantee has permission to reproduce and distribute any material or documents prepared by the Grantee and for which DEQ owns the copyright, but only where necessary or expeditious to the performance of the Grantee's obligations under this contract.

This provision applies only to materials or documents developed with contract funds. It does not apply to materials or documents previously copyrighted or registered under the Grantee's copyright or trademark or to materials or documents which are developed with other funds.

11. **Employee Administration and Costs:** In the event this Agreement provides funds to the Grantee for personnel or personnel related expenditures, the Grantee shall be solely responsible for all: (a) personnel administration and obligations, to include, but not limited to: hiring, evaluations, termination, etc.; and (b) costs, to include, but not limited to: payment for leave, unused time, unemployment insurance and unforeseen employment liabilities (e.g. unemployment compensation, leave pay out, workers compensation, etc.). DEQ shall not assume any responsibilities or obligations as an employer; nor shall DEQ assume any liability (during or after the term of this Agreement) for personnel related costs incurred by the Grantee in order to fulfill its obligations under this Agreement (except as noted below):

Note: DEQ may, in its sole discretion and as specifically allowed in this Agreement, or in accordance with the overriding federal costs principles, reimburse the Grantee for salary and eligible fringe costs incurred during the performance of this Agreement.
12. **Financial Records Availability:** The Grantee agrees to retain all books, records, and other documents relative to this contract for five years after final payment, or until audited by an independent auditor, whichever is earlier. DEQ, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
13. **Fiscal Control:** The Grantee shall establish fiscal control and fund accounting procedures which assure proper disbursement of, and accounting for, contract funds. The Grantee shall for the purpose of this contract:
 - (a) Provide all accounting, bookkeeping, fiscal, and administrative services required by or related to this Contract.
 - (b) Request partial payment due from DEQ in accordance with the terms of this Contract.
 - (c) Maintain appropriate support for all expenditures incurred and maintaining all books, documents, papers, accounting records, and other evidence supporting the costs incurred associated with this Contract. It shall make such materials available at its offices at all reasonable times during the Contract period, and for three years from the date of final payment under this Contract, for inspection and audit by DEQ or any authorized representative of DEQ.
14. **Indemnification (not applicable to contracts with other state agencies):** Grantee agrees to indemnify, defend and hold harmless DEQ and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Grantee/any services of any kind or nature furnished by the Grantee, provided that such liability is not attributable to the sole negligence of DEQ or to failure of DEQ to use the materials, goods, or equipment in the manner already and permanently described by the Grantee on the materials, goods or equipment delivered.
15. **Indirect Costs:** Indirect costs will not be allowable charges against the award unless specifically included as a line item in the approved budget incorporated into the Contract.
16. **Integration and Modification:** No alteration, amendment or modification in the provisions of this Contract shall be effective unless it is reduced to writing, signed by the parties and attached hereto.
17. **Liability (not applicable to contracts with other state agencies):** The Grantee shall obtain and maintain, during the life of this Contract, such bodily injury liability and property damage liability insurance as will protect it from claims of damages for personal injury, including death, as well as

from claims for property damage, which may arise from its activities under this contract. If the Grantee has a self-insurance program, it may self-insure the risks associated with this Contract in lieu of the commercial insurance required herein.

18. **Obligating Funds beyond project period:** The Grantee shall not incur costs or obligate funds for any purpose pertaining to the project beyond the expiration date stipulated in the contract.

Any extension of the award period can only be authorized by DEQ. Verbal or written assurances of funding from other than DEQ shall not constitute authority to obligate funds for programmatic activities beyond the expiration date.

DEQ has no obligation to provide any additional prospective funding. Any renewal of the award to increase funding and to extend the period of performance is at the sole discretion of DEQ.

19. **Precedence of Terms:** In the event of a conflict between or among terms in requirements of certain documents included in this contract, the following documents control in order from the most important to the least important: "Environmental Mitigation Trust Agreement for State Beneficiaries"; Signed Contract, Appendix A: CACP Project Workplan and Budget, and "General Terms and Conditions for State Funded Grant Contracts."
20. **Prior Written Approval of Changes:** The Grantee must obtain prior written approval from DEQ for changes to the Contract, including, but not limited to, changes of substance in program activities, designs, or plans set forth in the approved scope of work or project work plan.
21. **Regulatory Compliance:** The Grantee shall comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the project and shall give all Notices required thereby. The Grantee hereby consents to inspection by any state regulatory agency having jurisdiction over any part of the work performed with the assistance of the contract funds.
22. **Renewal of Contract:** The Contract may be renewed by DEQ upon written contract by both parties under the terms of the current contract, prior to the expiration.
23. **Severability:** Each paragraph and provision of this Contract is severable from the entire contract; and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.
24. **Subcontracts:** No portion of the Scope of Work shall be subcontracted without the prior written consent of DEQ. The Grantee shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall ensure compliance with all requirements of the Contract. The Grantee shall comply with all applicable provisions of the Virginia Public Procurement Act in making such awards.
25. **Termination for Cause:** DEQ reserves the right to terminate the grant in whole, or in part, at any time before the date of completion, upon written notice to the Grantee that it has failed to comply with the conditions of the Contract. In connection with such termination, payments made to the Grantee or recoveries by DEQ shall be in accord with the legal rights and liabilities of the parties.
26. **Termination for Convenience:** DEQ may terminate any resulting contract, in whole or in part, upon thirty (30) days written notice to the Grantee specifying the extent to which the performance under the contract is terminated, and the date of termination. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, in whole or in part, after the initial 12 months of the contract period upon thirty (30) days written notice to the other party specifying the extent to which the performance under the contract is terminated, and the date of termination. In addition, (a) DEQ may terminate the contract immediately if its funding is terminated or; (b) DEQ or the Grantee may terminate the contract, in whole, or in part, if both parties agree that the continuation will not produce beneficial results commensurate with further expenditure of funds; in

this event, DEQ and the Grantee shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated.

In the event the contract (or portion thereof) is terminated (regardless of cause), the Grantee shall not incur new obligations for the contract (or terminated portion thereof) after the effective date of termination, and shall cancel as many outstanding obligations as possible; however, termination shall not relieve the Grantee of the obligation to deliver and/or perform on all outstanding obligations established prior to the effective date of cancellation.

27. Use of Grant Funds: Grant funds shall only be used for the purposes and activities covered in the project work plan.

28. Accessibility Requirements for Contract Deliverables: As applicable, the Grantee shall ensure that all:

Content prepared by the Grantee to be published on a DEQ public (or other public website, as designated by DEQ) shall comply with all federal accessibility standards; and

All (to include, but not limited to) reports, power point presentations, videos, letters, notices, spread sheets, graphs, charts, photos, etc.,) shall comply with all regulations that implement Section 508 of the electronic and information technology accessibility standards of the Rehabilitation Act of 1973 (29 U.S.C. § 794d), as amended, and all regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Association (VITA), which includes the following resources:

The U.S. Access Board or W3C's Web Content Accessibility Guidelines 2.0: www.access-board.gov/sec508/guide/index.htm

- www.vita.virginia.gov/it-governance/itrm-policies-standards/
- www.vita.virginia.gov/it-governance/itrm-policies-standards/it-accessibility-and-website-standards/
- www.vita.virginia.gov/media/vitavirginiagov/it-governance/pdf/ETAITAccessibilityTopicReportGOV103.pdf

29. DEQ logo: The Grantee shall obtain written authorization from DEQ, prior to utilizing the DEQ logo.

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ADMINISTRATIVE - 18

Authorization to Advertise a Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia – Chapter 4 (Taxation and Finance) to Add a New Article 30 to Establish a Disposable Plastic Bag Tax

ISSUE:

Authorization to advertise a public hearing to consider an amendment to The Code of the County of Fairfax, Chapter 4 to add a new Article 30.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the advertisement of a public hearing on September 14, 2021, at 4:30 p.m., to consider adoption of the ordinance set forth in Attachment 2.

TIMING:

Board action is required on July 27, 2021, to provide sufficient time to advertise the public hearing on September 14, 2021.

BACKGROUND:

Chapter 1023 of the 2020 Session of the Virginia Acts of Assembly, provided as Attachment 1, amended Virginia Code Title 58.1, Taxation, Chapter 17, *Miscellaneous Taxes*, by adding Article 12, Disposable Plastic Bag Tax, set forth at Va. Code §§ 58.1-1745 through 58.1-1748. Va. Code § 58.1-1745 authorizes Fairfax County to adopt an ordinance imposing a \$0.05 tax on disposable plastic bags provided to consumers by grocery stores, convenience stores and drugstores, with some exemptions.

Section 58.1-1747 establishes a retailer discount that allows retailers to retain two cents (\$0.02) from the tax collected on each disposable plastic bag through December 31, 2022. This discount drops to one cent (\$0.01) beginning January 1, 2023.

Va. Code § 58.1-1748 directs the state Tax Commissioner to collect, administer, and enforce the tax in essentially the same manner that the retail sales and use tax is collected, administered, and enforced. This statute also directs the Tax Commissioner to develop guidelines and make them publicly available. Draft guidelines were released in June 2021. Among other things, the draft guidelines provide that covered retailers are required to collect the tax from customers who make in-store purchases, to-go

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purchases, delivery purchases, and curbside pick-up purchases. The draft guidelines also confirm larger retailers that contain a grocery store, a convenience store, or a drug store are subject to the tax.

Va. Code § 58.1-1745 requires the County to provide a certified copy of its ordinance to the Tax Commissioner at least three months before the ordinance's effective date. The law also requires that the tax becomes effective on the first day of any calendar quarter. Given these provisions, holding a public hearing on September 14, 2021, allows the effective date of the County's tax to be January 1, 2022.

Revenues from the plastic bag tax program are to be appropriated for environmental clean-up, providing education programs designed to reduce environmental waste, mitigation of pollution and litter, and the provision of reusable bags to recipients of certain federal food support programs (i.e., Supplemental Nutrition Assistance Program and Special Supplemental Nutrition Program for Women, Infants, and Children).

The Office of Environmental and Energy Coordination (OEEC) has established a [webpage](#) regarding the plastic bag tax that includes [Frequently Asked Questions](#) and the [proposed ordinance](#). This webpage also provides an email address for public comment and questions. OEEC will be conducting outreach and stakeholder engagement about the plastic bag tax beginning this month and continuing into 2022.

FISCAL IMPACT:

At this time, the administration can be absorbed without additional funding. Pursuant to Va. Code § 58.1-1748, the revenues from the disposable plastic bag tax, after reimbursement of direct costs incurred by the Department of Taxation in administering, enforcing, and collecting this tax, shall be distributed by the Comptroller to Fairfax County as soon as practicable after the end of each month for which the tax is remitted. The revenues from the tax will be dependent on the number of retailers that are subject to the tax and the number of disposable plastic bags these retailers provide to consumers.

ENCLOSED DOCUMENTS:

Attachment 1: 2020 Acts of the Virginia General Assembly, Chapter 1023

Attachment 2: Proposed Ordinance to amend Chapter 4 of the Fairfax County Code

STAFF:

Joseph M. Mondoro, Chief Financial Officer

Jaydeep "Jay" Doshi, Director, Department of Tax Administration (DTA)

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Kambiz Agazi, Director, Office of Environmental and Energy Coordination (OEEC)
Susan Hafeli, Deputy Director, OEEC
Young Tarry, Assistant Director, Business License and Personal Property Division, DTA

ASSIGNED COUNSEL:

Daniel Robinson, Assistant County Attorney

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 1023

An Act to amend the Code of Virginia by adding in Chapter 17 of Title 58.1 an article numbered 12, consisting of sections numbered 58.1-1745 through 58.1-1748, relating to a local disposable plastic bag tax.

[S 11]

Approved April 10, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 17 of Title 58.1 an article numbered 12, consisting of sections numbered 58.1-1745 through 58.1-1748, as follows:

Article 12.

Disposable Plastic Bag Tax.

§ 58.1-1745. Disposable plastic bag tax.

A. Any county or city may, by duly adopted ordinance, impose a tax in the amount of five cents (\$0.05) for each disposable plastic bag provided, whether or not provided free of charge, to a consumer of tangible personal property by retailers in grocery stores, convenience stores, or drugstores.

B. Any tax imposed under this section shall be collected by the retailer, along with the purchase price and all other fees and taxes, at the time the consumer pays for such personal property. All revenue accruing to the county or city from a tax imposed under the provisions of this article shall be appropriated for the purposes of environmental cleanup, providing education programs designed to reduce environmental waste, mitigating pollution and litter, or providing reusable bags to recipients of Supplemental Nutrition Assistance Program (SNAP) or Women, Infants, and Children Program (WIC) benefits.

C. Each local ordinance imposing the tax shall provide for the tax to become effective on the first day of any calendar quarter; however, in no event shall any tax imposed pursuant to this article become effective before January 1, 2021. The county or city shall, at least three months prior to the date the tax is to become effective, provide a certified copy of such ordinance to the Tax Commissioner.

§ 58.1-1746. Exemptions.

Any tax imposed pursuant to the provisions of this article shall not apply to the following:

1. Durable plastic bags with handles that are specifically designed and manufactured for multiple reuse and that are at least four mils thick;

2. Plastic bags that are solely used to wrap, contain, or package ice cream, meat, fish, poultry, produce, unwrapped bulk food items, or perishable food items in order to avoid damage or contamination;

3. Plastic bags used to carry dry cleaning or prescription drugs; and

4. Multiple plastic bags sold in packages and intended for use as garbage, pet waste, or leaf removal bags.

§ 58.1-1747. Retailer discount.

A. Beginning January 1, 2021, and ending January 1, 2023, every retailer that collects a tax imposed by a county or city under this article shall be allowed to retain two cents (\$0.02) from the tax collected on each disposable plastic bag.

B. Beginning January 1, 2023, every retailer that collects a tax imposed by a county or city under this article shall be allowed to retain one cent (\$0.01) from the tax collected on each disposable plastic bag.

C. Any retailer that retains a discount pursuant to this section shall account for it in the form of a deduction when submitting its tax return and paying the amount due in a timely manner.

§ 58.1-1748. Administration.

The Tax Commissioner shall collect, administer, and enforce this tax in the same manner that he collects, administers, and enforces the retail sales and use tax under Chapter 6 (§ 58.1-600 et seq.), *mutatis mutandis*. However, the dealer discount provided under § 58.1-622 shall not be allowed and the revenues from the tax authorized under this section, after reimbursement of direct costs incurred by the Department in administering, enforcing, and collecting this tax, shall be distributed by the Comptroller to the respective county or city imposing the tax as soon as practicable after the end of each month for which the tax is remitted. The Tax Commissioner shall develop and make publicly available guidelines implementing the provisions of this article. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

**AN ORDINANCE AMENDING
CHAPTER 4 OF THE FAIRFAX COUNTY CODE, RELATING TO A DISPOSABLE
PLASTIC BAG TAX**

Draft of July 19, 2021

AN ORDINANCE to amend the Fairfax County Code by amending Chapter 4 by adding a new Article 30 relating to a disposable plastic bag tax.

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

1. That Article 30 of Chapter 4 of the Fairfax County code is adopted as follows:

CHAPTER 4 – Taxation and Finance.

Article 30. – Disposable Plastic Bag Tax.

Section 4-30-1. – Levy; tax rate.

Pursuant to Va. Code § 58.1-1745, as amended, Fairfax County imposes a tax in the amount of five cents (\$0.05) for each disposable plastic bag provided to a consumer of tangible personal property by retailers in grocery stores, convenience stores, or drugstores. This tax shall be collected whether or not such disposable plastic bag is provided free of charge to the consumer.

Section 4-30-2. – Administration, collection, enforcement and appropriation.

(a) The tax on disposable plastic bags imposed pursuant to this Article shall be collected by the retailer, along with the purchase price and all other fees and taxes, at the time the consumer pays for such personal property. The state Tax Commissioner shall then collect, administer and enforce this tax from the retailer in accordance with Virginia law and shall distribute the tax revenue to the County in accordance with Virginia law, including any guidelines adopted by the state Tax Commissioner in accordance with Va. Code § 58.1-1748, as amended.

(b) All revenue that accrues to the County from the tax imposed by this Article shall be appropriated by the Board in accordance with Va. Code § 58.1-1745, as amended.

39 Section 4-30-3. – Retailer discount.

40
41 (a) Until January 1, 2023, every retailer that collects the tax imposed under this
42 Article shall be allowed to retain two cents (\$0.02) from the tax collected on each
43 disposable plastic bag.

44
45 (b) Beginning on January 1, 2023, every retailer that collects the tax imposed under
46 this Article shall be allowed to retain one cent (\$0.01) from the tax collected on each
47 disposable plastic bag.

48 (c) Any retailer that retains a discount pursuant to this Section shall account for it in
49 the form of a deduction when submitting its tax return and paying the amount due in a
50 timely manner.

51
52 Section 4-30-4. Exemptions.

53
54 The tax imposed under this Article shall not apply to the following:

55 (a) Durable plastic bags with handles that are specifically designed and manufactured
56 for multiple reuse and that are at least four mils thick;

57 (b) Plastic bags that are solely used to wrap, contain, or package ice cream, meat,
58 fish, poultry, produce, unwrapped bulk food items, or perishable food items in order to
59 avoid damage or contamination;

60
61 (c) Plastic bags used to carry dry cleaning or prescription drugs; and

62
63 (d) Multiple plastic bags sold in packages and intended for use as garbage, pet waste,
64 or leaf removal bags.

65
66
67 **2. That the provisions of this ordinance are severable, and if any provision of this**
68 **ordinance or any application thereof is held invalid, that invalidity shall not affect the other**
69 **provisions or applications of this ordinance that can be given effect without the invalid**
70 **provision or application.**

71
72 **3. That the provisions of this ordinance shall take effect on January 1, 2022.**

73
74
75 GIVEN under my hand this _____ day of _____, 2021

76
77
78 _____
79 Jill G. Cooper
80 Clerk for the Board of Supervisors

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ACTION - 1

Approval of a Plain Language Explanation for the 2021 Bond Referendum for Improvements to Public Schools

ISSUE:

Board approval of an explanatory statement for the school bond referendum planned to be held in conjunction with the November general election.

RECOMMENDATION:

The County Executive recommends that the Board approve the plain language explanation and authorize staff to translate it, post it online, and print sufficient copies to make it available at County absentee voting sites and polling places.

TIMING:

Board action is recommended on July 27, 2021, so that staff can translate the explanation, post it on the County's website as soon as possible, and have it printed and available when absentee voting begins on September 18, 2021.

BACKGROUND:

At its meeting on June 8, 2021, the Board adopted a resolution asking the Fairfax County Circuit Court to order a referendum on November 2, 2021, on the question whether the County should be authorized to issue general obligation bonds for public school improvements. The County Attorney filed the resolution with a Petition asking the Circuit Court to order the election, and the Court entered the order on June 23, 2021.

State law requires localities to provide for the preparation and printing of an explanation for each referendum question that involves the issuance of bonds by the locality. The statement must include the ballot question and a neutral explanation of not more than 500 words prepared by the locality's attorney. The Board approved the wording of the ballot question when it adopted the Resolution, and the Circuit Court has ordered that the ballot question be stated as approved by the Board. This Action Item presents only the explanation portion of the proposed statement for the Board's approval.

These plain language explanatory statements are frequently referred to as "plain English" statements, because State law requires them to be written in "plain English." The law defines "plain English" to mean "written in nontechnical, readily understandable

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language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.” Besides English, the County translates these statements into Spanish, Vietnamese, and Korean. Section 203 of the federal Voting Rights Act requires political subdivisions designated by the Director of the U.S. Bureau of the Census to make all voting materials available in the language of the designated minority group. The Director of the Census designated Fairfax County in 2011 and in 2016 as a jurisdiction required to provide all voting and information materials in Spanish and Vietnamese, respectively. Beginning September 1, 2021, state law requires the State Board of Elections to designate “covered localities” that are required to make voting and election materials available in other languages. The County Attorney expects that the State Board of Elections will designate Fairfax County as a covered locality required to provide such materials in Spanish and Vietnamese. The Electoral Board has also provided ballots and other election-related materials in Korean since 2017, because the 2015 American Community Service Survey results showed that the number of Korean speakers almost met the federal threshold for designation by the Director of the Census.

FISCAL IMPACT:

Expenses associated with printing and translating the explanation will be paid out of existing appropriations in Fund 20000, Consolidated County and Schools Debt Service Fund.

ENCLOSED DOCUMENTS:

Attachment 1 – Virginia Code § 24.2-687

Attachment 2 – Draft Explanation for 2021 School Bond Referendum

ASSIGNED COUNSEL:

Elizabeth D. Teare, County Attorney

Erin C. Ward, Deputy County Attorney

Martin Desjardins, Assistant County Attorney

STAFF:

Joseph M. Mondoro, Chief Financial Officer

Christina Jackson, Director, Department of Management and Budget

Joseph LaHait, Debt Coordinator, Department of Management and Budget

Code of Virginia
Title 24.2. Elections
Chapter 6. The Election
Article 5. Special Elections

§ 24.2-687. Authorization for distribution of information on referendum elections

A. The governing body of any county, city or town may provide for the preparation and printing of an explanation for each referendum question to be submitted to the voters of the county, city or town to be distributed at the polling places on the day of the referendum election. The governing body may have the explanation published by paid advertisement in a newspaper with general circulation in the county, city or town one or more times preceding the referendum.

The explanation shall contain the ballot question and a statement of not more than 500 words on the proposed question. The explanation shall be presented in plain English, shall be limited to a neutral explanation, and shall not present arguments by either proponents or opponents of the proposal. The attorney for the county, city or town or, if there is no county, city or town attorney, the attorney for the Commonwealth shall prepare the explanation. "Plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.

If the referendum question involves the issuance of bonds by a locality, the locality shall provide for such printed explanation. The explanation shall (i) state the estimated maximum amount of the bonds proposed to be issued, and (ii) state the proposed use of the bond proceeds, and if there is more than one use, state the proposed uses for which more than 10 percent of the total bond proceeds is expected to be used.

B. Nothing in this section shall be construed to limit a county, city or town from disseminating other neutral materials or advertisements concerning issues of public concern that are the subject of a referendum; however, the materials or advertisements shall not advocate the passage or defeat of the referendum question.

C. This section shall not be applicable to statewide referenda.

D. Any failure to comply with the provisions of this section shall not affect the validity of the referendum.

1996, c. 297;2004, cc. 21, 399;2006, c. 302;2011, c. 590.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

PUBLIC SCHOOL BONDS EXPLANATION

Ballot Question

PUBLIC SCHOOL BONDS

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue capital improvement bonds in the maximum aggregate principal amount of \$360,000,000 for the purposes of providing funds, in addition to funds from school bonds previously authorized, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding, and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system?

Explanation

This referendum asks Fairfax County voters whether the County government should be authorized to contract a debt and issue bonds in the maximum aggregate principal amount of \$360,000,000 for improvements to the County's public schools. If a majority of voters approves this referendum, then the County would be allowed to issue bonds to fund school improvements as described in the ballot question. The bonds can only be issued for purposes described in the ballot question.

Virginia law permits the County government to borrow money to acquire land, plan, design, and construct projects by issuing general obligation bonds, which are sold to investors and repaid over time with County revenues. However, before the County may incur a general obligation debt, the County voters must authorize the County to borrow those funds. Money received from the sale of bonds is used as a source of funding for many County and public school facilities. Bond financing allows the cost of a facility to be spread over a number of years so that each generation of taxpayers contributes a proportionate share toward these long-term assets. Bonds authorized by a referendum may be issued up to eight years after the date of the referendum, but this period may be extended an additional two years by order of the circuit court.

The County plans for the proceeds of bonds authorized by this referendum to be used to fund school improvements in accordance with the School Board's Capital Improvement Program (CIP) as updated and amended annually. Each year's CIP reviews student membership and facilities data and identifies future needs for capital improvements, renovations, capacity enhancements, new construction, and potential site acquisitions. Using that information, the CIP describes a five-year program of school improvement projects and site acquisitions intended to meet present and projected infrastructure needs. The School Board's current CIP

identifies the projects to be funded in FY 2022-26 and also includes a Ten-Year Capital Improvement Program Forecast for FY 2021-30.

The FY 2022-26 CIP contemplates using bond funds to plan and design renovations of seven elementary schools and one high school, construct the renovations of five elementary schools and one high school, and acquire land for a future Western High School. Land acquisition, project planning, and actual construction are usually completed in phases over a period of years. The phases are typically paid from sequential bond issues to allow timely implementation of the projects without issuing bonds for construction costs earlier than necessary.

Renovation projects are generally intended to upgrade the life safety, environmental, electrical, security, and telecommunications systems of school buildings, and bring aging school facilities into full compliance with legal requirements such as the Americans with Disabilities Act and federal and state storm water quality and quantity requirements. The improvements provide updated site features including, where practicable, additional parking, sport field upgrades, additional site lighting, and improved traffic patterns. These upgrades will also increase energy efficiency and improve the overall environmental sustainability of school facilities.

**This explanation was prepared, printed, and made available at
election polling places in accordance with Virginia Code § 24.2-687**

Board Agenda Item
July 27, 2021

ACTION - 2

Approval of Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report

ISSUE:

Board approval of the Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report.

RECOMMENDATION:

The County Executive recommends that the Board approve the Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report.

TIMING:

Board action is requested on July 27, 2021 to meet federal Head Start 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 Policy Council and the procedures by which members are chosen, and 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. Board approval of the following attachments will satisfy these compliance requirements: 1) Policy Council Bylaws, and 2) Self-Assessment Report.

1. Policy Council Bylaws

The Head Start 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 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.

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The Board of Supervisors most recently approved the Policy Council Bylaws on July 28, 2020. The Office of the County Attorney has reviewed the Bylaws and noted the recommended changes.

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 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.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 – Fairfax County Head Start/Early Head Start Policy Council Bylaws
Attachment 2 – Fairfax County Head Start/Early Head Start 2021 Self-Assessment Report

STAFF:

Christopher A. Leonard, Deputy County Executive
Lloyd Tucker, Director, Department of Neighborhood and Community Services (NCS)
Anne-Marie D. Twohie, Director, Office for Children, NCS

ASSIGNED COUNSEL:

Daniel Robinson, Assistant County Attorney

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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 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.
- B) Program recruitment, selection, and enrollment priorities.
- C) Applications for funding and amendments to applications for funding for Fairfax County Head Start/Early Head Start program.
- D) Budget planning for program expenditures, including policies for reimbursement and participation in policy council activities.
- E) Bylaws for the operation of the policy council.
- F) Program and personnel decisions regarding the recommendation of hiring program staff.
- 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.
- I) Recommendations on the selection of delegate agencies and the service areas for such agencies.

ARTICLE III. MEMBERSHIP

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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 Head Start /Early Head Start program. The grantee program includes Greater Mount Vernon Community Head Start (GMVCHS), Family Child Care (FCC) Partnership and EHS Expansion programs. The delegate programs are Fairfax County Public Schools (FCPS) and Higher Horizons (HiHo). In addition to the parent representatives, 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.
- 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 direction of the program. Community representatives are nominated by the Head Start Division Director and 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

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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 electronic communication means pursuant to § 2.2-3708.2, 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, 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 [and applicable law](#), 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.

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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.

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 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.

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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 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.
- 5) Parliamentarian – 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. 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

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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 appointed 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.
- 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

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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. ~~In the event of an emergency, at least one (1) representative from each program will 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 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.

2021 Program Self-Assessment Summary

Fairfax County Head Start and Early Head Start



PURPOSE

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) centers); operated contractually by family child care program's partners; operated by delegate agencies (Higher Horizons Day Care Center, Inc. and Fairfax County Public Schools (FCPS)); and all options (center-based, home-based, family child care and child care partnerships) are included. The self-assessment supports the continuous improvement of program plans and service delivery and provides an opportunity for engaging parents.

PROTOCOL

The Fairfax County Head Start Assessment Protocol is a locally designed protocol adapted from the Office of Head Start's FY 2021 Focus Area One Monitoring Protocol and the Addendum: FA1 COVID-19 Discussion Guide.

The systems reviewed are:

- Early Childhood Development and Disability Services
- Health, Mental Health, and Nutrition
- Family and Community Engagement
- Fiscal Infrastructure
- Eligibility, Recruitment, Selection, Enrollment and Attendance
- Program Design, Management, and Quality Improvement
- Governance

METHODOLOGY

The self-assessment was coordinated by the Head Start Division Director, grantee content area specialists and the fiscal specialist. Teams included delegate staff and members of the policy council. For each service area, specific performance measures and associated Federal regulations were addressed. Self-assessment teams reviewed documents and child eligibility files, responses to Focus Area 1 questions and the COVID addendum to learn how the grantee and delegates were implementing a high-quality program to promote school readiness for children and to support families. The final report was shared with governing body, policy council, and parents.

Early Childhood Development and Disabilities

INDIVIDUALIZATION, DISABILITIES SERVICES, CURRICULUM AND ASSESSMENT

Service area found in compliance.

Strengths

- Educators have developed stronger relationships with families because of the need to connect on a more direct and ongoing basis to ensure that children’s educational needs are being met during the pandemic.
- HS/EHS educators have strengthened collaborations with family services and mental health staff, assuring that families have the technology, community services, and parenting supports that they need.
- Teachers made critical adaptations to their teaching methods, including use of technology and online/virtual platforms, to accommodate the change in programming and demonstrated flexibility with identifying new communication strategies in order to provide comprehensive and quality services to children and families during the pandemic.
- Family Child Care continued to provide in-person child care services on a daily basis during the pandemic.

Considerations for PY 2021-22

- Educators and disabilities specialists have been challenged with providing reliable in-person assessments for children with behavioral and developmental concerns. Virtual programming and lack of a controlled assessment environment have made it difficult to observe children consistently.
- Disruption of consistent educational services due to the pandemic has contributed to many children’s skill development regression and has impacted social peer interactions that are critical to young children’s development.

Health, Mental Health, and Nutrition

CHILD HEALTH STATUS AND CARE, FOLLOW-UPS, CHILD NUTRITION, MENTAL HEALTH, AND SAFETY PRACTICES

Service area found in compliance.

Strengths

- Collaborative approach with health and family services team to ensure children have completed health requirements and are visiting their medical and dental provider in a timely manner.
- Opportunities provided for families to complete health screenings.
- Collaboration with Dental Hygienist Liaison to the Health Services Advisory Committee to offer enrolled children and their siblings’ dental screenings with dental providers.
- Promotion of oral health education and practice by providing Brush, Book, Bed packets to all enrolled children every three months.
- Frequent communication with families to alleviate fears of visiting medical or dental office due to the pandemic.
- Mental health consultants held group sessions with staff and family child care provider partners on various topics such as life stress, building resilience, and courage as a professional; also provided professional development on topics such as grief and loss and trauma-informed approaches.

Considerations for PY 2021-22

- Increase community partnerships with medical and dental providers to promote coordinated care, and county-wide networking to be informed and up to date on resources available for children, families and staff.
- Provide opportunities to support family wellness.
- Recruit community partners to increase the membership of the Health Services Advisory Committee.

Family and Community Engagement

FAMILY PARTNERSHIP BUILDING, PARENT INVOLVEMENT, COMMUNITY AND CHILD CARE PARTNERSHIPS

Service area found in compliance.

Strengths

- Family and Community Engagement has a strong monthly monitoring and documentation system in place at each level from family service worker to family service manager to grantee management. Family service staff have demonstrated competencies in documentation of services to families in the Child Plus database.
- Strong collaboration/coordination with health and nutrition service areas to encourage visits to pediatricians and dental providers. Community resources provided to families with a significant increase in food resources during the pandemic.
- Collaboration between health and family services to ensure all families whose services are federally funded received two Brush, Book, Bed packets this program year with a third distribution in May/June.
- Collaboration with education service area for the continuation and/or recent implementation of Ready Rosie parenting curriculum. The conversion to virtual services (family services meetings with parents, parent meetings/governance) during the pandemic increased the technology capacity of staff and families.
- Males are encouraged to participate and are participating in virtual learning providing increased opportunities to be involved in their child's education.

Considerations for PY 2021-22

- Program managers will continue to work with staff who require additional technical assistance in the Child Plus protocol for documentation of services.
- All programs shared the ongoing struggle of increasing male engagement in the program. County-wide program opportunities have been shared with families. One strategy that programs are in the process of offering is virtual story times with significant males and their child(ren) to increase participation in learning experiences. Additional strategies are being identified.

Fiscal Infrastructure

FINANCIAL MANAGEMENT SYSTEMS, REPORTING, PROCUREMENT, COMPENSATION, COST PRINCIPLES, FACILITIES AND PROPERTY

Service area found in compliance.

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.
- Fairfax County Government's ability to leverage several funding sources in addition to federal funding in support of the Head Start/Early Head Start and Child Care Partnership & Expansion Programs continues to be a fiscal strength and highlight of the overall program.
- Delegate and grantee fiscal officers regularly attend Head Start Grants Management and Uniform Guidance Training. External training supports the program with strengthening grants management compliance and helps to mitigate the inherent risks to fiscal operations. The new grantee Fiscal Officer and FCPS staff attended training on changes to Uniform Guidance in March 2021.

Considerations for PY 2021-22

- The grantee will continue to provide technical assistance to support the delegate agencies with identified challenges. The grantee will also seek and recommend external training to support the delegate programs.

Eligibility, Recruitment, Selection, Enrollment, Attendance

Service area found in compliance with the exception of enrolling children with disabilities (10%).

As of January 31, 2021, the grantee program HS/EHS and the Family Child Care Partnership and Expansion Grant (FCC and Center-based) did not reach the required minimum enrollment of ten percent of children with disabilities, due to the program being under-enrolled during the pandemic. Part B and Part C agencies reported this year there has been a delay in the identification of children with disabilities. In addition, most children were not served in centers where educators would refer them for evaluation based on observation. Some parents have not been interested in virtual services, which also causes a delay in screening/processing referrals.

Strengths

- All programs consistently follow the Head Start Program Performance standards and the Fairfax County Head Start Eligibility Guidelines.
- Excellent communication and coordination among different options/programs through monthly work group meetings and by building relationships. Eligibility staff and managers share tips and strategies for efficient and accurate processing of applications.
- Recruitment efforts are also coordinated and staff refer families to other birth to five programs in the county as appropriate.
- Staff were quick to create new processes and adjust to serving families in an online capacity to reduce physical interaction during the pandemic and were able to continue processing applications and communicating with families and staff. Drop boxes were installed, online signatures were implemented, and staff assisted families with using their mobile devices to send documents.

Considerations for PY 2021-22

- OFC programs can enroll more children with disabilities. Higher Horizons has many children transitioning from Seven Corners and far exceeded the standard; FCPS adjusted their process to further prioritize enrolling children with disabilities.
- Grantee office can consider expanding the use of additional types of recruitment such as social media channels, distribution of marketing products, and the local Spanish radio station.

Program Design, Management, and Quality Improvement

PLANNING, COMMUNICATION, RECORD-KEEPING AND REPORTING, ONGOING MONITORING, HUMAN RESOURCES, ORGANIZATIONAL STRUCTURE, FACILITIES, MATERIALS, EQUIPMENT AND TRANSPORTATION

Service area found in compliance.

Strengths

- Programs have strong systems in place in all areas of Program Design, Management and Quality Improvement.
- Program Design: Programs were able to share how their program designs were determined using various data sources. Program options were determined by need in geographic areas served. Full and effective participation of children who are dual language learners and their families are accomplished through planned language approaches and the hiring of qualified staff and FCC partners who speak the languages of many of the enrolled children. Translators are utilized as needed. Programs have a shared belief that a strong home language base makes it easier to learn and read English.
- Management and Quality Improvement: Effective oversight of programs include active engagement of board members, policy and parent committee representatives, Policy Council members and strong program leadership teams with many years of experience in early childhood education. Programs have systems in place to use program data to evaluate progress and inform continuous improvement. Programs have policies and procedures in place for supervision, feedback and coaching of staff with procedures for creating professional development and corrective action plans. Programs have processes in place to analyze child-level assessment data and other program data to direct ongoing program improvement. Programs have communication systems in place for staff, parent and policy committees, Policy Council and the Governing body to provide information about program progress. Budget and staffing requests are reviewed by the grantee office.

Considerations for PY 2021-22

- Enhancing the program structure in order to support and strengthen ongoing monitoring of, and coaching and mentoring in, the Early Head Start program will continue to be a focus this next program year.

Governance

Service area found in compliance.

Strengths

- Policy Council officers and members have a foundational knowledge of the governance structure including the Board of Supervisors, Office for Children, and Head Start Policy Council structures. They also understand how individual Board of Supervisors have the required expertise of a governing board as stated in the Head Start Act. Policy Council shared insight on how the individual Supervisors leverage their knowledge of constituents' needs as a means to advocate for Head Start services. Members also shared about the knowledge and expertise of the Policy Council, stating that the diversity of the Council and the expertise of the Board of Supervisors enables the governing bodies to enhance and promote Head Start Services. Policy Council understands their roles, responsibilities and oversight role to include approving of new member participation, meeting minutes, budgets, and personnel hiring.

Considerations for PY 2021-22

- Policy Council officers and members will continue to benefit from training on the roles and responsibilities of the Policy Council and Shared Governance with the Fairfax County Board of Supervisors. Increased participation and attendance at meetings by all representatives from the programs need to be encouraged by program representatives.

Board Agenda Item
July 27, 2021

ACTION - 3

Authorization of Economic Opportunity Reserve Funding to the Tysons Partnership for Community Activation and Branding (Providence and Hunter Mill Districts)

ISSUE:

Board of Supervisors' authorization to allocate \$250,000 from the Economic Opportunity Reserve (EOR) to the Tysons Partnership to support implementation of community activation, branding initiatives and organizational development.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) authorize use of the EOR funds for this purpose.

TIMING:

Board action is requested on July 27, 2021, to allow for activation events to occur in 2021 and capitalize on the investments made in the Tysons Partnership to date.

BACKGROUND:

The Tysons Partnership was established in 2012 as the Implementation Entity for the County's Comprehensive Plan for Tysons with the purpose to partner with Fairfax County to support the redevelopment of Tysons. It is a 501(c)(4) organization, the membership of which includes employers, retailers, residential communities, and landowners.

On December 3, 2019, the Board approved up to \$1,000,000 in funds from the County's EOR to assist the Tysons Partnership in the development and launch of a multi-phase branding campaign for Tysons. The County EOR funding was awarded as an equal match to funds raised by the Tysons Partnership. The capital campaign ended with the onset of the COVID-19 emergency measures with a total EOR contribution of \$630,000.

The funds raised by the Tysons Partnership, and matched by Fairfax County EOR contributions, were used to develop a new Tysons logo and brand guide ([Attachment 1](#)), a Tysons Activation Guide ([Attachment 2](#)) and an [updated website](#) and community outreach, which includes the marketing of Tysons, such as this [promotional video](#).

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On December 1, 2020, the Board directed staff to work with the Tysons Partnership to collaborate on the future of the Tysons Partnership (Attachment 3). The Board also directed staff to evaluate a nomination for the use of up to \$1,000,000 from the EOR to provide resources to the Tysons Partnership for short term initiatives designed to support organizational development, stakeholder outreach, and engagement through community events. At the January 12, 2021, Budget Policy Committee, staff from the Tysons Partnership provided an overview of their request for funding from the Fairfax County Economic Opportunity Reserve ([Attachment 4](#)).

Use of the proposed \$250,000 of the \$1,000,000 nomination in additional EOR funding would be to continue implementation of the efforts begun in 2020. The funds would be allocated roughly equally among these three areas:

- 1) A pilot project to provide exterior improvements to activate the County-owned property at 8508 Leesburg Pike, the former Container Store. The Tysons Partnership would manage the installation of a mural artwork on three sides of the structure, providing a vibrant destination for community gathering and activities in Tysons.
- 2) Allow for continued implementation of pilot projects and Tysons promotional activities. These may include projects recommended in the Tysons Activation Guide, updates to communication and branding of Tysons, and enhancing communication outreach to members of the Tysons community.
- 3) Continued engagement of resources to assist with organizational development and collaboration with Fairfax County on modifying the underlying business and financial model of the Tysons Partnership to position the organization for long term financial sustainability.

The funding would be allocated to the Tysons Partnership upon receipt of invoices for eligible expenses. Staff will also collect information from the Tysons Partnership on relevant performance measures for funded pilot projects. These may include: number of events hosted and number of visitors or participants; enhanced communication outreach to the Tysons community and/or increased visitation to website; information related to implementation of pilot projects; work product developed through use of County funds; and organizational best practices for community based business organizations.

County staff would return to the Board with a follow-on Action Item if the Tysons Partnership were to request any additional future funds as identified in Attachment 3.

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FISCAL IMPACT:

This item will result in the expenditure of up to \$250,000 from Fund 10015, Economic Opportunity Reserve.

ENCLOSED DOCUMENTS:

Attachment 1 – Tysons Brand Guide v1.0 can be found online at:

https://www.tysonspartnership.org/wp-content/uploads/2021/05/Tyson-Brand-Guide_v1.0.pdf

Attachment 2 – Tysons Activation Guide can be found online at:

https://www.tysonspartnership.org/wp-content/uploads/2021/05/210505_brandtoolkit_CONDENSED-FOR-website_v2.pdf

Attachment 3 – Dec. 1, 2021, Board Matter on Expansion of Tysons Partnership's Role

Attachment 4 – Jan. 12, 2021, Initial Project Evaluation Presentation can be found online at:

https://www.fairfaxcounty.gov/budget/sites/budget/files/assets/documents/budget%20committee%20meeting/2021/jan-12/eor_tysons_partnership.pdf

STAFF:

Rachel Flynn, Deputy County Executive

Joseph Mondoro, Chief Financial Officer

Christina Jackson, Director, Department of Management and Budget

Rebecca Moudry, Director, Department of Economic Initiatives

Joseph LaHait, Debt Manager, Department of Management and Budget

Scott Sizer, Manager, Catalytic Development, Department of Economic Initiatives

ASSIGNED COUNSEL:

Cynthia Bailey, Deputy County Attorney



DALIA A. PALCHIK
PROVIDENCE SUPERVISOR

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
BOARD OF SUPERVISORS
FAIRFAX, VIRGINIA

Suite 218
3001 VADEN DRIVE
FAIRFAX, VA 22031

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December 1, 2020

Joint Board Matter with Chairman McKay, and Supervisors Alcorn and Foust

Expansion of Tysons Partnership's Role

Members of the Board,

Since its inception, the Tysons Partnership has played a key role in the success that Tysons has seen. As the Board heard on November 10th at the Economic Initiatives Committee, the Partnership serves as the implementation entity called out in the Comprehensive Plan for Tysons. To that end, the Partnership's mission is to assist in the acceleration of the transformation of Tysons. Specifically, it serves as a convener, a voice and a catalyst for the people who live, work, and do business in Tysons. Here is the link to the presentation we saw on November 10th :

<https://www.fairfaxcounty.gov/boardofsupervisors/sites/boardofsupervisors/files/assets/meeting-materials/2020/nov10-economic-initiatives-tysons-partnership-roadshow.pdf>

Since the establishment of Tysons as a special tax district effective January 1, 2013, assessed values in Tysons have grown steadily from just over \$11 billion to almost \$17 billion. The projected trajectory for Tysons is robust and we need to do whatever we can to ensure that it is maximized. As we work to take advantage of previous Board investments and decisions, the Partnership is poised to expand and enhance its role. Again, as we heard on November 10th, the Partnership would expand its role in partnership with the county in such areas as research, planning and economic development, transportation and mobility, placemaking and activation, communication and place branding as we move ahead to the next generation of Tysons.

This expanded role, described as Tysons Partnership 3.0, has prompted conversations about governance, metrics to verify progress, and a sustainable funding stream. There are models outside of Fairfax, such as in Rosslyn and National Landing, from which we can take lessons learned to help inform what we do in Tysons. Ultimately this model may also be applied in other parts of the County to cement the partnership

between County government and the community stakeholders who have the shared vision of economic growth and successful development.

Therefore, I move, in collaboration with Chairman McKay, and Supervisors Alcorn and Foust, that the Board of Supervisors direct that staff and the Partnership work to identify what the next generation of the Partnership looks like. The work of this group should include a plan spelling out the role, major activities, financing, and value proposition provided to the Tysons community and Fairfax County overall. It shall focus on governance, metrics of success and a sustainable funding stream. Recognizing that this process will take some time, I would set the FY 2023 budget as the timeframe for any recommendations to be implemented. In the preparation for this recommendation, the conversation should look at best practices in Virginia and beyond, engage local businesses, community members, and other stakeholders in Tysons beyond the Partnership membership, as well as provide regular reporting to the Board via memos and Committee meeting conversations.

I also move the nomination of \$1 million from the Economic Opportunity Reserve to provide resources for short term initiatives designed to support the priorities identified above. These would include things like wayfinding, promotion of Tysons events and businesses and connectivity through community events. This nomination begins the established process for review by staff and the Board prior to any allocation of funds. We will hear more of these initiatives from the Partnership as we discuss this nomination in the coming months.

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ACTION - 4

Approval of a Revised Financing Plan for Dredging Lake Accotink (Braddock District)

ISSUE:

Approval by the Board of Supervisors to pursue an additional loan from the Virginia Clean Water Revolving Loan Fund of \$30,000,000 for the dredging of Lake Accotink.

RECOMMENDATION:

The County Executive recommends approval to pursue an additional loan relating to the recommended strategy and financing plan for the dredging of Lake Accotink through the Virginia Resources Authority's Virginia Clean Water Revolving Loan Fund.

TIMING:

Approval by the Board is requested on July 27, 2021.

BACKGROUND:

Lake Accotink Park is a 493-acre public park owned and operated by the Fairfax County Park Authority (FCPA) located at 7500 Accotink Park Road in Springfield. The main portion of the park is located in the Braddock District with parts of the park overlapping with the Lee and Springfield Districts. The focal point of the park is the 55-acre lake surrounded by managed conservation areas, wetlands, deciduous and evergreen forests, and historic and pre-historic sites. Over 300,000 patrons visit the park annually to enjoy a variety of facilities and activities that vary with the season including bike rentals, canoe and pedal boat rentals, a boat launch, a miniature golf course, an antique carousel, a snack bar, pavilion shelters and picnic areas with grills, restrooms, a playground, a sand volleyball court and basketball court. Situated along the Gerry Connolly Cross County Trail, the park has a four-mile loop, natural-surface hiking/biking trail around the lake. The Park plays host to a variety of events throughout the year including the popular annual cardboard boat regatta, classes and camps, and scouting programs.

The lake itself is fed by approximately 50 miles of creek watershed that comprise approximately 30 square miles of the Lake Accotink Watershed. Sediment from the upstream areas of the watershed has continued to be deposited in Lake Accotink over the years filling the lake in and limiting its recreational use. The lake has been dredged two times since 1985 to remove accumulated sediment. The most recent lake dredging, completed in 2008, removed approximately 193,000 cubic yards of sediment. An average

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of 20,000 cubic yards of sediment continues to be deposited in the lake annually since the dredging was completed. The current estimated average depth of the lake is less than four feet and will continue to decrease over time without intervention.

The Park master plan which serves as the guiding document for development and operation of Lake Accotink Park was last approved by the Park Authority Board in 1993. FCPA staff kicked off the public process to update the park master plan including addressing sustainability of the lake in the Spring of 2016. Public meetings were held over a two-year period to discuss a variety of topics including facilities programming and usage, natural and cultural resources, trails, amenities, and lake management options. Community input received as part of the planning process highly favored retaining the lake to the existing footprint including a petition from the Save Lake Accotink organization formed by local community members during the planning process. The master planning process was put on hold in Spring 2020 due to Covid-19 as well as the ongoing dredging study. Once the design and engineering of the dredging project is finalized, FCPA will resume the master planning process.

The Board of Supervisors directed staff to identify appropriate funding mechanisms to address Lake Accotink as part of budget guidance approved concurrent with adoption of the FY 2021 budget. FCPA staff, working with staff from the Department of Public Works and Environmental Services (DPWES), studied several strategies to retain the environmental, aesthetic and recreational value of the lake in the current footprint. Staff updated the Board of Supervisors at the Budget Committee meeting on September 17, 2019, with the recommended strategy to restore the lake which included:

- Dredging 350,000 cubic yards of sediment from the lake to restore the lake to an average depth of eight feet;
- Pumping the sediment to an area located in Wakefield Park for dewatering;
- Hauling sediment to a closed quarry via Braddock Road and the Capital Beltway for disposal; and
- Periodic maintenance dredging.

The Board of Supervisors approved an action item on October 29, 2019, for staff to seek funding for the dredging of Lake Accotink for up to \$30,500,000 based on estimates prepared in 2017 by Wetlands Studies and Solutions, Inc. (WSSI) for lake management alternatives as part of the Lake Accotink Park master planning process. Project staff working with the Department of Management and Budget have identified the option of a low interest loan via the Virginia Clean Water Revolving Loan Fund (VCWRLF) as the preferred funding mechanism for the dredging. The VCWRLF is administered by the Virginia Department of Environmental Quality (DEQ), and the Virginia Resources Authority is the financial manager of the fund. Qualifying projects under the VCWRLF program receive an interest rate of one percent below municipal market rates. DEQ has confirmed

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Fairfax County qualifies for an additional interest rate reduction of one percent below municipal market rates based on the County's dedicated source of stormwater revenue from the Stormwater Service District. Staff applied for \$30,500,000 in funding to support the dredging of Lake Accotink through the VCWRLF in July 2020 and received approval from DEQ for a loan for that amount in December 2020.

In 2020, DPWES entered into a contract with Arcadis, Inc. to provide engineering services to prepare plans and specifications, permit and oversee construction activities associated with the project to dredge Lake Accotink. This project includes several critical items that may account for increased project costs which are being calculated:

- Removal of up to 500,000 cubic yards of sediment. This amount represents a 43% increase over the previous estimate. It reflects the additional 50,000 cubic yards of sediment that has accumulated in the lake since the previous assessment was done and includes another 100,000 cubic yards of material that will likely enter the lake by the end of the dredge operation in 2026.
- Dredging methods were thoroughly evaluated with the 2021 alternatives analysis; and the methods determined to be feasible have a higher cost than those used to develop the previous estimate as part of the lake management alternatives process in 2016.
- Increased costs for pipeline construction due to the need for the establishment of a permanent dredging program to maintain Lake Accotink.
- Updated costs to dewater sediment and clean effluent water before returning it to Accotink Creek.
- Increased materials and labor costs due to the pandemic and the current construction industry trends.

Initial project design will begin in fall 2021, informed by additional public outreach, and will include assessment of disposal options. Refined estimates for disposal costs are expected by spring 2022. Disposal costs for the 2008 dredge were minimal as a nearby business accepted the fill. Staff will explore all possible options to limit disposal costs.

Staff recommend seeking additional funds at this time, through VCWRLF with DEQ, due to the July 30, 2021 deadline. With approval from the Board of Supervisors, staff will apply for an additional \$30,000,000 to cover costs associated with dredging and spoils processing. Pending this request and prior to the commencement of dredging, staff would return to the Board to approve the final cost estimate for the project, including sediment disposal; to finalize state funding requests and to approve the related bond documents necessary to execute the financial closing on this loan. If funding from the VCWRLF is not available for this project, staff recommend a fallback option of project financing through the issuance of a bond sale through the Fairfax County Economic Development Authority (EDA). The County has utilized this approach in the past for select County facilities. Staff

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will also review any other available County funding sources, including federal stimulus funds, to potentially allocate to this project.

Based on benthic macroinvertebrate (insect) monitoring and assessments in the Accotink Creek watershed, DEQ has placed Accotink Creek, both above and below Lake Accotink, on Virginia's List of Impaired Waters (Category 5 of the Integrated List) because they are not supporting their Aquatic Life Use. In 2017, DEQ released a sediment Total Maximum Daily Load (TMDL) limit for Accotink Creek which requires Fairfax County to reduce the sediment coming out of the creek's drainage area within the county jurisdictional boundaries. This TMDL also assumes that Lake Accotink is capturing a significant amount of sediment. Should the Lake be removed or filled in entirely, Fairfax County may be required to replace certain amounts of sediment removal, currently being performed by the lake, through other actions.

Project management of the lake dredging will be performed in partnership between DPWES and FCPA. Staff anticipates completing design and permitting for the project in the summer of calendar year 2023 with dredging to take place between calendar years 2023 and 2026. The annualized estimated cost for periodic maintenance dredging is a minimum \$3 million.

FISCAL IMPACT:

The County would apply in the summer of 2021 (the next application deadline) to the Virginia Department of Environmental Quality for a loan from the Virginia Clean Water Revolving Fund for dredging and spoils processing. The County anticipates a response from DEQ on this request by December 2021. The debt service is anticipated to be funded through revenues received from the Stormwater Tax in Fund 40100, Stormwater Services. These payments, in addition to other stormwater-related community needs such as flood mitigation and stormwater requirements for Fairfax County Public Schools, will place additional pressure on the rate. Each penny in the Stormwater Tax rate currently generates \$27,100,000 in tax revenue. Pending this request and prior to the commencement of dredging, staff would return to the Board to approve the final cost estimate for the project, including sediment disposal; to finalize state funding requests and to approve the related bond documents necessary to execute the financial closing on this loan. It is anticipated that dredging would be initiated in fall 2023 and the debt service payments on the loan would begin following the completion of dredging which is currently estimated to be in 2026. Staff will be scheduling a future board action to finalize all cost estimates.

ENCLOSED DOCUMENTS:

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None

STAFF:

Rachel Flynn, Deputy County Executive

Joseph Mondoro, Chief Financial Officer

Sara Baldwin, Acting Executive Director, Fairfax County Park Authority (FCPA)

Chris Herrington, Director, Department of Public Works and Environmental Services (DPWES)

Christina Jackson, Director, Department of Management and Budget

Joseph LaHait, Debt Manager, Department of Management and Budget

Ellie Coddling, Deputy Director, DPWES

Craig Carinci, Director of Stormwater Planning Division, DPWES

Stephanie Leedom, Director of Planning and Development Division, FCPA

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ACTION - 5

Approval of a Project Funding Agreement for the CSX Railroad at Route 1 Bridge Improvement Project (Mount Vernon District)

ISSUE:

Board of Supervisors' approval and authorization for the Director of the Fairfax County Department of Transportation (FCDOT) to execute a Project Funding Agreement (PFA) for the funding of improvements at CSX Route 1 (Richmond Highway) underpass project.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve a resolution (Attachment 1) authorizing the Director of FCDOT to execute a PFA (substantially in the form of Attachment 2) with the Virginia Department of Transportation (VDOT), and the Virginia Passenger Rail Authority (VPRA), for the funding of the project. This agreement secures full funding for the project.

TIMING:

The Board should act on this item on July 27, 2021, so that the project can advance.

BACKGROUND:

As a part of the effort to improve Richmond Highway from I-495 to Prince William County, this project lowers Richmond Highway and increases the bridge span to eventually accommodate six travel lanes to facilitate the implementation of bus rapid transit, as well as bike and pedestrian facilities. Building upon the Virginia Department of Rail and Public Transportation (DRPT) Atlantic Gateway program, the project leverages an innovative federal, state, and private sector partnership to make critical intermodal and safety improvements to existing Richmond Highway and proposed railroad bridge above it.

County staff collaborated with DRPT (acting for, and on behalf of, the VPRA) and VDOT to draft a funding agreement for this project. The purpose of the PFA is to ensure that funding from VDOT and VPRA is committed. The estimated cost of the project is \$49.2 million. The County share of the cost is 26 percent, or \$12,792,000; VDOT's share is 42 percent, or \$20,664,000, and VPRA's share is 32 percent, or \$15,744,000.

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The parties will also negotiate on a Project Administration Agreement (PAA) when the Commonwealth determines which agency will construct the project. The PAA will provide a framework for the actual implementation of the project, and the flow of funds between participating entities. Staff will return to the Board to request approval to execute the PAA when it is ready.

FISCAL IMPACT:

The total project estimate is \$49.2 million. The County's share of the project is \$12,792,000; \$12.0 million will be funded by Northern Virginia Transportation Authority FY 2018-2023 regional funds, and \$792,000 will be funded by Fund 40010, County and Regional Transportation Projects, from Project 2G40-180-000, Richmond Highway CSX Underpass – NVTVA 30. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1: Resolution for the Establishment of the Project and Authorization for the Director of FCDOT to Execute the Project Funding Agreement
Attachment 2: Proposed Project Funding Agreement

STAFF:

Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Gregg Steverson, Deputy Director, FCDOT
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Michael Guarino, Chief, Capital Projects Section, FCDOT
Vanessa Aguayo Thomas, Senior Transportation Planner, FCDOT
Tom Fahrney, Senior Transportation Planner, FCDOT
Ray Johnson, Chief, Funding Section, FCDOT

ASSIGNED COUNSEL:

Richard F. Dzubin, Assistant County Attorney

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held on Tuesday, July 27, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

AGREEMENT EXECUTION RESOLUTION

A RESOLUTION FOR THE BOARD OF SUPERVISORS OF THE COUNTY OF
FAIRFAX, VIRGINIA
FOR THE EXECUTION OF AN AGREEMENT FOR THE
CSX Railroad at Route 1 Bridge Improvement
PROJECT

WHEREAS, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation (VDOT) to establish a project(s), if not already established, in the County of Fairfax.

NOW, THEREFORE, BE IT RESOLVED, that the County of Fairfax requests the Commonwealth Transportation Board to establish a project(s), if not already established, for the funding of the CSX Railroad at Route 1 Bridge Improvement (“Project”).

BE IT FURTHER RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County’s Department of Transportation to execute, on behalf of the County of Fairfax, the agreement with the Virginia Department of Transportation, and Virginia Passenger Rail Authority, for the funding of the Project.

Adopted this 27th day of July 2021, Fairfax, Virginia

ATTEST _____
Jill G. Cooper
Clerk for the Board of Supervisors

**AGREEMENT FOR FUNDING
AMONG
COUNTY OF FAIRFAX,
VIRGINIA PASSENGER RAIL AUTHORITY, AND
VIRGINIA DEPARTMENT OF TRANSPORTATION**

PROJECT NAME: CSX Railroad at Route 1 Bridge Improvement Project

This agreement for funding (“Agreement”) is effective as of the date of last execution hereto as between the County of Fairfax (“County”), the Virginia Passenger Rail Authority (“VPRA”) and the Virginia Department of Transportation (“VDOT”) (each a “Party” and, collectively, the “Parties”).

WITNESSETH

WHEREAS, the CSX railroad bridge located above Route 1, Fairfax County, Virginia, (“CSX Railroad Overpass”) has been determined by VDOT to be in need of replacement to provide standard vertical and lateral clearance to accommodate future widening of Route 1 as described in the Fairfax County Comprehensive Plan (“Overpass Improvement Project”); and

WHEREAS, the \$3.7 billion Transforming Rail in Virginia (“TRV”) program of projects (“TRV Program Projects”), announced in December of 2019, includes long-term plans to build up to a 4-track rail corridor from Washington, DC to Spotsylvania County; and

WHEREAS, in allocating funds towards the TRV, the Commonwealth Transportation Board (“CTB”) has determined that the projects comprising the TRV are for the common good of the Commonwealth, and determined that the projects comprising it will result in public benefits to the Commonwealth that are equal to or greater than the investment of funds by increasing the amount of passengers and/or freight by rails, reducing highway congestion and/or promoting fuel efficiency, and promoting future transit improvements on Richmond Highway as part of an integrated transportation system; and

WHEREAS, the TRV Program Projects include enhancement of the CSX Railroad Overpass to expand rail capacity for the 3rd track project now and for the future 4th track project (“Rail Project”); and

WHEREAS, the Parties agree that the Overpass Improvement Project and the Rail Project be combined into one project, the “Route 1 Overpass Project” (collectively, “Overpass Improvement Project” and “Rail Project” are hereinafter referred to as “Route 1 Overpass Project”) to save money and expedite the combined improvements to the overpass needed for highway widening and the expanded rail capacity for the 3rd track project now and the future 4th track project; and

WHEREAS, on April 28, 2017, the General Assembly enacted a Budget Bill (HB 1500, Chapter 836, Item 449), which instructed the Virginia Department of Rail and Public Transportation (“DRPT”) to work with the County and VDOT to identify funding sources for this portion of the TRV Program Projects and to develop a cost-effective design for a new facility over Route 1 to replace the existing overpass bridge, expand rail capacity, and accommodate the future Bus Rapid Transit system on Route 1; and

WHEREAS, on June 19, 2019, the CTB approved DRPT’s FY 20 through FY 25 Six-Year Improvement Program, which included funding for the Rail Project as part of the I-95 Corridor Improvements; and

WHEREAS, on January 25, 2021, the VPRA approved a resolution recommending the FY 22 VPRA Budget, which included the Rail Project, be submitted to the CTB for review and approval, and on February 17, 2021 DRPT staff presented the FY 22 VPRA Budget to the CTB and on May 19, 2021 the CTB approved the VPRA FY 22 Budget; and on May 24, 2021 the VPRA approved the FY 22 VPRA Budget that includes funding for the project; and

WHEREAS, on December 5, 2017, the Board of Supervisors of the County of Fairfax endorsed an application by the County to the Northern Virginia Transportation Authority (“NVTA”) for the Overpass Improvement Project for no more than \$12 million through the NVTA FY 2018-2023 Six Year Program ; and

WHEREAS, on June 14, 2018, NVTA approved the commitment of \$12 million for the Overpass Improvement Project as part of its adoption of the FY 2018-2023 Six Year Program.

NOW THEREFORE, in consideration of the promises made, mutual covenants and agreements contained herein, the Parties hereto agree as follows:

ARTICLE I
PROJECT SCOPE

The Parties propose to replace, widen, and lengthen the CSX Railroad Overpass located at the intersection of Route 1 and the CSX rail line at milepost 90.7 in Fairfax County to accommodate future plans for widening of Route 1, including the implementation of bus rapid transit, and to accommodate passenger rail expansion by including capacity for a 3rd track and future 4th track.

ARTICLE II
ESTIMATED COST, BUDGET AND FUNDING

§ 2.1 Estimated Cost. As of the Effective Date, the estimated cost for the Route 1 Overpass Project is \$49,200,000. Any costs in excess of this estimated amount for the Route 1 Overpass Project will be the responsibility of all Parties and shared according to the Percentage Split given in Section 2.2. If the increase in cost is due to a betterment, then funding for the increased cost will be the sole responsibility

of the Party requesting the betterment. To the extent that there are any surplus funds remaining after all costs of the Route 1 Overpass Project have been paid and Route 1 Overpass Project closeout has occurred, said surplus shall be returned on a prorated basis to the three Parties, based on the percentage of Route 1 Overpass Project funding contributed by each Party.

§ 2.2 Percentage Split. As of the Effective Date, the total funding for the Route 1 Overpass Project and each Party's funding obligations is as follows:

	Percentage Split	Estimate
COUNTY	26%	\$ 12,792,000
VDOT	42%	\$ 20,664,000
VPRA	32%	\$ 15,744,000
Total Cost	100%	\$ 49,200,000

ARTICLE III
PROJECT ADMINISTRATION

The Parties will work together to develop a project administration agreement detailing administration of design and construction as well as reimbursement of expenses incurred toward completion of the Route 1 Overpass Project and will execute said agreement at such time as the parties have established mutually agreeable terms and conditions and procured the necessary authorities for execution.

ARTICLE IV
MISCELLANEOUS

§ -5.1 Termination. A Party may terminate this Agreement prior to construction contract award upon 30 days' advance written notice to each party. If so terminated, each Party will pay its prorated share of (i) all undisputed Route 1 Overpass Project costs incurred through the date of termination ; (ii) all undisputed reasonable costs incurred by VDOT to terminate all Route 1 Overpass Project related contracts; and (iii) and undisputed, reasonable rail costs incurred by VRPA. Any portion of unspent funds, which includes funds not obligated to a third-party, prior to termination of the Agreement, will be returned to the Parties at the Percent Distribution Split given in Section 2.2.

§ -5.2 Dispute. In the event of a dispute under this Agreement, the Parties agree to meet and confer to ascertain if the dispute can be resolved informally without the need of an external party or judicial intervention. The County Executive or his designee, VPRA's Executive Director, and the Commissioner of Highways shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to the Parties' governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, any Party is free to pursue whatever remedies it may have at law, including all judicial remedies.

§ -5.3 Maintenance of Records. The Parties will maintain complete and accurate financial records relative to the Route 1 Overpass Project for all time periods as may be required by the Virginia Public Records Act (§ 42.1-76 *et seq.*) and by all other applicable state or federal laws or regulations, and provide copies of any such financial records to the other Parties, free of charge, upon request.

§ 54 Notices. All notices under this Agreement to a Party shall be in writing and forwarded to a Party by U.S. mail, care of the following authorized representatives:

1) to: County of Fairfax, to the attention of its Director of Department of Transportation, and Project Manager

2) to: VDOT, to the attention of its

Copy to: Office of the Attorney General
Transportation Section Chief

3) to: VPRA, to the attention of its

Copy to: Office of the Attorney General
Transportation Section Chief

§5.5 Assignment. This Agreement may only be assigned by a Party with the prior express written consent of all the Parties.

§5.6 Modification or Amendment. This Agreement may be modified only upon written agreement of the Parties.

§5.7 No Personal Liability or Creation of Third-Party Rights. This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the Parties; nor shall it be construed as giving any rights or benefits to anyone other than the Parties hereto.

§5.8 No Agency. The Parties represent that they are not acting as a partner or agent of the other; and nothing in this Agreement shall be construed as making any Party a partner or agent of any other Party.

§5.9 Sovereign Immunity. This Agreement shall not be construed as a waiver of any Party's sovereign immunity rights.

§5.10 Funding Sources. If a single Party secures Route 1 Overpass Project funding from a source other than any identified herein or previously earmarked for the Route 1 Overpass Project, including, but not limited to federal funding, those secured funds will be used to reduce the securing Party's funding

obligation share and not the overall Route 1 Overpass Project cost or proportional share of all funding Parties. If any Party secures federal funding for the Route 1 Overpass Project, that Party must notify the remaining Parties of source of federal funds and its intent to use federal funds. If multiple Parties work collectively to secure funding, the amount will be used reduce the overall Route 1 Overpass Project cost and will be attributed, through a proportional share, for the respective Parties.

§5.11 Incorporation of Recitals. The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The Parties to this Agreement acknowledge and agree that such recitals are true and correct.

§5.12 Mutual Preparation and Fair Meaning. The Parties acknowledge that this Agreement has been prepared on behalf of all Parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against any Party.

§5.13 Governing Law. This Agreement is governed by the laws of the Commonwealth of Virginia.

§5.14 Binding Authority. The Parties' respective designees executing this Agreement on behalf of their organizations are authorized to do so by their organization's governing bodies.

§5.15 All requirements for funds to be borne by the Parties shall be subject to annual appropriations by the General Assembly, the Virginia Commonwealth Transportation Board, and/or the Fairfax County Board of Supervisors.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

COUNTY OF FAIRFAX

By: _____

Title: _____

Date: _____

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: _____

Title: _____

Date: _____

VIRGINIA PASSENGER RAIL AUTHORITY

By: _____

Title: _____

Date: _____

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ACTION - 6

Adoption of a Resolution of Support for an Adjustment of the Limited Access Line Adjacent to Eastbound Route 66 and 6702 Hallwood Avenue (Route 7542) (Dranesville District)

ISSUE:

Board adoption of the attached resolution supporting an adjustment to the limited access line for Interstate 66 and 6702 Hallwood Avenue.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution (Attachment I) supporting the limited access line adjustment at Interstate 66 and 6702 Hallwood Avenue.

TIMING:

The Board should take action on July 27, 2021, so that the Virginia Department of Transportation (VDOT) has the support of the Board to make the adjustments to the Route 66 Limited Access Line and to the State maintenance inventory.

BACKGROUND:

VDOT widened a segment of I-66 as part of the Transform 66 project. The widening provided an additional through lane for approximately four miles along eastbound I-66 between the Dulles Connector Road and the exit for Fairfax Drive in Arlington.

VDOT notified the Board of Supervisors in 2018 that pursuant to Section 33.2-230 of the Code of Virginia, private ownership of a portion of land on tax map parcel 40-4 ((5)) 105A that was encroaching on the limited access line along I-66 was requested to be returned. The parcel is a private residence and the area encroaching on the limited access line is roughly 289 square feet and contains a detached garage, which was permitted by Fairfax County. VDOT has determined that the area is non-buildable and no longer needed. In consultation with VDOT, the owner of the private residence has agreed to purchase the residue portion encroaching on the limited access line, contingent upon the adjustment of the limited access line.

According to Section 24VAC30-401-20 of the Virginia Administrative Code, a request for a change in limited access requires a resolution, letter of support, or formal request,

Board Agenda Item
July 27, 2021

or a combination of these, from the locality within which the changes are proposed.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Resolution
Attachment II: Request from Property Owner
Attachment III: VDOT Municipality Notification
Attachment IV: Location Map

STAFF:
Rachel Flynn, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Gregg Steverson, Deputy Director, FCDOT
Jeff Hermann, Division Chief, FCDOT-Site Analysis & Transportation Planning Division
Gregory Fuller Jr., Section Chief, FCDOT-Site Analysis Section (SAS)
Martha Elena Coello, Division Chief, FCDOT-Special Projects
Michelle Guthrie, Transportation Planner III, FCDOT-SAS

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Fairfax County Government Center at Fairfax, Virginia, on Tuesday, July 27, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the Virginia Department of Transportation has proceeded with improvements to Interstate 66 in the vicinity of Hallwood Avenue;

WHEREAS, the limited access line for Interstate 66 is located to the rear of a private residence; and

WHEREAS, the recent improvements to Interstate 66 and impact to the private property owner dictate the need to adjust the limited access line; and

WHEREAS, the adjustment of the limited access line requires review and approval by the Commonwealth Transportation Board; and

WHEREAS, to process these requests, Section 24VAC30-401-20 of the Virginia Administrative Code requires a resolution, letter of support, or formal request, or any combination of these, from the locality within which the changes in limited access are proposed;

NOW THEREFORE, BE IT RESOLVED, that this Board, supports these proposed changes to the limited access controls along Interstate 66 in the vicinity of Hallwood Avenue; and

BE IT FURTHER RESOLVED, that this Board hereby requests, pursuant to Section 24VAC30-401-20 of the Virginia Administrative Code, that the Commonwealth Transportation Board approve the proposed changes to the limited access controls.

A Copy Teste:

Jill G. Cooper
Clerk for the Board of Supervisors

March 22, 2021

Ms. Helen Cuervo, P.E.
 Northern Virginia District Administrator
 Virginia Department of Transportation
 4975 Alliance Drive
 Fairfax, Virginia 22030

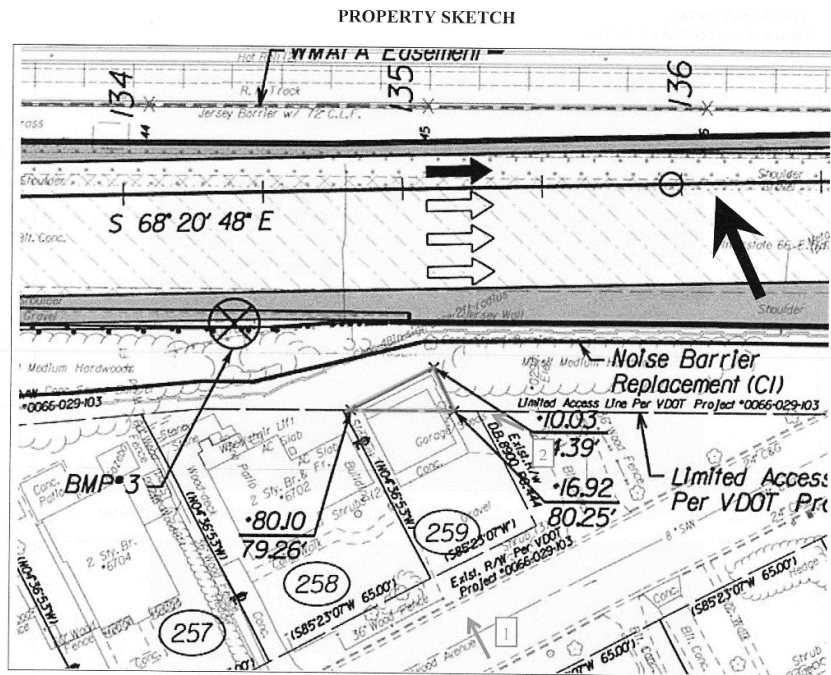
**RE: Request for Limited Access Control Change
 6702 Hallwood Ave., Falls Church, VA 22046 (subject parcel 0404 05 0105A)**

Dear Ms. Cuervo:

I am writing to seek a Limited Access Control Change.

My husband and I are the owners of the residential property located at 6702 Hallwood Ave., Falls Church, VA 22046 and backing up to Interstate 66 Eastbound, approximately 0.25 miles east of the Great Falls Street overpass. Our property consists of two adjoining Fairfax County tax parcels known as 0404 05 0105 (a 5,750 sf “residue” parcel containing our personal residence) and 0404 05 0105A (a 2,400 sf “residue” parcel which contains our detached garage).

Because of the proximity of Interstate 66 Eastbound, a VDOT Limited Access Line serves as the rear boundary of our property across both parcels, and a VDOT right of way line serves as the right boundary on parcel 0404 05 0105A. As you can see from the Property Sketch¹ we include below, the detached garage and an adjacent concrete sidewalk on parcel 0404 05 0105A encroaches the Limited Access Line. We understand that the detached garage was permitted by Fairfax County and constructed by a prior owner, despite the Limited Access Line, before we purchased the property in 2008.



¹ Property Sketch taken from 12/17/2017 VDOT appraisal of 289 sf subject residue, page 16 of 20.

This letter requests a Limited Access Control Change so that we can purchase a 289 sf "residue" portion of the limited access right of way land abutting the rear of parcel 0404 05 0105A, depicted as the triangular area on property 259 in the Property Sketch. Now that the Interstate 66 Eastbound lane widening project is complete behind our house, we have worked with VDOT staff to purchase the parcel, which is no longer needed by VDOT, in order to avoid the demolition of our garage. According to VDOT's appraisal, the 289 sf residue is a non-buildable piece of land whose highest and best use is to be assembled with the adjoining parcels which are being used for a single-family home owned by the same owner. Completing this purchase is contingent upon the approval of the Limited Access Control Change.

In July 2019, we received an email from Kathrine Klumpp, a Right of Way Agent with the VDOT Right of Way and Utilities Division, that instructed us to contact your office to move forward with the Limited Access Change Control process, and that a staff member would be assigned to work with us on this (as homeowners we have limited resources for this request, compared to typical applicants). I called your office at the number provided and the call was routed to Raisa Mohamud and subsequently Anthony Mobley (VDOT Right of Way Division). Following an introductory call, there was no other follow-up from your staff, which we assume was inadvertent.

Please feel free to contact me at (703) 861-1282 with any questions, or if you need additional information.

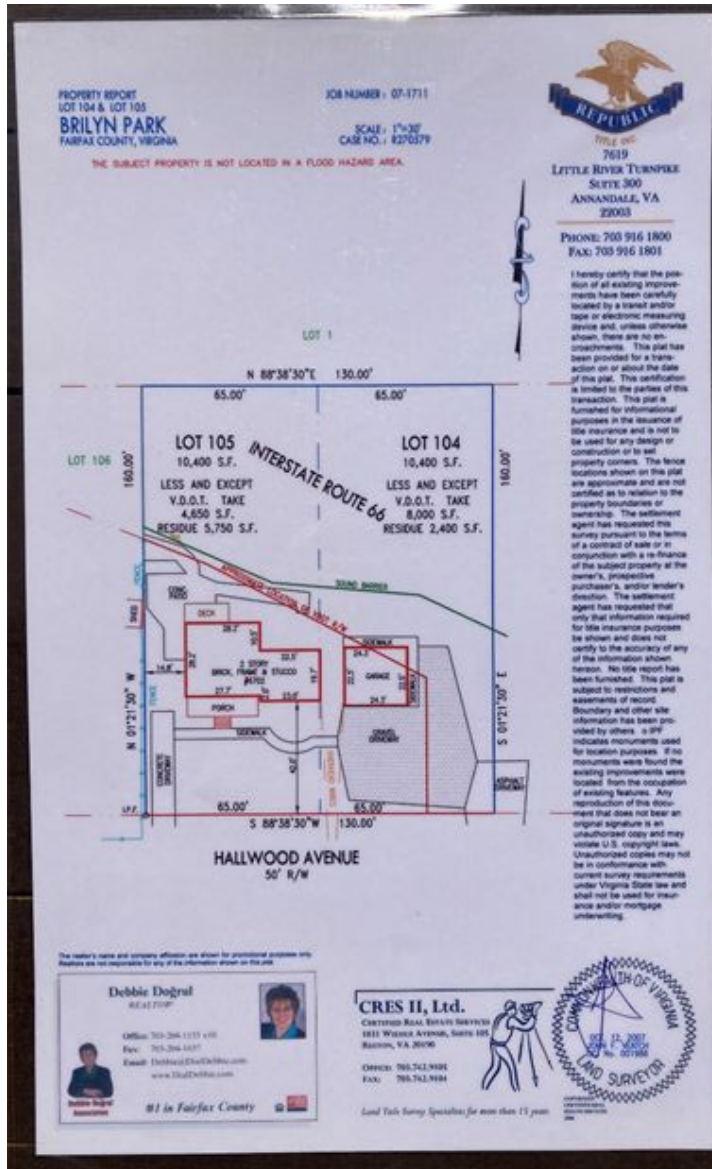
Sincerely,



Laurel Wittman, on behalf of myself and my husband, Eduardo Lopes

Encl: Property Survey from Wittman/Lopes purchase in 2008, dated Oct. 12, 2007

Cc: Mark Gibney, PE, PMP, DBIA, Design-Build Project Manager, VDOT,
Mark.Gibney@VDOT.Virginia.gov



Property Survey from owner purchase in 2008, dated Oct. 12, 2007



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

87 Deacon Road
Fredericksburg, Virginia 22405

Stephen C. Brich, P.E.
COMMISSIONER

July 12, 2018

Route: 66
Project: 0066-96A-417, R201
County: Fairfax
PMI #: 10438
Former Property of Albert Young, et al
Parcel: 685

The Honorable Sharon Bulova
12000 Government Center Parkway, Suite 530
Fairfax, VA 22035-0079

Dear Chairwoman Bulova:

Under the requirements of Section 33.2-230 of the Code of Virginia, as amended, the Virginia Department of Transportation has been asked to return to private ownership property shown marked in RED on the attached copies of Plan Sheet(s) 4.

Should you have any questions or concerns regarding this surplus property, please provide your comments no later than two weeks from the date of this letter. I may be reached by email at Kathrine.klumpp@vdot.virginia.gov or by phone at 540-899-4167 if you have further questions.

Sincerely,

Katie Klumpp
Right of Way Agent
Right of Way and Utilities Division

Attachments

1/16/2017
5:04:48 PM

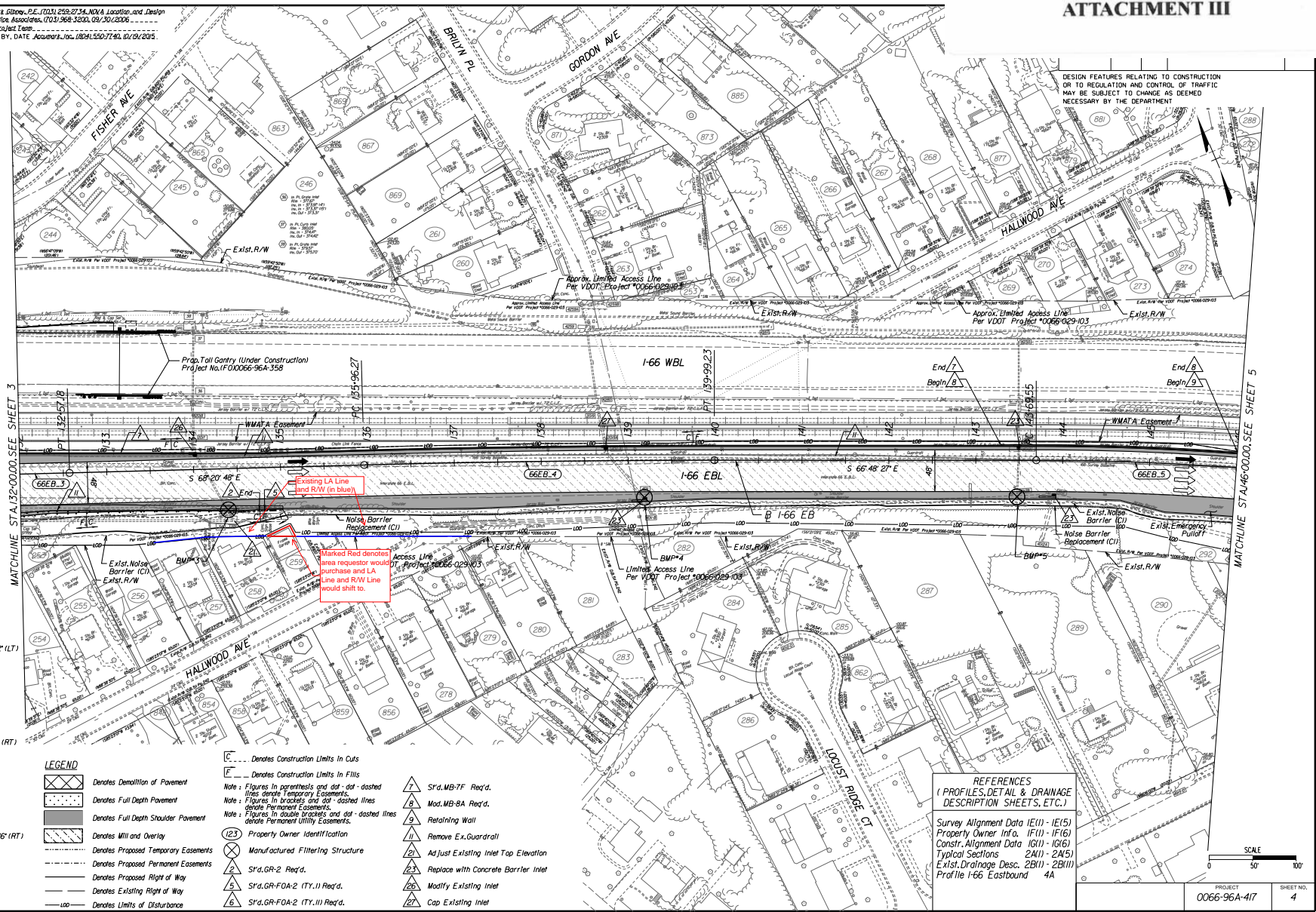
PROJECT MANAGER: *Will Gilroy, C.E. (703) 259-2734, NOVA Location and Design*
 SURVEYED BY: *DATE: Bill Associates, (703) 968-3300, 09/30/2006*
 DESIGN BY: *666.GEC, Project Team*
 SUBSURFACE UTILITY BY: *DATE: Accuro's, Inc. (888) 550-7190, 01/09/2005*

ATTACHMENT III

THESE PLANS ARE UNFINISHED AND ARE NOT TO BE USED FOR ANY TYPE OF CONSTRUCTION OR THE ACQUISITION OF RIGHT-OF-WAY. ADDITIONAL EASEMENTS MAY BE REQUIRED BEYOND THE PROPOSED RIGHT OF WAY SHOWN ON THESE PLANS.

RFP PLANS

NOVA DISTRICT



DESIGN FEATURES RELATING TO CONSTRUCTION OR TO REGULATION AND CONTROL OF TRAFFIC MAY BE SUBJECT TO CHANGE AS DEEMED NECESSARY BY THE DEPARTMENT

MATCHLINE STA. 132+00.00, SEE SHEET 3

MATCHLINE STA. 146+00.00, SEE SHEET 5

Curve (66EB-3)
 PI = 130+55.38
 DELTA = 1° 32' 30.12" (LT)
 D = 0' 22" 55"
 L = 201.82
 R = 403.62
 R = 15,000.00
 PC = 128+53.56
 PT = 132+57.18
 V = 60 MPH
 e = N.C.

Curve (66EB-4)
 PI = 137+97.76
 DELTA = 1° 32' 20.17" (RT)
 D = 0' 22" 55"
 L = 201.82
 R = 403.62
 R = 15,000.00
 PC = 135+96.27
 PT = 139+99.23
 V = 60 MPH
 e = N.C.

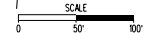
Curve (66EB-5)
 PI = 147+88.70
 DELTA = 1° 25' 31.46" (RT)
 D = 1' 51" 05"
 L = 419.15
 R = 833.23
 R = 32,649.95
 PC = 143+69.55
 PCC = 152+02.79
 V = 60 MPH
 e = 2.5%

- LEGEND**
- Denotes Denatition of Pavement
 - Denotes Full Depth Pavement
 - Denotes Full Depth Shoulder Pavement
 - Denotes Mill and Overlay
 - Denotes Proposed Temporary Easements
 - Denotes Proposed Permanent Easements
 - Denotes Existing Right of Way
 - Denotes Limits of Disturbance

- Denotes Construction Limits in Cuts
- Denotes Construction Limits in Fills
- Note: Figures in parenthesis and dot-dot-dashed lines denote Temporary Easements.
- Note: Figures in brackets and dot-dashed lines denote Permanent Easements.
- Note: Figures in double brackets and dot-dashed lines denote Permanent Utility Easements.
- Property Owner Identification
- Manufactured Filtering Structure
- Sfd.GR-2 Req'd.
- Sfd.GR-FOA-2 (TY.I) Req'd.
- Sfd.GR-FOA-2 (TY.III) Req'd.
- Sfd.MB-7F Req'd.
- Mod.MB-8A Req'd.
- Retaining Wall
- Remove Ex.Guardrail
- Adjust Existing Inlet Top Elevation
- Replace with Concrete Barrier Inlet
- Modify Existing Inlet
- Cap Existing Inlet

REFERENCES
 (PROFILES, DETAIL & DRAINAGE DESCRIPTION SHEETS, ETC.)

Survey Alignment Data (E(1) - (E(5))
 Property Owner Info. (F(1) - (F(16))
 Constr. Alignment Data (O(1) - (O(6))
 Typical Sections 24(1) - 24(5)
 Exist. Drainage Desc. 2B(1) - 2B(11)
 Profile I-66 Eastbound 4A



PROJECT: 0066-96A-417
 SHEET NO.: 4

ATTACHMENT III



6702 Hallwood Ave. Limited Access Line Adjustment Dranesville District



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBGO-USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Tax Map Number: 40-4

***Symbol Denotes Area of Limited Access Line Adjustment**

Board Agenda Item
July 27, 2021

ACTION - 7

Endorsement of Route 7 Bus Rapid Transit (BRT) Preferred Alignment and Authorization of a Plan Amendment to the Comprehensive Plan (Dranesville and Providence Districts)

ISSUE:

Board endorsement of the preferred alignment for the Route 7 Bus Rapid Transit (BRT) Study (west of I-66), and authorization of a Comprehensive Plan amendment to add the preferred alignment and associated potential station locations.

RECOMMENDATION:

The County Executive recommends that the Board take the following actions:

- 1) Endorse the preferred alternative of the Route 7 BRT project between the West Falls Church Metrorail Station and the Spring Hill Metrorail Station (via International Drive)
- 2) Authorize an amendment to the Comprehensive Plan to include recommendations of the preferred alignment and associated potential stations of the Route 7 BRT Study. The plan amendment will consider:
 - a. Defining the two additional lanes (or the possibility of certain repurposed turn lanes) along Route 7 recommended in the current Comprehensive Plan (from I-66 to International Drive) for exclusive use by median-running BRT;
 - b. Repurposing two existing lanes along International Drive (from Route 7 to Lincoln Circle) for exclusive median-running BRT;
 - c. Defining the BRT route from the West Falls Church Metrorail Station to Tysons along Route 7 (from I-66) to Spring Hill Metrorail Station (via International Drive); and
 - d. Potential station locations along this segment of the BRT route.

TIMING:

Board action is requested on July 27, 2021, to allow the various project activities to advance.

BACKGROUND:

Starting in 2013, the Northern Virginia Transportation Commission (NVTC) commenced a phase-approach study (Envision Route 7) into evaluating a High-Quality Transit

Board Agenda Item
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Network along the Route 7 corridor from the City of Alexandria to Tysons. NVTC has completed three phases of the study. These were:

- Phase I - Assessed the existing issues and identified the potential opportunities that could be leveraged to improve the Route 7 corridor. This phase identified a suite of potential transit options that could improve mobility and accessibility in the Route 7 corridor and induce travel mode shifts from automobiles to transit;
- Phase II - Focused on determining which mode best serves the corridor, where and if the BRT should deviate from Route 7;
- Phase III - Involved conducting a conceptual engineering study that helped to refine the project cost, identify potential areas of concern, develop a potential staging strategy, and provide guidance on preserving the required right-of-way. This study identified right-of-way that could be used by the BRT and guide jurisdictions in their subarea and sector planning.

Fairfax County Department of Transportation began the Route 7 BRT Study in Fall 2018. The goals of the study were to identify a defined BRT corridor within Tysons, runningway alignment (curb running, median running, Bus and Turn Only (BAT) lanes, or mixed traffic), and BRT stop locations.

The County has recently concluded the Route 7 Bus Rapid Transit (BRT) study, which reviewed three potential alternatives for a BRT system along Route 7 (west of I-66) and within Tysons. Stakeholders' and the Board of Supervisors' input were incorporated into the creation and evaluation of the three alternatives selected for further evaluation. A survey on the preference of the three alternatives was conducted during the public engagement portion of the study, which also included public meetings, and concluded that the majority of stakeholders preferred the BRT alignment that traveled along International Drive to Spring Hill Metrorail Station. This alignment was also the most desirable based on the technical analysis which included factors such as impact to the transportation network within Tysons, total number of population, households, and employment centers served, and pedestrian crossing times and safety.

The Board was briefed on these recommendations at the Transportation Committee meeting on May 25, 2021. A copy of the presentation is included as Attachment I. Based on the Board's input, a station has been added near George Marshall High School and Ramada Road.

Attachment II contains the evaluation and summary of the three tested alternatives.

Board Agenda Item
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FISCAL IMPACT:

There is no direct fiscal impact of this endorsement. However, implementation of the recommendations will require future prioritization and funding approval by the Board.

ENCLOSED DOCUMENTS:

Attachment I – Presentation to Board Transportation Committee, May 25, 2021

Attachment II – Route 7 BRT Study Draft Report

STAFF:

Rachel Flynn, Deputy County Executive

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

Jeffrey Hermann, Chief, Site Analysis and Transportation Planning Division, FCDOT

Michael Garcia, Chief, Transportation Planning Section, FCDOT

Sean Schweitzer, Planner, Transportation Planning Section, FCDOT



Route 7 Bus Rapid Transit (BRT) Study

Board Transportation Committee
May 25, 2021

Sean Schweitzer, Project Manager
Fairfax County Department of Transportation

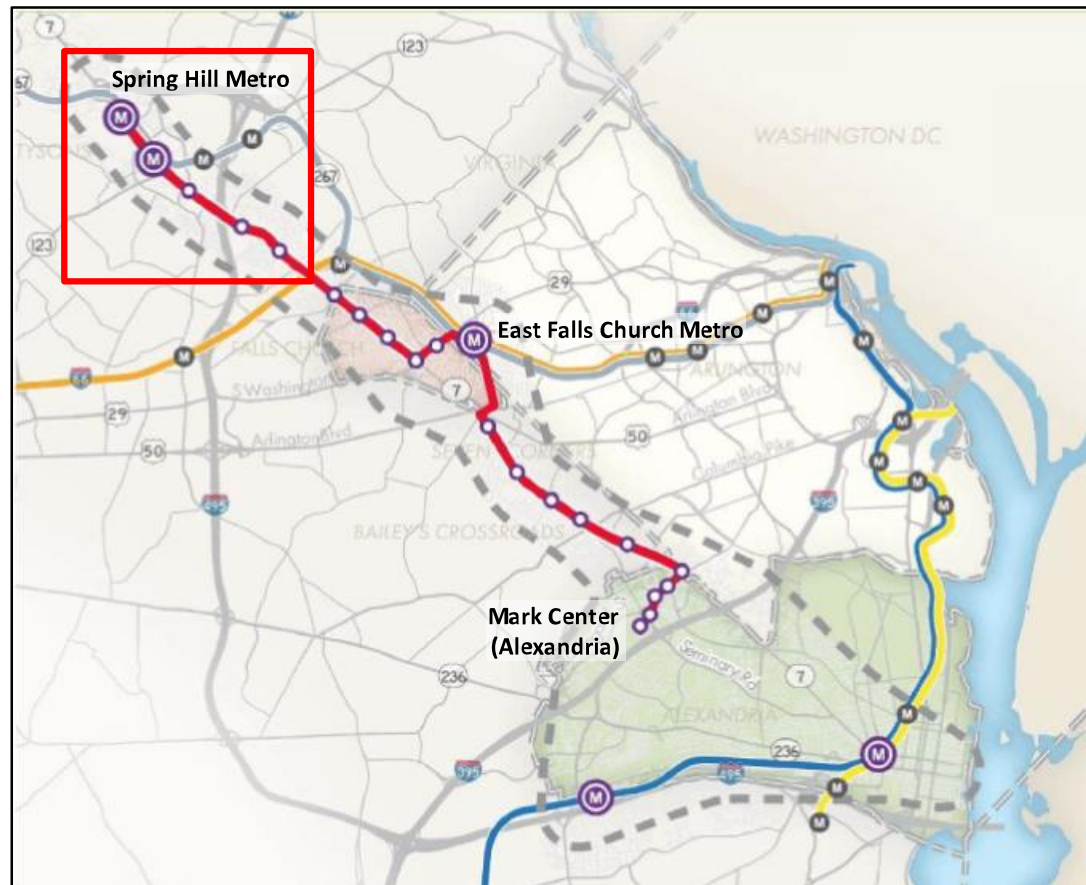
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Attachment 1

Background

Envision Route 7 Transit Study:

- Conducted by Northern Virginia Transportation Commission (NVTC)
- Identified BRT as preferred alternative from Mark Center in Alexandria to Tysons
- Recommended dedicated bus lanes within Tysons and provide multimodal solution
- Next phase will look at transportation analysis for entire Route 7 Corridor



Alternatives Evaluation

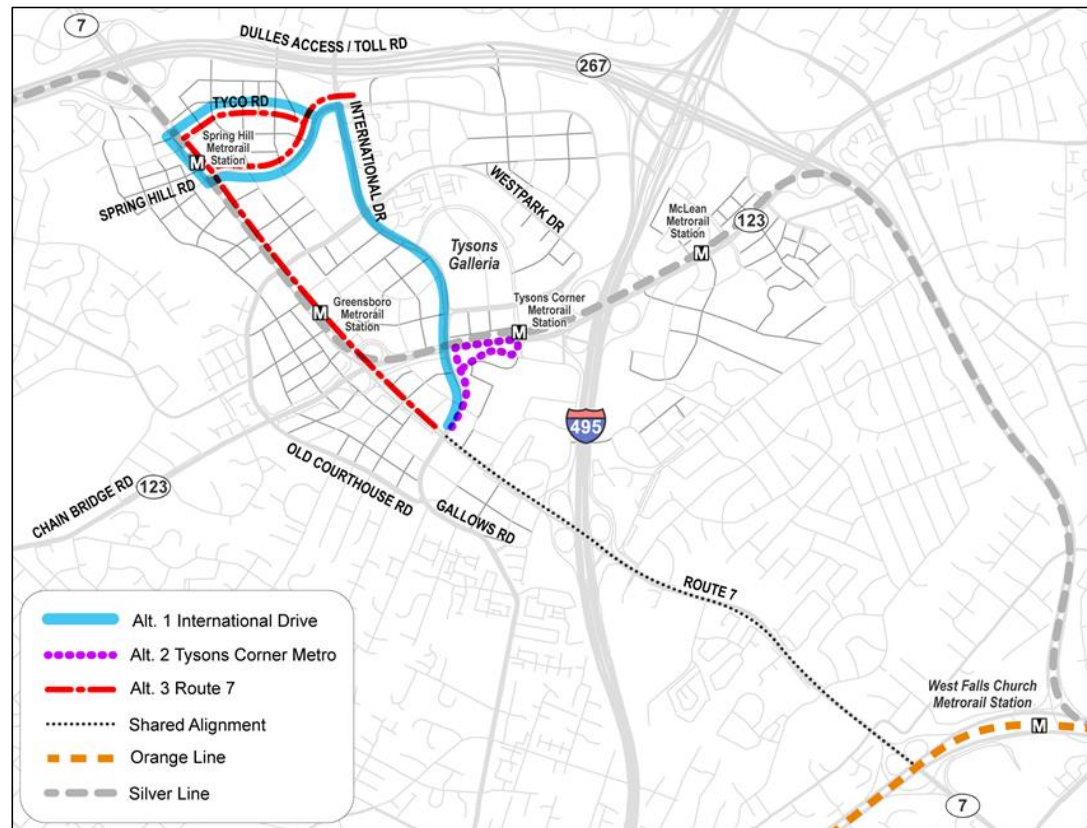
Nine Preliminary Alternatives culled down to three Final Alternatives for Evaluation:

- Alternative 1 - International Drive
- Alternative 2 - Tysons Corner Metro
- Alternative 3 - Route 7

This study assumes:

- Headways*: 10 min peak/15 min off-peak
- Service Span*:
 - Weekday service 5 AM – 1 AM
 - Weekend service 6 AM – 12 AM
- Articulated buses with capacity of approximately 110 passengers
- Enter/Exit vehicle at all doors
- Transit signal priority
- Enhanced bus stations
- Fare comparable to local bus routes

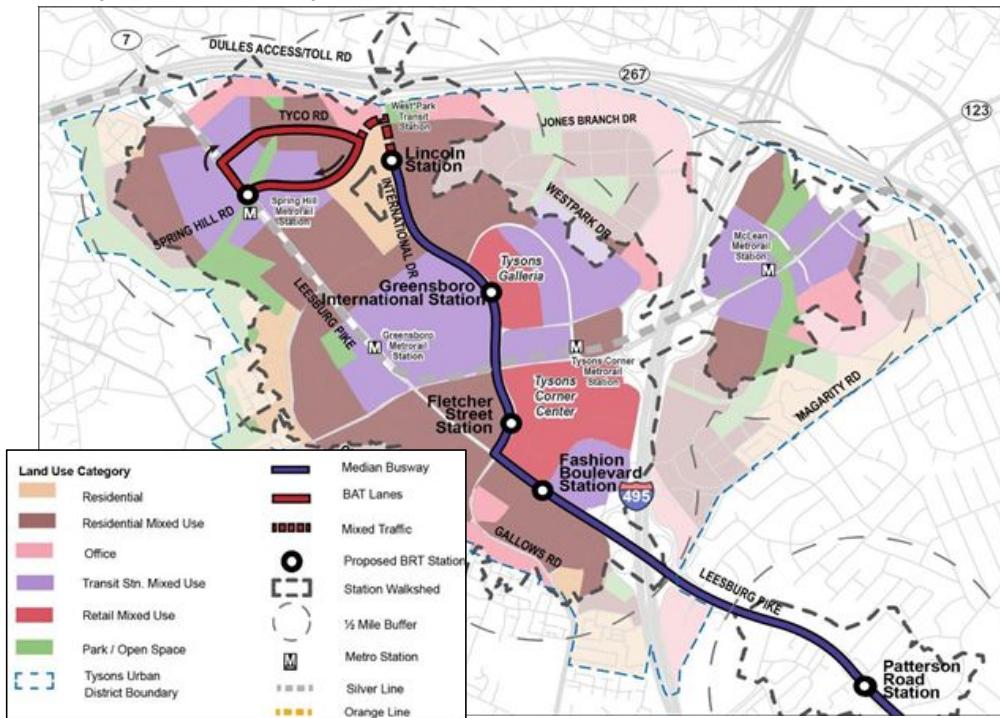
*Assumptions from 2017 NVTC Study



Alternatives Evaluation – Alternative 1 (International Drive)

Cross Section –

- Median runningway on Route 7 and International Drive
- “Bus and Turn only” BAT Lanes on Spring Hill Road and Tyco Road couplet



Street Name and Section	Description
Tyco Road	Eastbound BAT lane and two general traffic lanes in each direction
Spring Hill Road	Westbound BAT lane and two general traffic lanes in each direction
International Drive – Lincoln Circle to Spring Hill Road	Mixed traffic in both directions to facilitate transition to/from median busway
International Drive – Route 7 to Lincoln Circle	Median busway and two general traffic lanes in each direction
Route 7 – International Drive to I-495	Median busway and three general traffic lanes in each direction
Route 7 – I-495 to I-66	Median busway and two general traffic lanes in each direction

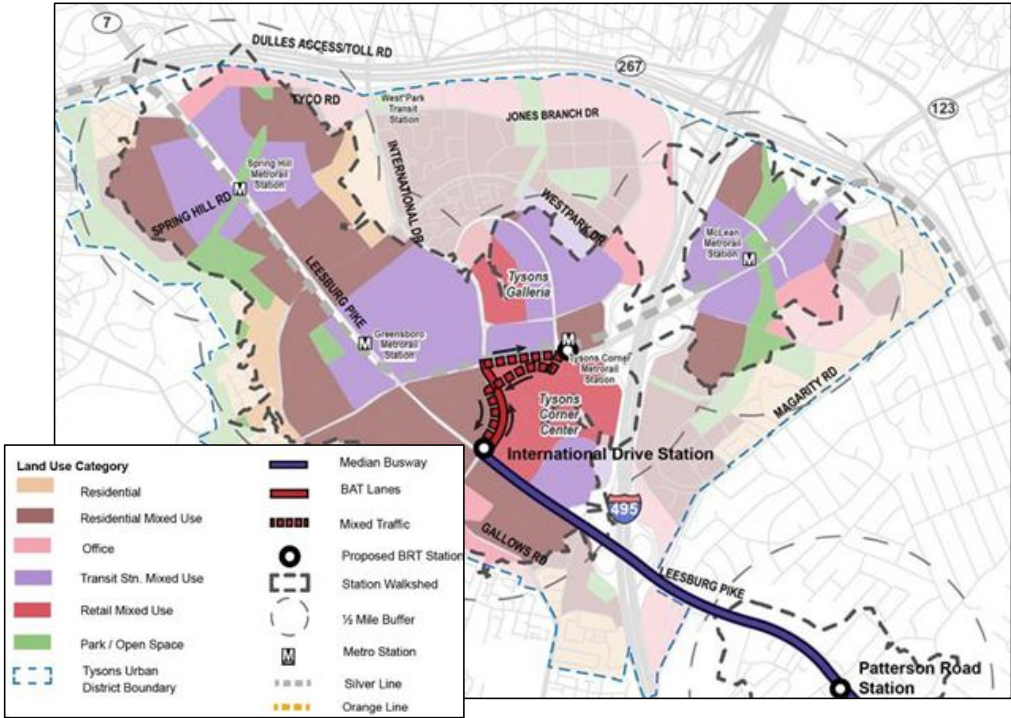
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Attachment 1

Alternatives Evaluation – Alternative 2 (Tysons Corner Metro)

Cross Section –

- Median runningway on Route 7
- BAT (bus and turn only) Lane northbound on International Drive
- Mixed traffic southbound on Tysons One Place and International Drive



Street Name and Section	Description
Chain Bridge Road	Four general traffic lanes in each direction; BRT operates in mixed traffic in the EB direction to bus loop
Tysons One Place	One general traffic lane in each direction; BRT operates in mixed traffic in the WB direction
International Drive – Route 7 to Chain Bridge Road	Northbound BAT (bus and turn) lane and two general traffic lanes, three southbound general traffic lanes; BRT operates in mixed traffic in SB direction

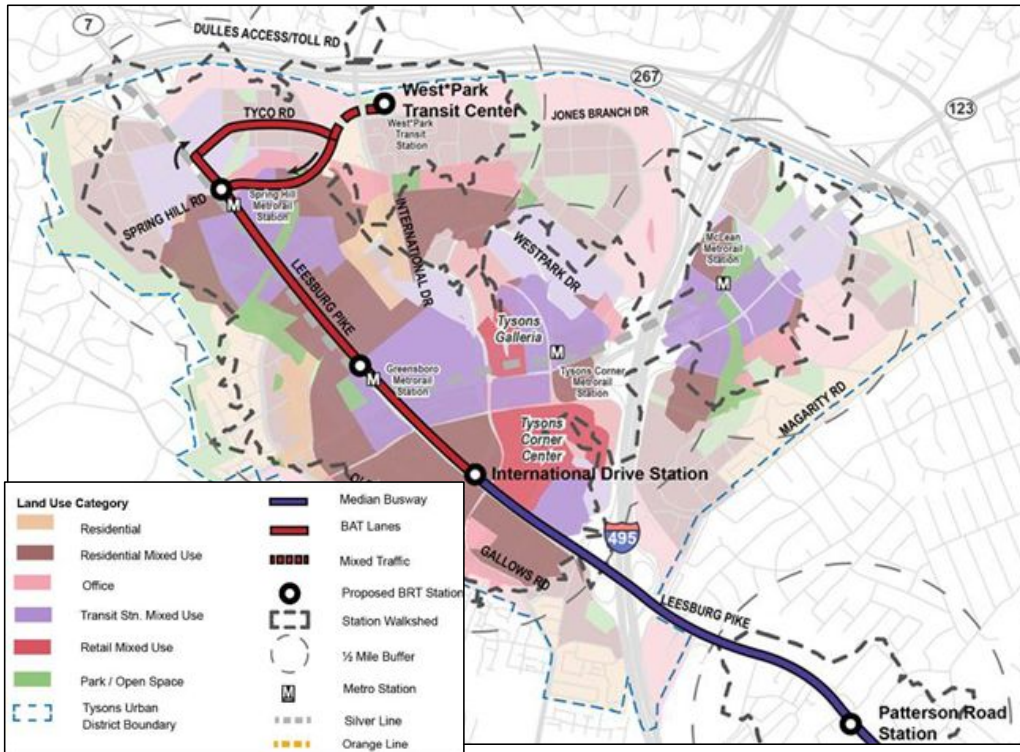
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Attachment 1

Alternatives Evaluation – Alternative 3 (Route 7)

Cross Section –

- Median runningway on Route 7 to International Drive
- BAT (bus and turn only) Lane on Route 7 from International Drive to Tyco Road
- BAT (bus and turn only) Lanes on Spring Hill Road and Tyco Road couplet



Street Name and Section	Description
Tyco Road 	Northbound BAT (bus and turn) lane and two general traffic lanes in each direction
Spring Hill Road 	Southbound BAT (bus and turn) lane and two general traffic lanes in each direction
Route 7 – Spring Hill road to International Drive 	Curb BAT (bus and turn) lanes and three general traffic lanes in each direction

6

Attachment 1

Performance Metrics

Performance Metrics

- Used to quantify/determine progress towards specific goals and objectives:

Access and Mobility

Mode Share/Efficiency

Land Use/Economic Vitality

Equity

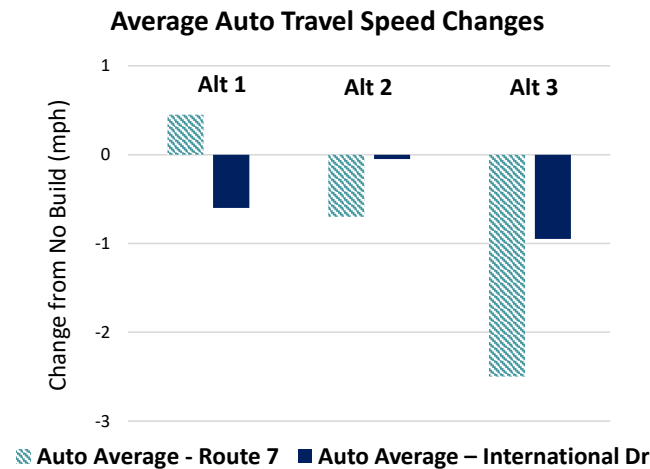
Safety

Environmental Concerns

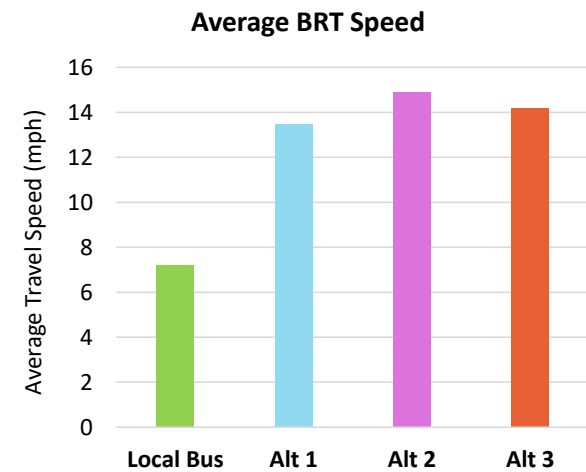
Financial Feasibility

Average Travel Speeds (mph)

- BRT speeds exceed local bus speeds
- BRT on International Drive (Alt 1) has the least amount of impact to travel corridors
- BRT on Route 7 (Alt 3) has the most impacts to travel corridors



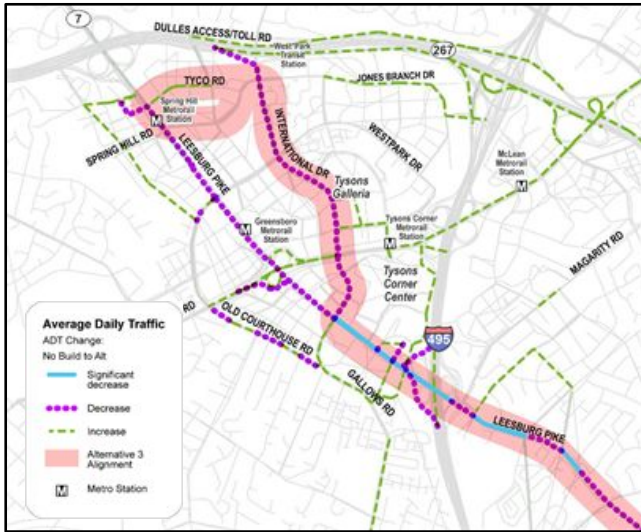
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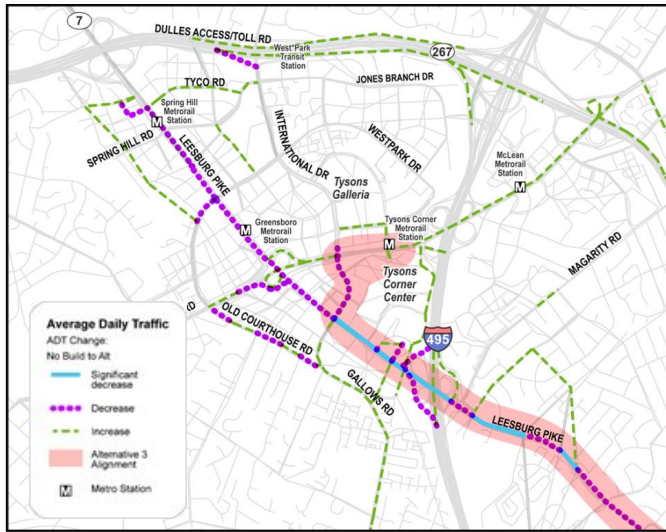
Attachment 1

2045 Performance Metrics

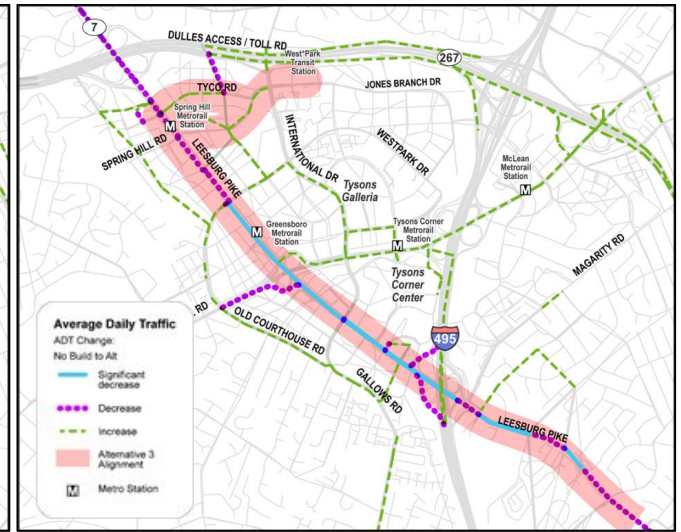
Alt 1



Alt 2



Alt 3



• Estimated Daily BRT Ridership: 6,700

• Estimated Daily BRT Ridership: 3,500

• Estimated Daily BRT Ridership: 7,000

Automobile Intersection LOS Number of Intersections at LOS F

	No Build	Alt 1	Alt 2	Alt 3
AM	5	3	6	6
PM	8	6	6	9

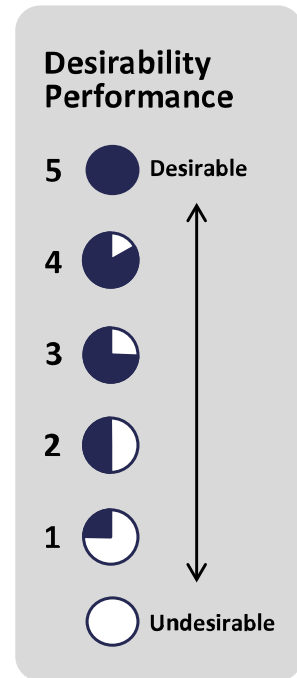
Automobile Intersection Delay Average (in seconds)

	No Build	Alt 1	Alt 2	Alt 3
AM	41.0	35.6	39.7	46.2
PM	43.7	39.9	42.6	51.5

8 Attachment 1

Evaluation Summary

Measure of Effectiveness	Alternatives		
	Alternative 1 International Dr	Alternative 2 Tysons Corner Metro	Alternative 3 Route 7
Goal: Access and Mobility – Provide choices through accessible transit service			
Objective: Serve population, employment, and activity centers with BRT			
Demographics (HH, Pop, Emp)	5	1	3
Goal: Transportation Network Performance – Ensure efficient movement of people and goods			
Objective: Improve Transit Operations in Corridor			
BRT Ridership	4	2	5
Local Bus Travel Speed in Study Area	2	2	2
BRT Reliability 95th Percentile Travel Times	3	5	2
Average Automobile Travel Time	5	3	1
Automobile Intersection Delay	5	3	1
Pedestrian Crossing Times	3	3	2



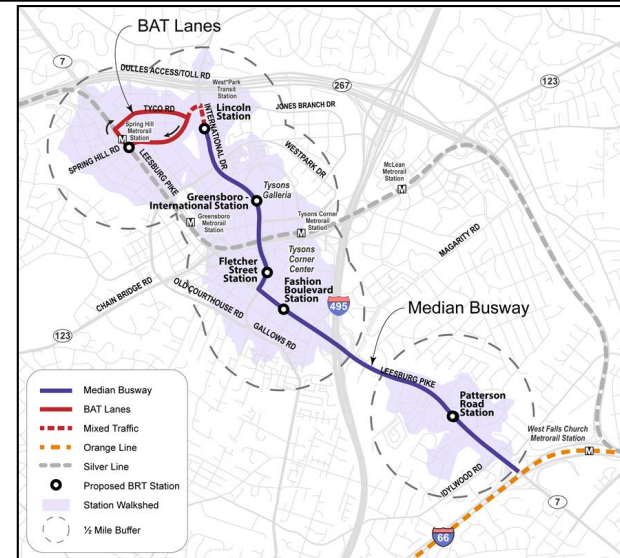
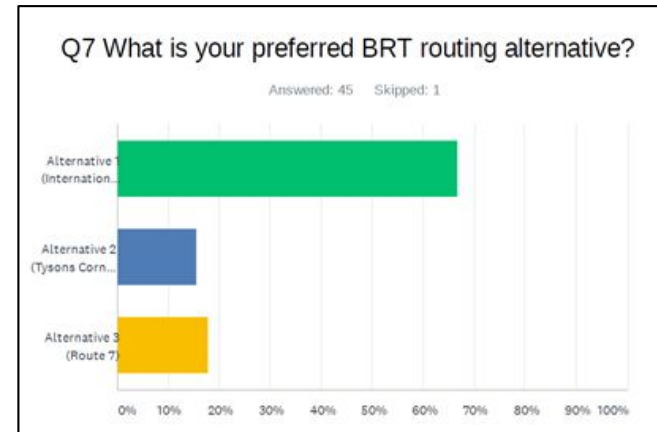
Preferred Alternative/Public Feedback

Public Feedback

- Public survey conducted: March 19 – April 22, 2021
- Concluded Alternative 1 (International Drive) preferred option
- Comments regarding Alt. 1 servicing West Park Transit Station
- Add stop near Marshall High School
- Bus Frequency, speed, and reliability most important factors to respondents

Alternative 1 – International Drive to Spring Hill Metro

- Serves more people, jobs, and households in Tysons
- Minimizes negative impact on the transportation network in study area



Next Steps

- Final Report – July 2021
- Advance the design of Route 7 from I-66 to I-495 and from I-495 to Route 123
- Request Board Endorsement of Final Recommendation and Authorization for Comprehensive Plan Amendment (July 13, 2021)
- Comprehensive Plan Amendment, Board Action (Summer 2021 to Winter 2021/2022)
- Incorporate preferred alternative into NVTC phase IV – Fall 2021

Feedback requested from the Board:

- **Comments regarding the draft preferred alternative (International Drive)**

Sean Schweitzer

Fairfax County Department of Transportation

(703) 877-5843

Sean.Schweitzer@FairfaxCounty.gov



Route 7 BRT – Tysons Study

Final Report (DRAFT)

June 2021



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Appendix B: Traffic Simulation Calibration Memo

Appendix C: Detailed Intersection Operations

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Appendix D: Meeting Minutes

- Alternatives Development Workshop
- Station Location Workshop

Appendix E: Public Information Presentation (March 2021)

Appendix F: Tysons Partnership Stakeholder Letter

Executive Summary

Background and Study Process

Fairfax County Department of Transportation (FCDOT) initiated this study in 2018 to develop and evaluate Bus Rapid Transit (BRT) alternatives on Route 7 in Tysons, Fairfax County, Virginia. This study builds on work by the Northern Virginia Transportation Commission (NVTC), which explored transit alternatives on Route 7 between Mark Center in Alexandria and Tysons. This Route 7 BRT study follows up on that Envision 7 study by reviewing route alignment and street cross-section alternatives as well as station locations and platform configurations. The study area encompasses Tysons Urban Center with its four WMATA Silver Line Metrorail stations, and stretches south to I-66 and the Metrorail Orange Line.

This study relies on a robust technical analysis, public engagement, and extensive stakeholder engagement which supports a data-driven decision framework. The two phased approach, as visualized in **Figure ES-1**, is comprised of broad assessment and evaluation phases.

The project team developed nine alternatives in the assessment phase which stakeholders qualitatively reduced to three final alternatives. In the evaluation phase, the project team and stakeholders quantitatively examined the three final alternatives and a no-build baseline scenario with demographic analysis and modeling tools which highlighted advantages, disadvantages, and trade-offs for each alternative.

Questions Considered in Study Process

Routing – What roadway does BRT travel on? What is the terminal station?

Alignment – What is the appropriate BRT running-way: mixed traffic, BAT (bus and turn lane only) exclusive curb busway, exclusive median busway, or combination?

Cross-sections – What is the roadway configuration considering BRT and planned roadway widening?

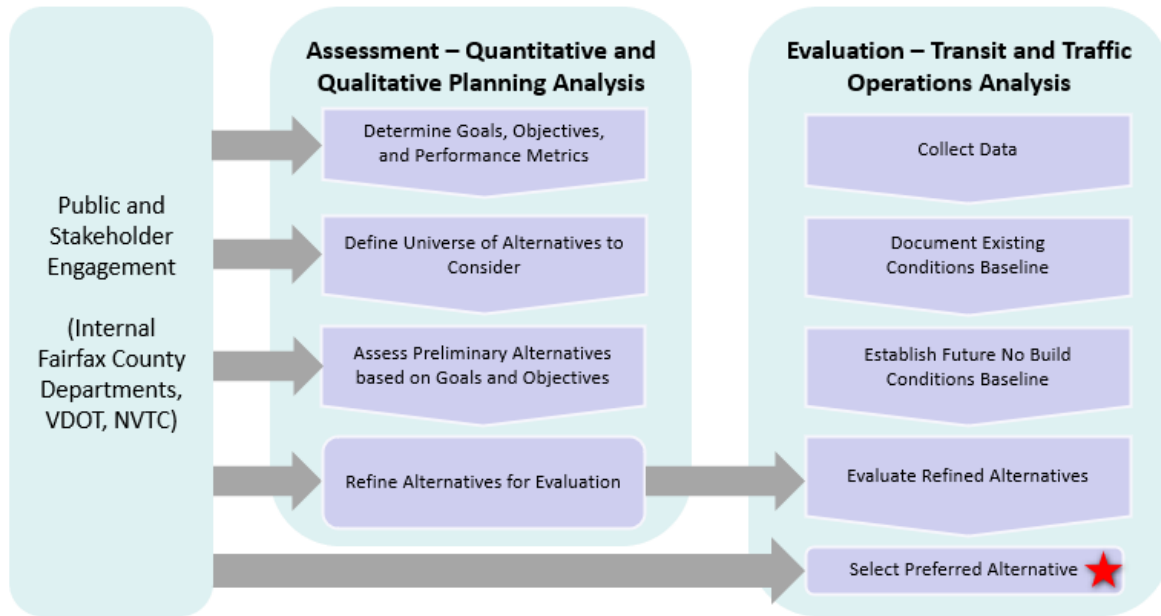
Station locations – Where are the stations located, considering adjacent land use, trip generators, and stop spacing?

What is BRT?

BRT is an efficient, comfortable, and cost-effective bus service with:

- Dedicated bus running-way and transit signal priority
- Enhanced stations
 - Off-board fare collection
 - Level boarding
 - Real-time passenger information
 - Other amenities
- Service
 - Frequent and reliable
 - Easily understood routes
 - Limited stops (0.25 to 0.50 mile spacing)
 - Branded vehicle and station identity
- BRT ridership and experience are comparable to light rail, but with lower capital costs.

Figure ES-1 | Study Process Diagram



Prior to the Pandemic, FCDOT held a meeting in early March 2020 to gain feedback and comments from stakeholders in the study area and present performance metrics on how the alternatives were selected during the assessment phase, FCDOT established goals, objectives and performance metrics for the study. Then, they defined and assessed preliminary alternatives based on the goals and objectives and refined the alternatives for evaluation. The evaluation phase included detailed transit and traffic operations analysis in coordination with stakeholders and other agencies, including the Virginia Department of Transportation (VDOT) and Northern Virginia Transportation Commission (NVTC) for the selected alternatives. The study team collected data, such as traffic counts for the corridor, and conducted the existing and future no-build conditions baseline analysis. Finally, the refined alternatives were evaluated for 2045 conditions and FCDOT selected the preferred alternative based upon the comparative analysis of the alternatives.

Goals, Objectives, and Performance Metrics

FCDOT undertook a multi-step, data-driven process to ensure BRT alternatives considered and selected fit within the goal metrics of the project. The process began by determining goals and objectives by reviewing previous studies and working with stakeholders to develop accompanying measures of effectiveness (MOEs) for both transit and roadway users.

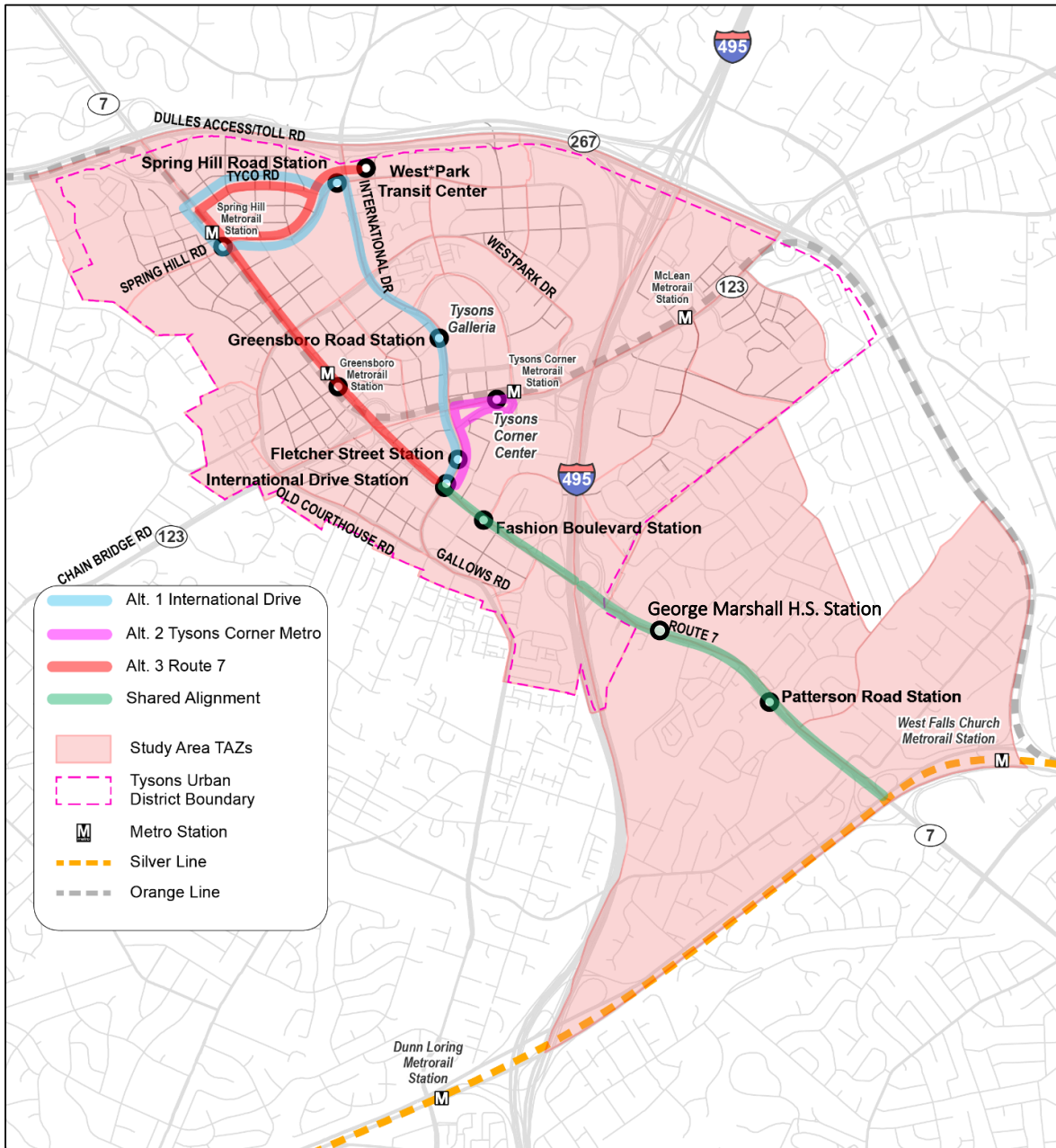
Goals and Objectives were determined to be:

- **Access and Mobility:** Provide choices through accessible transit service
- **Mode Share/Efficiency:** Increase transit usage and reduce SOV usage to ensure efficient movement of people and goods
- **Land Use/Economic Vitality:** Support economic development and land use goals
- **Equity:** Meet the needs of all users- residents, workers, visitors, and disadvantaged populations
- **Safety:** Improve safety for all users and the general public
- **Environmental Concerns:** Minimize environmental impacts and improve air quality
- **Financial Feasibility:** Make sustainable, cost effective investments in transit

Alternatives Evaluation

As noted, the assessment phase led to nine preliminary alternatives that were considered and then narrowed down to three for further evaluation. These three alternatives are described below. The map seen in **Figure ES-2** shows the three alternatives.

Figure ES-2 | Map of Three Evaluated Alternatives



Alternative 1/International Drive

Alternative 1/International Drive follows north up Route 7, turning right onto northbound International Drive, and turning left onto westbound Spring Hill Road, with a terminus at Spring Hill Metrorail Station, with a return route looping around Tyco Road until Spring Hill Road and International Drive, as seen in **Figure ES-2**. This alternative consists of a median busway on Route 7 and International Drive followed by a bus and turn (BAT) lane on Spring Hill Road and Tyco Road which form a one-way couplet through the terminus. The seven proposed BRT stations are located at Patterson Road, George Marshall, Fashion Boulevard, Fletcher Street, Greensboro Drive, Lincoln Circle, and at Spring Hill Metrorail Station. The one-way route length is 3.7 miles. **Figure ES-3** shows the roadway cross-sections and descriptions for Alternative 1.

Within the half mile walking distance (walkshed) of the route and stations, there are: 8,250 households, a population of 16,650, and 68,250 jobs. This alternative covers the greatest population, households, and jobs. The expected daily ridership is 6,700, and the area serves residential, retail and transit-oriented land uses along International Drive.

Figure ES-3 | Cross Section Diagram for Alternative 1/International Drive

Street Name and Section	Description
Tyco Road	Eastbound BAT lane and two general traffic lanes in each direction
Spring Hill Road	Westbound BAT lane and two general traffic lanes in each direction
International Drive – Lincoln Circle to Spring Hill Road	Mixed traffic in both directions to facilitate transition to/from median busway
International Drive – Route 7 to Lincoln Circle	Median busway and two general traffic lanes in each direction
Route 7 – International Drive to I-495	Median busway and three general traffic lanes in each direction
Route 7 – I-495 to I-66	Median busway and two general traffic lanes in each direction

Alternative 2/Tysons Metro

Alternative 2/Tysons Metro also travels in a median busway along Route 7, but turns right northbound on International Drive and then left eastbound on Chain Bridge Road to terminate at Tysons Metrorail Station as seen in **Figure ES-2**. It is a median busway on Route 7 and a BAT lane on International Drive, and mixed traffic during the rest of its short and direct 2.3 mile route, as seen in the cross sections in **ES-4**. The four proposed BRT stations along the route are: Patterson Road Station, George Marshall Station, International Drive Station, and Tysons Corner Center Metrorail Station. Within the half mile walking distance (walkshed) of the route and stations, there are: 5,550 households, a population of 11,500, and 61,683 jobs with an expected daily ridership of 3,500. The most important benefit of this route is that it serves the Tysons Metrorail.

Figure ES-4 | Cross Section Diagram of Alternative 2/Tysons Metro

Street Name and Section

Description

Chain Bridge Road



Four general traffic lanes in each direction; BRT operates in mixed traffic in the EB direction to bus loop

Tysons One Place



One general traffic lane in each direction; BRT operates in mixed traffic in the WB direction

International Drive – Route 7 to Chain Bridge Road



Northbound BAT lane and two general traffic lanes, three southbound general traffic lanes; BRT operates in mixed traffic in SB direction

Route 7 – International Drive to I-495



Median busway and three general traffic lanes in each direction

Route 7 – I-495 to I-66



Median busway and two general traffic lanes in each direction

Alternative 3/Route 7

Alternative 3/Route 7 travels northbound on Route 7, makes a right at Tyco Road and Spring Hill Road, and terminates at West*Park Transit Station. During the southern segment of Route 7 (south of International Drive), there is a median busway alignment, but during most of the rest, the bus travels in a BAT lane, except for a small mixed-traffic segment on Spring Hill Road to connect to the West*Park Transit Station, as seen in Figure ES-5. The six proposed BRT stations along this 3.8-mile route are: Patterson Road Station, George Marshall Station, International Drive Station, Greensboro Metrorail Station, Spring Hill Road Metrorail Station, and West*Park Transit Station. Within the half mile walking distance (walkshed) of the route and stations, there are: 7,400 households, a population of 15,000, and 66,200 jobs with an expected daily ridership of 7,000. This route serves the transit-oriented mixed use around the existing Metrorail stations on Route 7.

Figure ES-5 | Cross Section Diagram of Alternative 3/Route 7

Street Name and Section	Description
Tyco Road	Eastbound BAT lane and two general traffic lanes in each direction
Spring Hill Road	Westbound BAT lane and two general traffic lanes in each direction
Route 7 – Spring Hill Road to International Drive	Curb BAT lanes and three general traffic lanes in each direction
Route 7 – International Drive to I-495	Median busway and three general traffic lanes in each direction
Route 7 – I-495 to I-66	Median busway and two general traffic lanes in each direction

Comparison Metrics

In addition to the comparison metrics mentioned above, such as access for the number of households, population, and jobs within a half-mile walking radius as part of the assessment phase, the team evaluated detailed traffic impacts. These traffic impacts are important to quantifying and understanding both the benefit of reliable BRT and bus speed opportunities in the study area, as well as potential negative impacts to traffic conditions.

Travel Speed Comparison

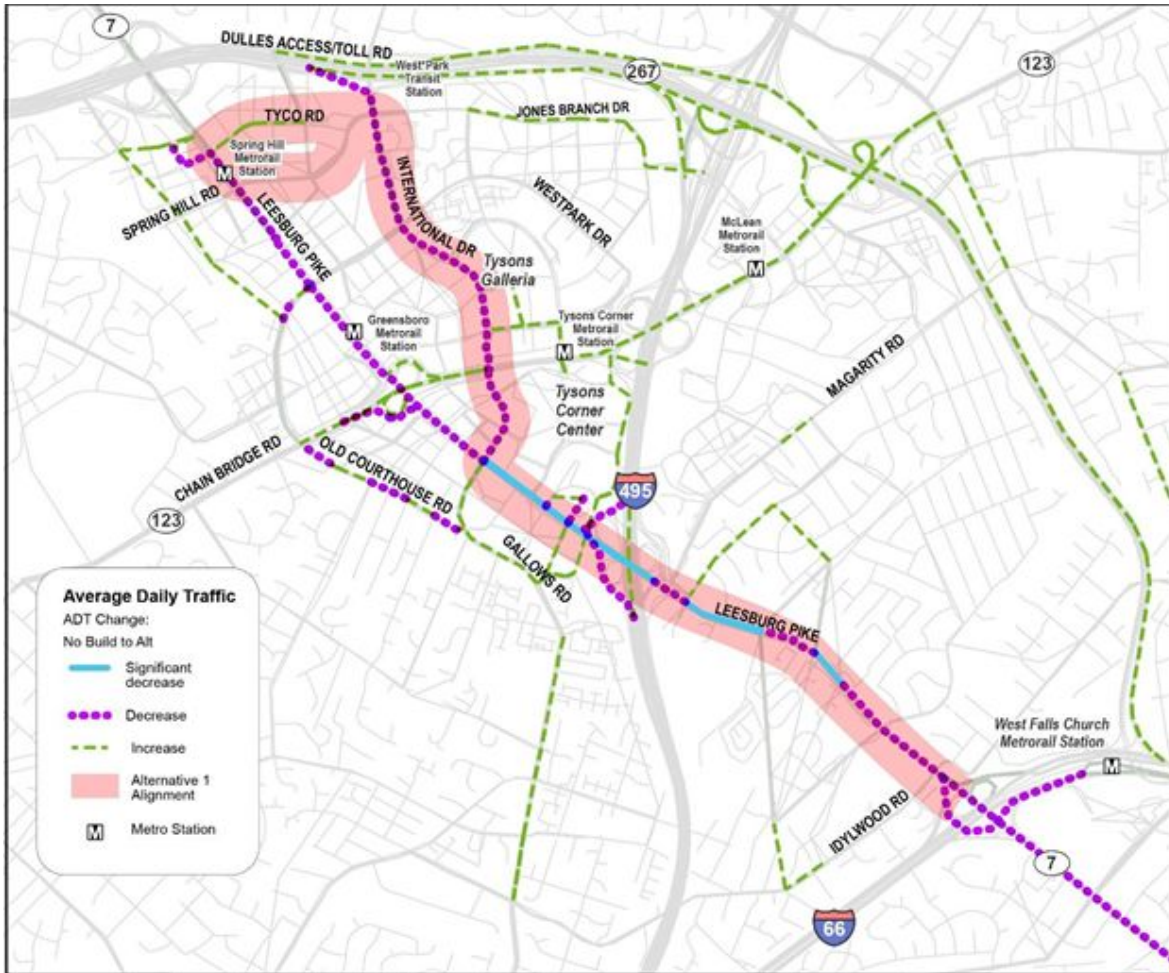
During the evaluation of travel speed, BRT in all alternatives exceeded local bus speeds. Alternative 2 had the highest travel speed of the alternatives with a speed of 14.9 mph, with Alternative 1 as the lowest at 13.5 mph, but even Alternative 1 was only approximately 1.5 mph slower than Alternative 2, and almost twice as fast as the local bus, which only travels at 7.2 mph.

In terms of impact to automobile speed, Alternative 3 had the greatest impact to automobile travel speed averages, especially along Route 7 and International Drive. Alternative 2 had smaller changes with decreased auto travel speed, especially along Route 7. For Alternative 1, there was a slight auto travel speed decrease on International Drive and a slight auto travel speed increase along Route 7.

Traffic Volume Changes

BRT decreases traffic volume along its routes and slightly increases the traffic volume along less frequently traveled side roads. Alternative 1 had the fewest negative impacts for traffic. For Alternative 1, the specific traffic volume changes range in a decrease of 1,000-5,000 average daily traffic (ADT) for most of International Drive and Route 7, with some segments of Route 7 south of International Drive having a decrease of 5,000-10,000 ADT. The increases ranged from 100-1000 for the limited impacted roads, with a few roads, such as Gallows Road and Old Courthouse Road having some increases up to 5,000 ADT. This can be seen in the map below in **Figure ES-6**.

Figure ES-6 | Map of Traffic Volume Changes with Alternative 1



Traffic Conditions

In terms of traffic conditions, level of service (LOS) was measured at both the morning and evening rush hours and the metrics used were failing intersections and automobile delays at intersections. As seen in **Table ES-1**, Alternative 1 had the fewest failing intersections, with only three in the morning and six in the evening and creates the most improvements over the no-build scenario, which has five failing intersections in the morning and eight in the evening. Alternative 2 also provides slight improvements over the no-build scenario in the evening, except for Alternative 3 which does worse both in the morning and evening compared to the no-build and the other alternatives.

Table ES-1 | Failing Intersections Level of Service

	No Build	Alt 1	Alt 2	Alt 3
AM	5	3	6	6
PM	8	6	6	9

In terms of automobile intersection delays, on average Alternative 1 had the shortest wait times of 35.6 seconds in the morning and 39.9 seconds in the evening. This translates to the greatest improvement over the no-build scenario, which had 41 seconds and 43.7 seconds of wait time, respectively.

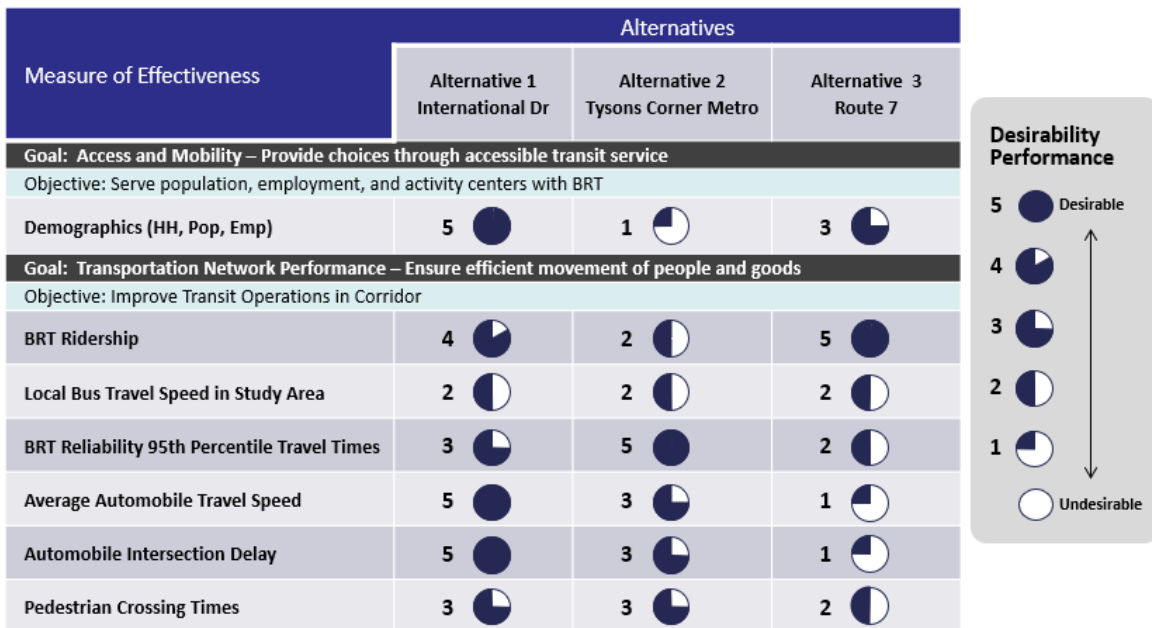
Table ES-2 | Automobile Intersection Delay Average (seconds)

	No Build	Alt 1	Alt 2	Alt 3
AM	41.0	35.6	39.7	46.2
PM	43.7	39.9	42.6	51.5

Preferred Alternative

FCDOT recommends Alternative 1/International Drive as the preferred alternative, because it served the greatest number of people, jobs, and households in Tysons, creates a robust inter-connected transit network within the area, and minimizes negative impacts on transportation as whole in the study area. The summary matrix below (Figure ES-7) illustrates the greater positive impacts on access, pedestrian crossing times, comparable local bus speeds, moderately high BRT ridership and reliability in the 95% percentile, and shows the smaller limitations on automobile travel speed and automobile intersection delay that are found in Alternative 1.

Figure ES-7 | Summary Matrix of Measures of Effectiveness for Evaluation of Alternatives



Route 7 BRT – Tysons Study

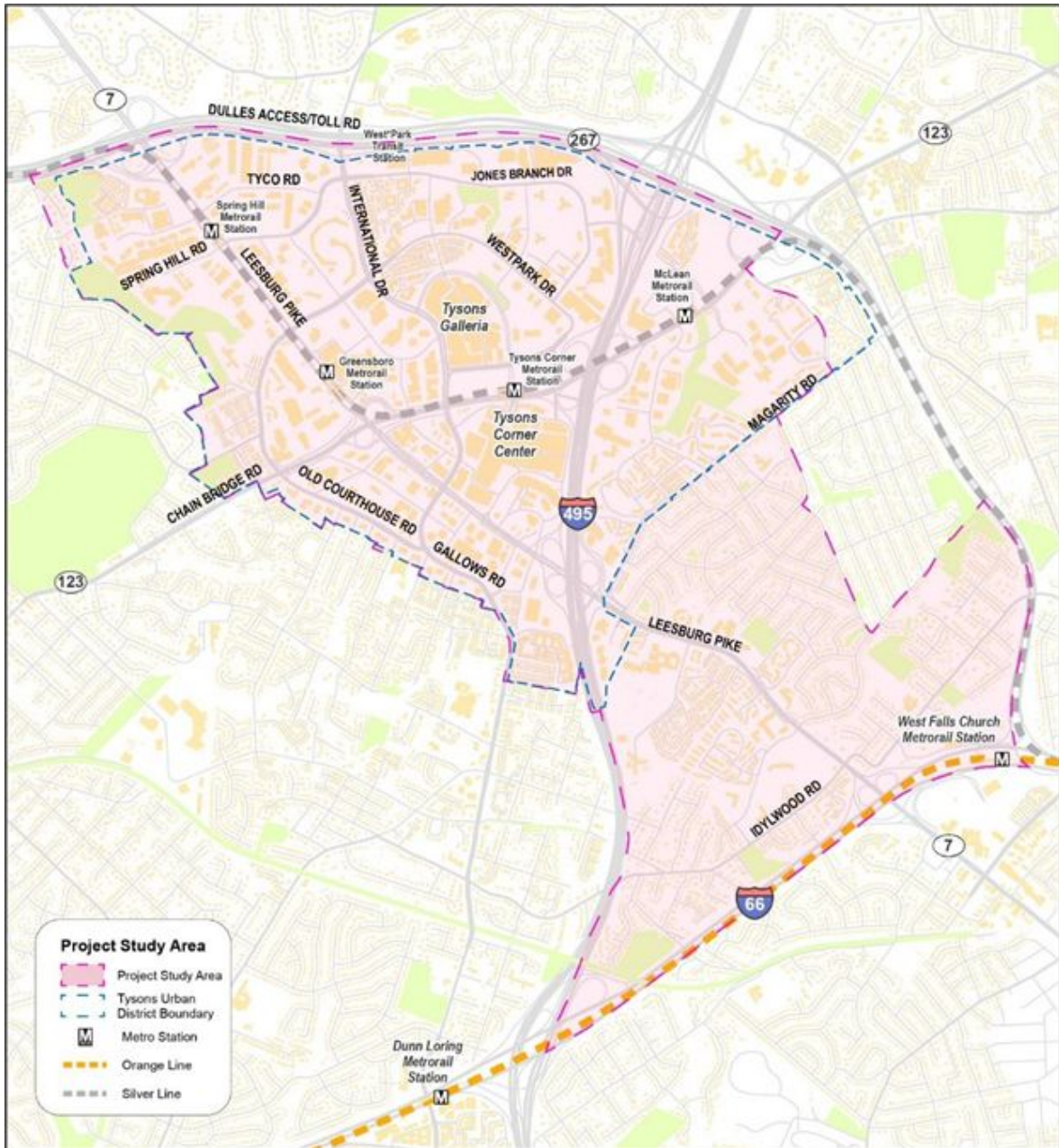
1 Introduction

Fairfax County Department of Transportation (FCDOT) initiated this study in 2018 to develop and evaluate Bus Rapid Transit (BRT) alternatives on Route 7 in Tysons, Fairfax County, Virginia.

BRT is an efficient, comfortable, and cost-effective bus service with, dedicated bus running-way and transit signal priority, enhanced stations with real-time passenger information and off-board fare collection, frequent and reliable service with easily understood routes and limited stops, and branded vehicles and station identity. Essentially, BRT ridership and experience are comparable to light rail, but with lower capital costs.

This study builds on work by the Northern Virginia Transportation Commission (NVTC), which explored transit alternatives on Route 7 between Mark Center in Alexandria and Tysons. This Tysons Route 7 BRT study follows up on that Envision Route 7 study by reviewing route alignment and street cross-section alternatives as well as station locations and platform configurations within Tysons. The study area, seen in **Figure 1-1** below, encompasses Tysons Urban District with its four WMATA Silver Line Metrorail stations, and stretches south to I-66 and the WMATA Orange Line.

Figure 1-1 | Study Area Map

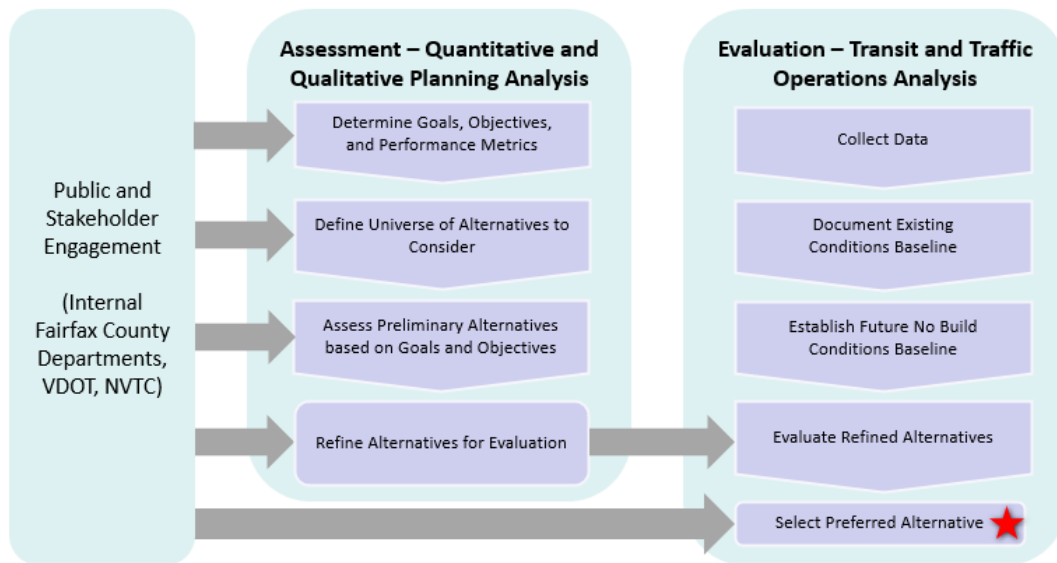


2 Study Process

This study relies on a robust technical analysis, public engagement, and extensive stakeholder engagement which supports data-driven decision framework.

After documenting existing conditions in the study area, the project team developed nine alternatives for assessment which were categorically reduced to three final alternatives. The remaining alternatives were evaluated against a no-build baseline scenario which highlighted advantages, disadvantages, and trade-offs for each alternative. **Figure 2-1** shows a diagram demonstrating this study process.

Figure 2-1 | Study Process Diagram



The study included two-phased approach with assessment and evaluation phases. The Assessment phase included both quantitative and qualitative planning analysis to pare down nine preliminary alternatives considered to the final three alternatives using travel demand and traffic simulation modeling tools during the Evaluation phase.

Prior to the Pandemic, FCDOT held a meeting in early March of 2020 to gain feedback and comments from stakeholders along the route and present performance metrics on how the alternatives were being selected during the assessment phase, FCDOT established goals, objectives and performance metrics for the study. Then, they defined and assessed preliminary alternatives based on the goals and objectives and refined the alternatives for evaluation. The evaluation phase included detailed transit and traffic operations analysis in coordination with stakeholders and other agencies, including the Virginia Department of Transportation (VDOT) and Northern Virginia Transportation Commission (NVTC) for the selected alternatives. The study team collected data, such as traffic counts, travel speeds, and bus ridership for the study area, and conducted the existing and future no-build conditions baseline analysis. Finally, the refined alternatives were evaluated for 2045 conditions and FCDOT selected the preferred alternative based upon the comparative analysis of the alternatives.

3 Goals, Objectives, and Measures of Effectiveness

The purpose of this section is to document the process and rationale for the development of a set of meaningful, measurable, and appropriate Goals, Objectives, and Measures of Effectiveness (MOEs) for the Route 7 BRT - Tysons study (“the study”). Many MOEs were calculated within the boundaries of the study area ([Error! Reference source not found.](#)), which is generally defined by the Transportation Analysis Zones (TAZs) that will most likely be impacted by the BRT. The establishment of Goals, Objectives and MOEs for the study will help define the parameters for identifying a preferred alternative and will guide all future tasks to ensure that the recommended alignments and cross sections provide the best solution for the Tysons community and the Northern Virginia region at large. The MOEs developed will be used in a two phased approach; first an Assessment to cull the number of preliminary alternatives to three and a more detailed Evaluation of the final set of alternatives. The MOEs will be a combination of both qualitative and quantitative measures.

3.1 Goals and Objectives

The team first reviewed previous relevant studies to identify common goal themes. These previous relevant studies included:

- Fairfax County Comprehensive Plan – Policy Plan: Transportation (2017)
- Fairfax County Comprehensive Plan – Tysons Urban Center Transportation Recommendations (2017)
- Fairfax County Transit Development Plan (2016)
- Fairfax County Countywide Transit Network Study (2016)
- NVTC Transit Alternatives Analysis of Route 7 Corridor (2015)
- DRPT Route 1 Multimodal Alternatives Analysis (2015)

Goal and objective themes found to be common among these studies are as follows:

- **Access and Mobility:** Provide choices through accessible transit service
- **Mode Share/Efficiency:** Increase transit usage and reduce SOV usage to ensure efficient movement of people and goods
- **Land Use/Economic Vitality:** Support economic development and land use goals
- **Equity:** Meet the needs of all users- residents, workers, visitors, and disadvantaged populations
- **Safety:** Improve safety for all users and the general public
- **Environmental Concerns:** Minimize environmental impacts and improve air quality
- **Financial Feasibility:** Make sustainable, cost effective investments in transit

The study team compiled MOEs relevant to these goal themes, aligning them to specific study objectives. Working with the project team stakeholders, the team reviewed the Draft Goals, Objectives, and MOEs to identify those that should be carried forward, and where new or somewhat altered MOEs were appropriate. Throughout the study process, some MOEs were evolved based on the data available and how best to provide a comparison between scenarios.

3.2 Measures of Effectiveness (MOEs)

Measures of Effectiveness (MOEs) are used to quantify progress towards specific goals and objectives. And should always be measurable using the tools available, capture the whole range of potential project impacts, and be easily explained to decision-makers and the general public. The project team worked together with FCDOT to develop the MOEs outlined in the following tables. Based on these discussions, the MOEs are multimodal in nature, and capture the impacts of different options from both the perspective of transit and roadway users, but also from the management, operational, and construction perspective of Fairfax County. As previously stated, the MOEs will be used in a two-phased approach to 1) Assess the larger set of alternatives, and 2) Evaluate the smaller set of final alternatives. Separate lists of MOEs will be used for each phase and are shown separately in the tables below.

3.2.1 Phase 1: Assessment

The analysis and MOEs in the Assessment phase will be used to cull the number of alternatives to three. These MOEs are both quantitative and qualitative in nature and can be scored without the need for travel demand forecasting or traffic modeling.

Measure of Effectiveness	Cross-Section; Routing; Both	Rationale	Methodology/Tools
Goal: Access and Mobility - Provide choices through accessible transit service			
Objective: Serve population, employment, and activity centers with BRT			
Population within ½ mile walking distance and 15-minute walk of station	R	Measures population access to BRT	GIS analysis of Land Use and pedestrian network in 2030 and 2045
Employment within ½ mile walking distance and 15-minute walk of station	R	Measures employment access to BRT	GIS analysis of Land Use and pedestrian network in 2030 and 2045
Objective: Provide connections to larger transit network			
Number of Metrorail Stations served	R	Measures access to regional transit	Route Planning
Goal: Transportation Network Performance - Ensure efficient movement of people and goods			
Objective: Improve Transit Operations in Corridor			
Percent of Corridor with dedicated BRT lanes	B	Proxy for BRT speed and reliability at the assessment stage	Cross section design, route planning
Goal: Land Use/Economic Vitality – Support economic development and land use goals			
Objective: Minimize impacts to private property			
Approximate square footage of land required for right-of-way	C	Measures impact to private property	GIS analysis
Goal: Meet the needs of all users – residents, workers, visitors, and disadvantaged populations			
Objective: Serve areas with transit dependent populations			
Number of transit dependent/transit inclined households and jobs within ½ mile of stations	R	Measures low-income, zero-car households, and service-sector jobs	GIS land use and pedestrian network analysis for 2045

Measure of Effectiveness	Cross-Section; Routing; Both	Rationale	Methodology/Tools
Goal: Improve safety for all roadway users			
Objective: Improve the pedestrian environment in the study corridor			
Pedestrian Crossing Time at Key Intersections	C	Crossing times identify the scale of pedestrian barriers for different multiple cross sections	Cross section distance / average pedestrian walking speed
Number of BRT - Mixed Traffic Conflict Points	C	Proxy for safety concerns related to BRT Safety	Identification of conflict points where BRT exits exclusive running way or passes through intersection without exclusive transit phase
Safety and comfort of biking environment in the corridor	B	Qualitatively measures the impacts of different cross section and routing choices on the safety and experience of cyclists in the corridor	Qualitative analysis
Goal: Protect and Improve Environmental Resources			
Objective: Minimize negative impacts to the natural environment			
Qualitative environmental impacts to parklands, cultural resources, wetlands, woodlands, etc.	C	Desktop review to identify approximate square footage of potential impacts	GIS analysis
Goal: Make sustainable, cost effective investments in transit			
Objective: Prove financial feasibility of BRT			
Constructability	B	Identification of any major barriers to construction	Qualitative Rating (High/Med/Low)

3.2.2 Phase 2: Evaluation

The analysis and MOEs in the Evaluation phase will be used to evaluate the alternative cross sections and alignments successfully passing the Assessment phase. These MOEs will be used to identify and recommend a preferred alternative. MOEs for the evaluation phase are more quantifiable and require data results from travel demand forecasting and traffic modeling efforts.

Measure of Effectiveness	Cross-Section; Routing; Both	Rationale	Methodology/Tools
Goal: Transportation Network Performance - Ensure efficient movement of people and goods			
Objective: Increase Corridor Transit Usage			
BRT Ridership in Study Area	B	Measures variance in ridership among BRT alternatives	Changes in ridership forecasts as compared to Phase 2 forecast results
Total Transit Ridership in Study Area	B	Measures variance of total transit ridership among BRT alternatives	Changes in ridership forecasts as compared to Phase 2 forecast results
Number of New Transit Riders	B	Measures effectiveness of BRT alternatives in attracting new transit riders	Changes in ridership forecasts as compared to Phase 2 forecast results
Objective: Improve Transit Operations in Corridor			
Boardings per Revenue Hour	B	Measures efficiency of BRT operations	BRT Ridership in Study Area/ BRT Revenues Hours in Study Area
BRT Travel Speed in the Corridor	B	Measures BRT Travel Speed	VISSIM analysis
BRT Reliability/Headway Adherence	B	Measures BRT Travel Time Reliability	VISSIM analysis
Objective: Maintain acceptable transportation network performance for all modes			
Automobile Travel Time by Segment	B	Measures auto travel times for specific corridor segments	VISSIM analysis - segments need to be defined
Automobile Intersection Level of Service	B	VDOT Requirement - LOS E acceptable within Tysons Urban Boundary, LOS D elsewhere	VISSIM analysis
Total Corridor Person Throughput	B	Measure of overall corridor efficiency	Travel Demand Forecasting analysis - need to identify locations for measure
Goal: Improve safety for all roadway users			
Objective: Improve the pedestrian environment in the study corridor			
Pedestrian Delay	C	Measure of pedestrian delay given multiple cross sections to be evaluated	VISSIM analysis
Goal: Protect and Improve Environmental Resources			
Objective: Minimize negative impacts to the natural environment			
Change in VMT in Study Area	B	VMT is a proxy for environmental impacts such as tailpipe emissions	Travel Demand Forecasting

Measure of Effectiveness	Cross-Section; Routing; Both	Rationale	Methodology/Tools
Goal: Make sustainable, cost effective investments in transit			
Objective: Prove financial feasibility of BRT			
Estimated Capital Cost	B	Understanding of costs required to achieve other MOE results	High Level Planning Estimate
Incremental Annual O&M cost	B	Understanding of costs required to achieve other MOE results	High Level Planning Estimate as compared to Phase 2 estimates
Incremental Cost per rider	B	Measures cost efficiency	BRT Ridership in Study Area / Incremental O&M Costs
Incremental cost per new linked trip	B	Measures cost efficiency for attracting new riders to transit	New Transit Trips in Study Area / Incremental O&M Costs

4 Data Collection and Calibration

This section documents the data collection and model calibration efforts for the Route 7 Bus Rapid Transit (BRT) Tysons study. This multimodal analysis of the existing transportation conditions is based on readily available information, observed field data, and the calibrated travel demand and traffic simulation existing conditions models. The Travel Demand Model and Traffic Simulation Model Calibration Memos are attached in **Appendix A** and **Appendix B**, respectively.

4.1 Data Collection

The data supporting the travel demand traffic simulation model calibrations were collected as part of the project's data collection efforts, which were completed in the Spring of 2018, including:

- 24-hour roadway segment volume counts;
- Peak-period (6:00 AM – 10:00 AM and 3:00 PM – 7:00 PM) intersection turning movement counts (TMCs);
- Weekday peak period travel time data collected using the floating-car method; and
- Pedestrian count data collected at Metro stations.

The daily and peak period traffic counts were used help review and calibrate the outputs from the Fairfax County travel model. The travel time data was used to validate and justify travel speed adjustments in the model calibration efforts. The pedestrian count data was primarily used as a general reference, as they are not equivalent to passenger boardings. Where necessary, these data were supplemented with other sources, as detailed below.

- WMATA Metrorail short-term ridership forecasts for 2018. The lower bound and upper bound station boarding forecasts by time period were averaged for model calibration.
- The 2018 entry and exit counts from WMATA's LineLoad software were used to quantify boardings and alightings at each station by time of day.
- Boarding and alighting counts at the stop level for Fairfax Connector and WMATA bus routes.
- The WMATA and Fairfax Circulator data was used to calibrate the MWCOG model's transit ridership volumes.

While vehicle travel times were collected using the floating car technique, the project team decided to use the INRIX speed data for the calibration purposes due to the following reasons:

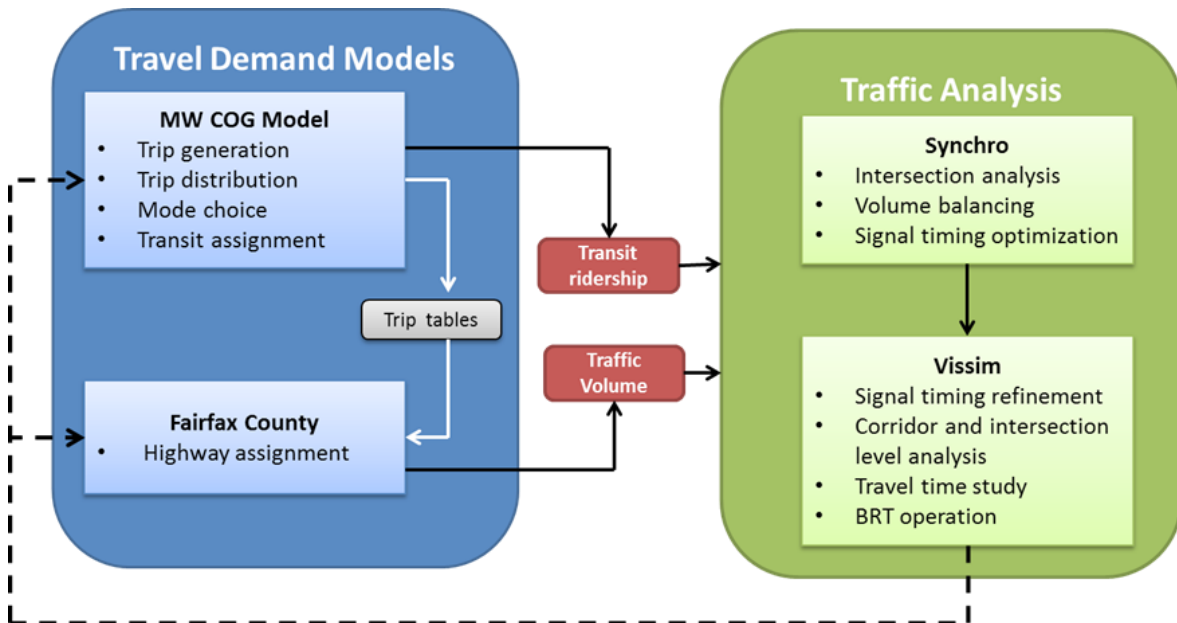
- The Route 7 study area experiences congestion and oversaturated conditions along certain segments of the corridor during peak periods. As a result, travel times throughout the study area vary greatly from day to day, which requires a larger sample size to increase the precision and reduce the margin of error. Therefore, INRIX probe data is used to provide a better representation of the field travel times.
- The turning movement data collection and field travel time runs were performed on different days, making the comparison more complicated. To address this issue, the INRIX speed data was

collected during the month of May 2018, which also included the dates in which the turning movement data was collected.

4.2 Model Calibration

The overall travel demand modeling process adopted for the Route 7 BRT Tysons Study uses the MWCOG Regional Travel Demand model and the Fairfax County Travel Demand model to develop the transit and highway demands, which are then fed into the traffic analysis process that combines Synchro signal timing plans with microscopic operational simulations using VISSIM, as illustrated in **Figure 4-1**.

Figure 4-1 | Overall Modeling Process



4.2.1 Travel Demand Model

The Travel Demand Model calibration efforts were focused on developing existing conditions models capable of recreating observed transit ridership and traffic highway volumes reasonably well. Transit calibration was focused on the Metropolitan Washington Council of Governments (MWCOG) model. This study was not designed to accurately predict transit ridership in the whole Route 7 BRT corridor but is focused on understanding the potential changes to ridership in Tysons based on specific alternatives. Transit calibration efforts were limited in order to adequately meet these needs. Highway calibration focused on the Fairfax County model and where necessary, its interactions with the MWCOG model. Perfect highway calibration at this level was not the goal, as more detailed traffic calibration is being addressed through the VISSIM microsimulation work.

The travel demand model calibration effort for this study improved the accuracy of both the MWCOG and Fairfax County Travel Demand models in the Tysons Corner area. Specifically, selected parameters in

the MWCOG and Fairfax County models were refined and calibrated to achieve a closer match between model estimates for existing conditions and observed transit ridership and traffic levels.

4.2.2 Traffic Simulation (VISSIM)

The development of existing conditions simulation models requires a proper calibration effort to closely replicate real-world conditions and accurately reflect field conditions. This section describes the calibration efforts followed for the development of VISSIM microsimulation model for the Fairfax County Department of Transportation (FCDOT) Route 7 Bus Rapid Transit (BRT) Tysons study. The calibration efforts were conducted focusing on the following elements per guidance from the Virginia Department of Transportation (VDOT) Traffic Operations and Safety Analysis Manual (TOSAM).¹

- **Simulated Traffic Volume** – compares the traffic volumes at critical links within the model to field counts.
- **Simulated Vehicle Travel Time** – compares simulated vehicle travel times to those collected in the field along specified segments.
- **Simulated Transit Speed** – compares simulated transit speed to those collected in the field for the specified transit routes. Note that speed was used instead of travel time since the length of the segment in which the transit travel time was collected is different than the simulated segment length
- **Simulated Queue Length** – compares average and maximum queue lengths at critical links to field measurements.

¹ <http://www.virginiadot.org/business/resources/TOSAM.pdf>

5 Existing Conditions and Future No Build Conditions (2045) Comparison

This section documents and provides a comparison of the Existing Conditions and the Future (2045) “Future No Build” transportation conditions for the study. This multimodal analysis of the future transportation conditions is based on the travel demand and traffic simulation Future No Build models. The selected performance measures, or Measures of Effectiveness (MOEs), provide a comparison between the existing conditions and the 2045 No Build baseline. The Existing Conditions section documented the 2018 existing multimodal transportation conditions in the study area, including results from data collection efforts as well as travel demand and traffic simulation model calibration. The 2045 Future No Build baseline was also used to compare against the three build alternatives to evaluate the effectiveness of the future build alternatives in achieving the project goals and objectives.

5.1 Existing Conditions

5.1.1 Transit

Eighteen bus routes and the Metrorail Silver Line serve Tysons and the surrounding area. These transit options generally converge around the Spring Hill and Tysons Corner Metrorail stations providing connections to regional destinations via Metrorail. These routes traverse major roadways—on Route 7 and I-495—and neighborhood streets, connecting people to surrounding housing, jobs, and retail. Additionally, transit service in Tysons provides access to major regional employment and activity centers.

5.1.1.1 Transit Service

The study area is served by Metrorail, Metrobus, and Fairfax Connector, as shown in **Figure 5-1**. The Metrorail Silver Line Phase 1 opened in July 2014 and connects Washington, D.C. to Tysons and Reston. There are four existing Silver Line stations in the study area: McLean, Tysons Corner, Greensboro, and Spring Hill Metrorail stations. The West Falls Church Metrorail station is served by the Orange Line and is located at the southeast corner of the study area. Phase 2 will extend the Silver Line west to Herndon, Dulles International Airport, and Ashburn. The extension is projected to be completed in 2020 and will provide six additional stations from Reston Town Center to Ashburn.

Bus service in the study area generally feeds into the Metrorail stations. The West*Park Transit Center also serves as a major terminus or transfer station.

5.1.1.1.1 WMATA

WMATA service operates nearly every day, except for the 3T on Sundays as shown in

Table 5-1.

Table 5-1 | WMATA Transit Service in Study Area

Route	Direction	Terminals	Service Days M-F/SAT/SUN	Headway Peak (min)	Headway Off-Peak (min)
OR	E/W	Vienna / New Carrolton	Y / Y / Y	8	12
SV	E/W	Wiehle-Reston East / Largo Town Center	Y / Y / Y	8	12
23A	E/W	Tysons Corner Center / Crystal City	Y / Y / Y	40	–
23T	E/W	Tysons Corner Center / Shirlington Transit Center	Y / Y / Y	25	30
28A	E/W	King Street - Old Town Station / Tysons Corner Station	Y / Y / Y	20	20
3T	E/W	McLean Station / East Falls Church Station	Y / Y / N	25	40

Source: WMATA Rail and Bus Published Timetables, October 2019

5.1.1.1.2 Fairfax Connector

Fairfax Connector provides service with a variety of headways and service days, as shown in **Table 5-2**.

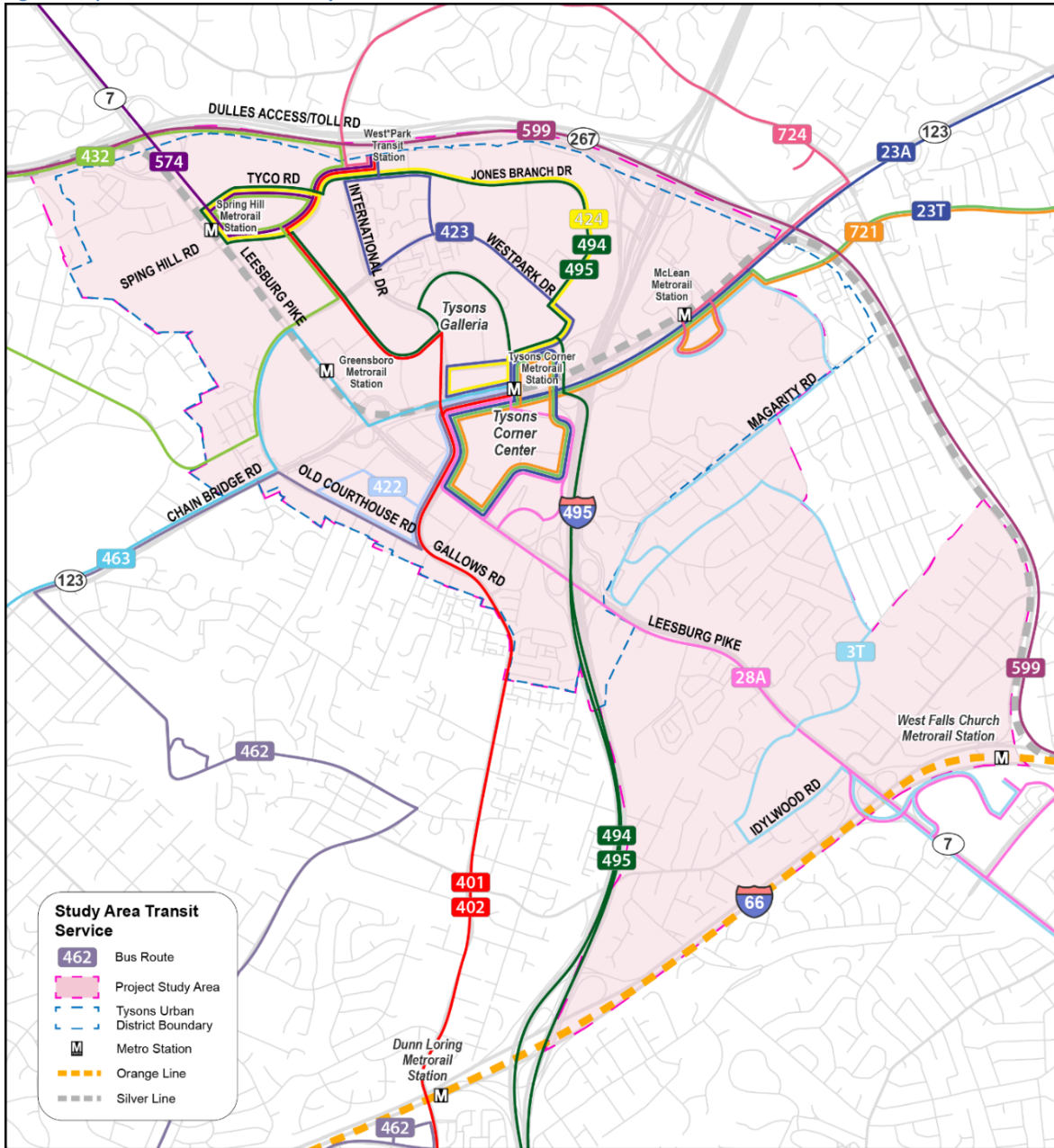
Table 5-2 | Fairfax Connector Routes Serving Study Area

Route	Direction	Terminals	Service Days M-F / SAT / SUN	Headway Peak (min)	Headway Off-Peak (min)
401 402	N/S	Franconia-Springfield Station / Tysons Westpark Transit Station	Y/Y/Y	15	20
422	Circulator	Tysons Corner Station (South) / Howard Ave	N/Y/Y	20	20
423	Circulator	Tysons Corner Station (North) / Tysons Westpark Transit Station	Y/Y/Y	13	14+
424	Circulator	Tysons Corner Station (North) / Spring Hill Station	Y/Y/N	13	13+
432	Circulator	Spring Hill Station / Spring Hill Station	Y*/N/N	40	–
462 467	N/S	Dunn Loring Station / Tysons Corner Station (South)	Y/Y/N	30	40+
463	N/S	Vienna Station (North) / Tysons Corner Station (North)	Y/Y/Y	25-30	30
494	N/S	Lorton VRE Station / Tysons Westpark Transit Station	Y/N/N	25	30+
495	N/S	Burke Centre VRE Station / Tysons Westpark Transit Station	Y/N/N	30	30+
574	E/W	Reston Town Center Transit Station / Tysons Westpark Transit Station	Y/Y/Y	30	30-40
721	E/W	Tysons Corner Center / Beverly Dr	Y/Y/Y	–	30
724	E/W	Tysons West Park Transit Station / McLean Station	Y*/N/N	25-30	–

* Peak Period service only.

Source: Fairfax County Connector Published Timetables, October 2019

Figure 5-1 | Transit Service in the Study Area



Source: WMATA, Fairfax County Published Bus Routes, October 2019

5.2 Future No Build (2045)

This section describes the anticipated changes in the transportation network within the study area. These changes include new roadway and transit services as defined in the National Capital Region Transportation Planning Board 2016 Constrained Long Range Plan (CLRP), the Fairfax County Comprehensive Plan, and other priority projects identified by Fairfax County project staff. The following provides a brief summary of the changes that have been included for study. Note, for the purposes of this study, only significant roadway changes relevant to the Travel Demand and Traffic models are included.

5.2.1 New Roadway Changes

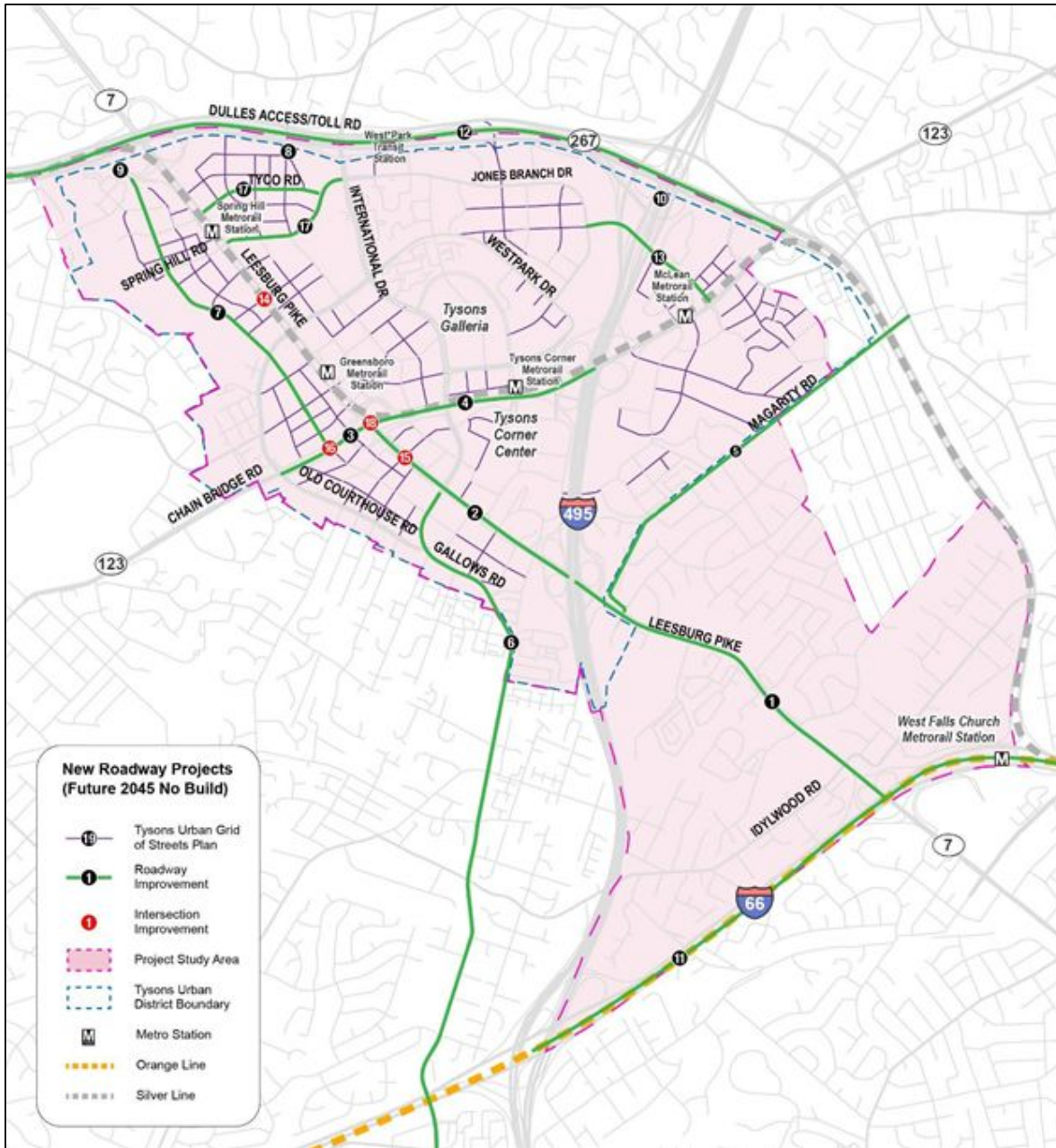
The planned roadway projects include road widening, new toll road ramps, and the built-out Tysons urban street grid. **Table 5-3** and **Figure 5-2** provide a summary of the new roadway changes incorporated into the No Build Travel Demand and Traffic models for this study. All the projects listed below are included in the study's Travel Demand Model to determine specific travel volumes and other measures, but not all the projects are included in the Traffic model as they are located outside of the model limits.

Table 5-3 | New Roadway Projects (Future No Build)

No.	Facility	Limits	Description
1	VA 7 Leesburg Pike	I-495 to I-66	Widen from 4 lanes to 6 lanes
2	VA 7 Leesburg Pike	VA 123 to I-495	Widen from 6 lanes to 8 lanes
3	VA 123	Old Courthouse Road to Leesburg Pike	Widen from 4 lanes to 6 lanes
4	VA 123	Leesburg Pike to I-495	Widen from 6 lanes to 8 lanes
5	Magarity Road	Leesburg Pike to Great Falls Street	Widen from 2 lanes to 4 lanes
6	Gallows Road	Leesburg Pike to Prosperity Ave	Widen from 4 lanes to 6 lanes
7	Boone Boulevard	VA 123 to Dulles Toll Road	Construct new road and extend the existing Boone Boulevard to the Dulles Toll Road
8	VA 267 Dulles Toll Road Ramp	Tyco Road	Construct new toll road entrance/exit ramp at Tyco Road
9	VA 267 Dulles Toll Road Ramp	Boone Boulevard	Construct new toll road entrance/exit ramp at Boone Boulevard (extended)
10	I-495 Ramps	Dulles Airport Access Highway Dulles Toll Road HOT – General Purpose Lanes	Relocate, widen, and construct new ramps connecting I-495 to the Dulles Airport Access Highway, Dulles Toll Road, and NB and SB HOT Lanes from the General purpose lanes
11	I-66	I-495 to US 29	Revise operations for HOT 3 in both directions during peak periods
12	Dulles Airport Access Road	VA 123 to Dulles Airport	Widen from 4 lanes to 6 lanes
13	Scotts Crossing Road	VA 123 to Jones Branch Drive	Widen from 2 lanes to 4 lanes
14	VA 7 Leesburg Pike	Between Spring Hill Road and Westpark Road	Construct new full movement intersection per Tysons Urban Grid of Streets plan
15	VA 7 Leesburg Pike	Between VA 123 and International Drive	Construct new right-in/right-out intersection per Tysons Urban Grid of Streets plan
16	VA 123	At Boone Boulevard	Construct new full movement intersection per Tysons Urban Grid of Streets plan
17	Tyco Road and Spring Hill Road	Leesburg Pike and International Drive	Construct new bus and turn (BAT) lanes on Tyco Road and Spring Hill Road
18	VA 7 Leesburg Pike and VA 123	Leesburg Pike at VA 123	Reconstruct existing interchange as an at-grade Two-Quadrant intersection
19	Tysons Urban Grid of Streets	Tysons Urban District	Grid system of smaller, connected streets to provide alternative pathways for traffic flow

Source: TPB CLRP, Fairfax County Comprehensive Plan, FCDOT

Figure 5-2 | New Roadway Projects (Future No Build)



Source: TPB CLRP, Fairfax County Comprehensive Plan, FCDOT

5.2.2 New Transit Service

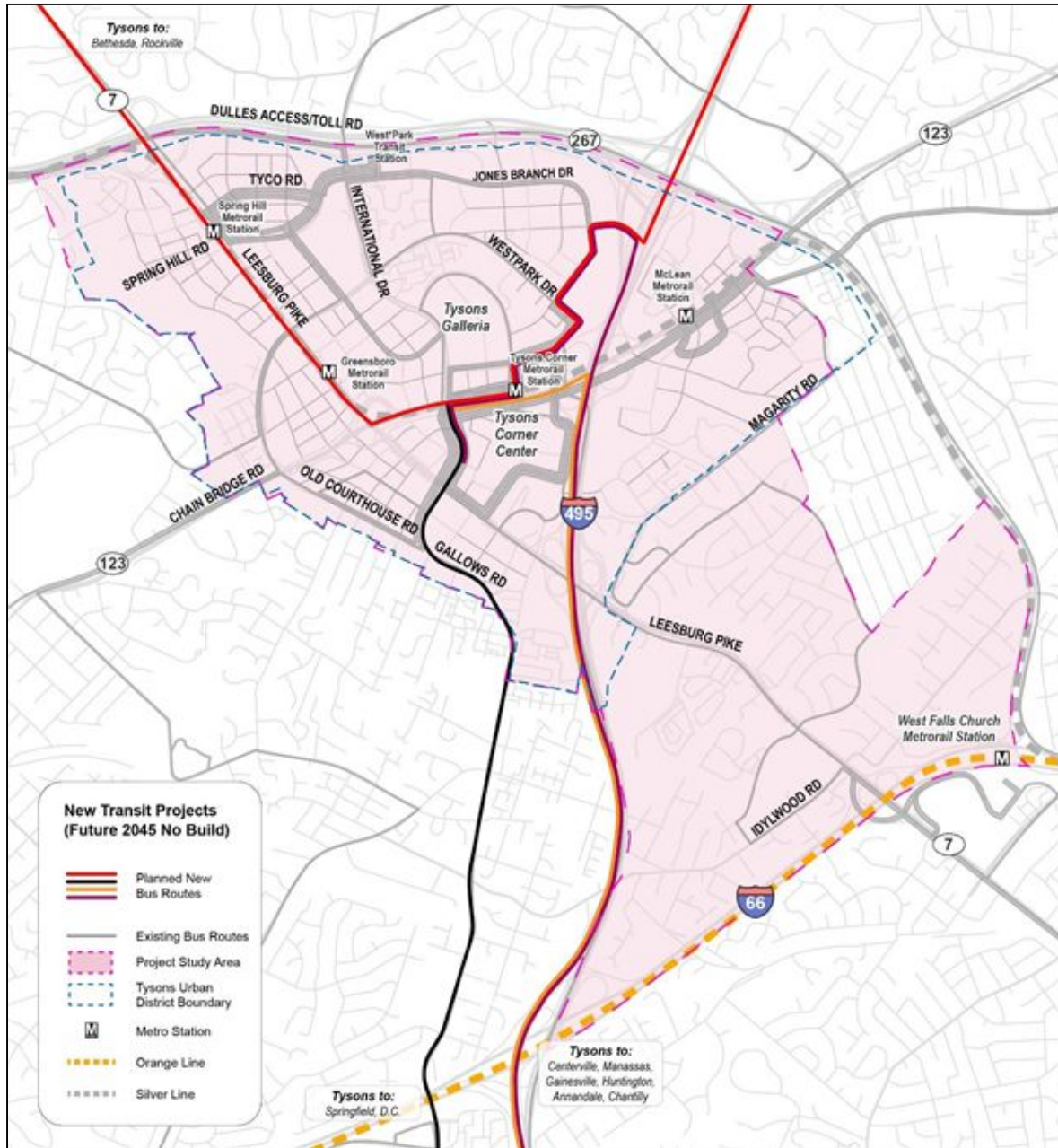
In addition to the planned roadway projects, new transit services are also planned for the study area and are included in the CLRP. These new transit services include the expanded Metrorail Silverline to Loudoun County and new bus services that generally provide peak period express bus services connecting Tysons to regional locations utilizing the Express lanes on I-66 and I-495. The new transit services are included in the study’s Travel Demand model in order to provide an estimate for transit demand. The Traffic model also incorporates the new bus services to operate within the roadway environment, considering routing, service frequencies, and dwell times at stations. **Table 5-4** below shows the new bus routes included in the Future No Build Traffic model.

Table 5-4 | New Bus Transit Services (Future No Build)

Route Destinations	Frequency	Operates on Relevant Roadways
Tysons–Bethesda 1	15	VA 7 Leesburg Pike; VA 123
Tysons–Bethesda 2	15	VA 7 Leesburg Pike; VA 123
Tysons–Rockville 1	15	VA 7 Leesburg Pike; VA 123
Tysons–Rockville 2	15	VA 7 Leesburg Pike; VA 123
Tysons–Annandale	15	International Drive; VA 123
Tysons–Chantilly	15	International Drive; VA 123
Tysons–Springfield	15	International Drive; Gallows Road
Tysons–DC 1	24	International Drive; Gallows Road
Tysons–DC 2	24	International Drive; Gallows Road

Source: TPB CLRP

Figure 5-3 | Planned Bus Routes



Source: TPB CLRP

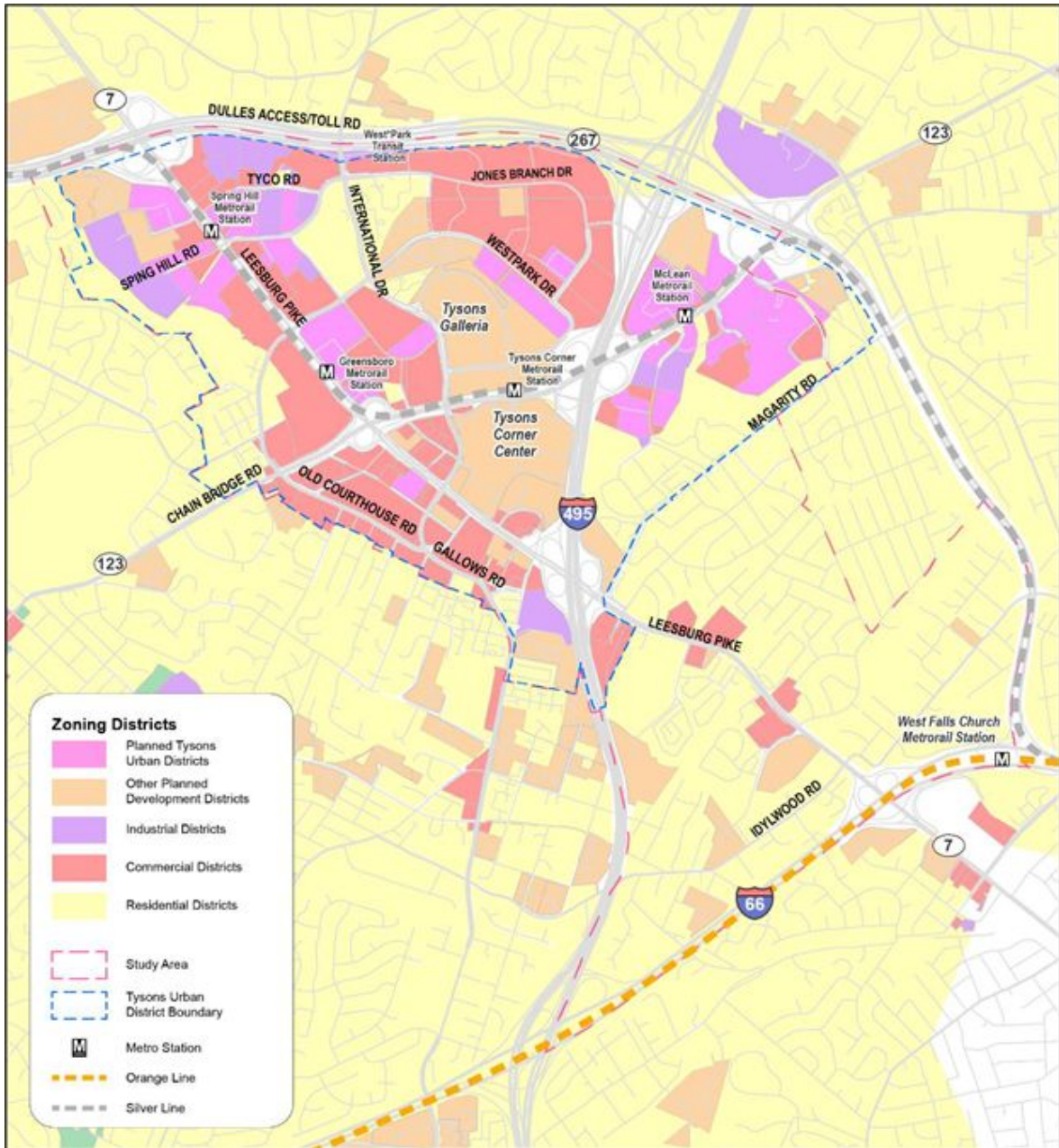
5.3 Land Use and Demographics

Noteworthy demographic shifts are projected to take place in the study area which will impact transportation planning decisions. The following section describes the residential, household, and employment data from MWCOG in 2045 aggregated at the TAZ level. In general, projected population, household, and employment growth rates are comparable within a given TAZ, leading to higher development densities by 2045.

5.3.1 Land Use

The study area has over 30 sub-districts which are aggregated to residential, commercial, industrial, and planned development districts (see Figure 5-4). Zoning districts in the study area tend to favor higher density and more mixed use, especially in planned development districts that are primarily concentrated within the Tysons Urban District Boundary. Lower-density residential districts are more prevalent outside Tysons Urban District Boundary, particularly in locations farther away from Route 7.

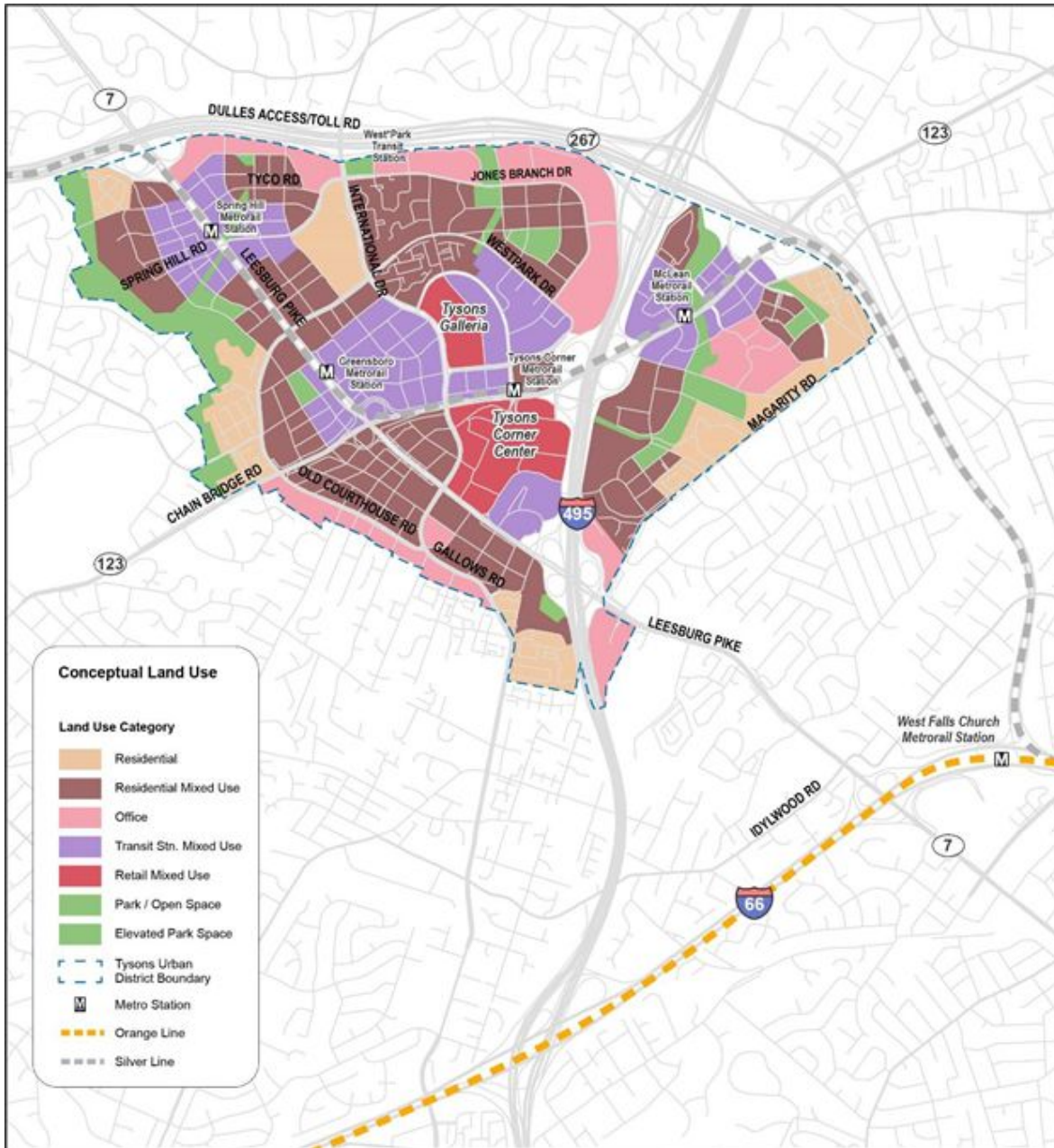
Figure 5-4 | Zoning Districts in Tysons



Source: Fairfax County

As per the Fairfax County Comprehensive Plan, the future vision of Tysons is that of clusters of high density, mixed-use buildings surrounding the four Metrorail stations; transforming from a large suburban office park into a 24/7 urban center with a mix of workers and residents. Most of the new office uses are intended to be concentrated in mixed use developments within ¼ mile of the Metrorail stations. The areas beyond ¼ mile of the stations are anticipated to be developed primarily with multifamily housing units. The proposed conceptual land use pattern is shown in **Figure 5-5**.

Figure 5-5 | Study Area Conceptual Land Use in 2045



Source: Fairfax County Comprehensive Plan

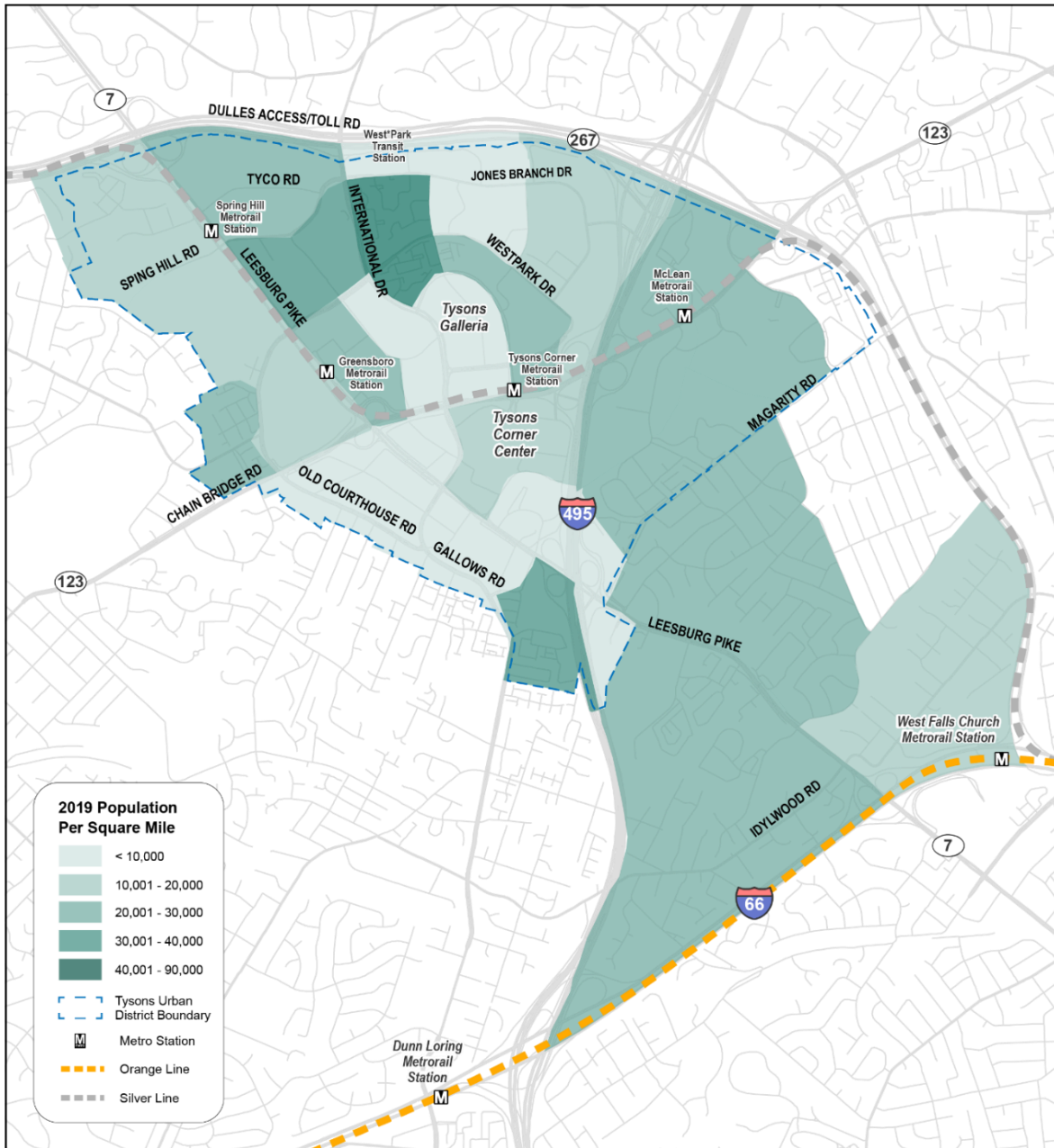
5.3.2 Population

There are approximately 35,600 people living in the study area as of 2019. **Figure 5-6** shows the population is concentrated in the southern and eastern portions of the study area between I-495 and Chain Bridge Road. A small portion of the northern part of the study area directly east of Route 7 also maintains higher densities. Most of the population exists east of I-495.

The residential population is projected to grow by 175 percent to approximately 100,000 residents by 2045. **Figure 5-7** shows much of the residential growth is projected to occur along the Silver Line Metrorail corridor, especially adjacent to Route 7. The highest projected population growth TAZs are 1846 and 1849, with an expected growth of 3,248 percent (near the existing Tysons Galleria) and 1,379 percent (adjacent to the Greensboro Metrorail station) respectively.

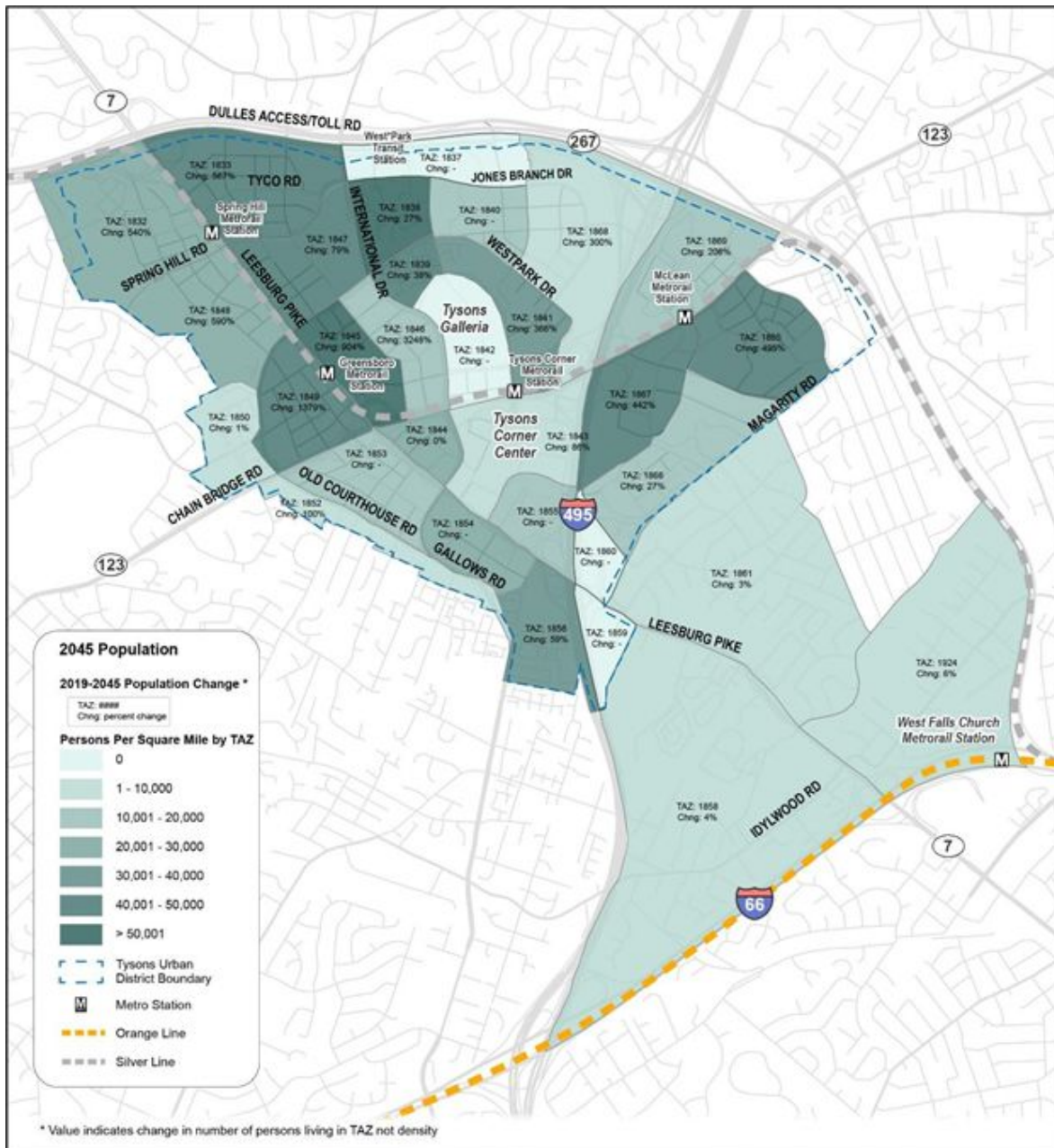
Most of the TAZs are projected to experience population growth by 2045. The exception is a north-to-south collection of TAZs that run through the general center of the study area. These areas, from north to south, are composed of: TAZ 1837 (directly south of the Dulles Toll Road between International Drive and an access road off Jones Branch Drive); Tysons Galleria, TAZ 1842 (projected to maintain zero population); and the two TAZs directly east of I-495 and adjacent to Route 7, TAZ 1860 and 1859, are also projected to see no residential development by 2045. These low or no-growth areas are composed mainly of office buildings, large retail, smaller office complexes, or transportation infrastructure (e.g., limited-access highway on-ramps).

Figure 5-6 | Population in Study Area, 2019



Source: MWCOG Round 9.1 Cooperative Land Use Forecasts

Figure 5-7 | 2045 Projected Population Density and Population Change



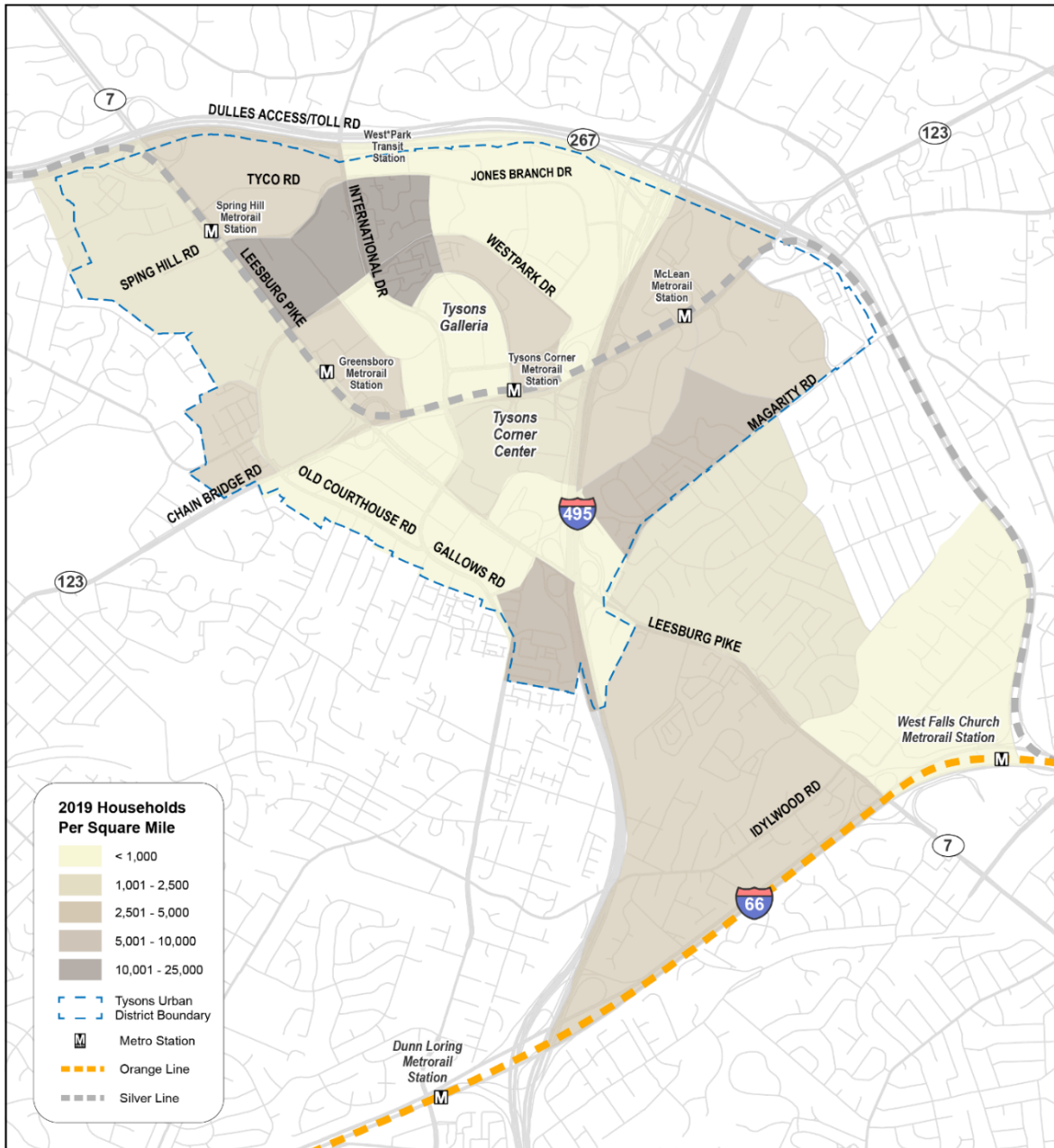
Source: MWCOG Cooperative Land Use Forecast v. 2.3.75

5.3.3 Households

There are approximately 16,400 households in the study area as 2019. **Figure 5-8** shows households generally correspond with the population distribution. Households are generally concentrated in the southeastern, eastern, and northwestern portions of the study area.

The number of households in the study area is projected to grow by approximately 197 percent, slightly greater than the projected population growth rate which suggests a decrease in the average household size. **Figure 5-9** shows the estimated number of households per square mile in 2019 followed by the projected households per square mile in 2045 aggregated by TAZ. The highest projected population growth TAZs are 1846 and 1849, with an expected growth of 3,268 percent (near the existing Tysons Galleria) and 1,374 percent (adjacent to the Greensboro Metrorail station) respectively.

Figure 5-8 | Households in Study Area, 2019



Source: MWCOG Round 9.1 Cooperative Land Use Forecasts

Figure 5-9 | Projected Households in Study Area, 2045



Source: MWCOG Cooperative Land Use Forecast v. 2.3.75

5.3.4 Employment

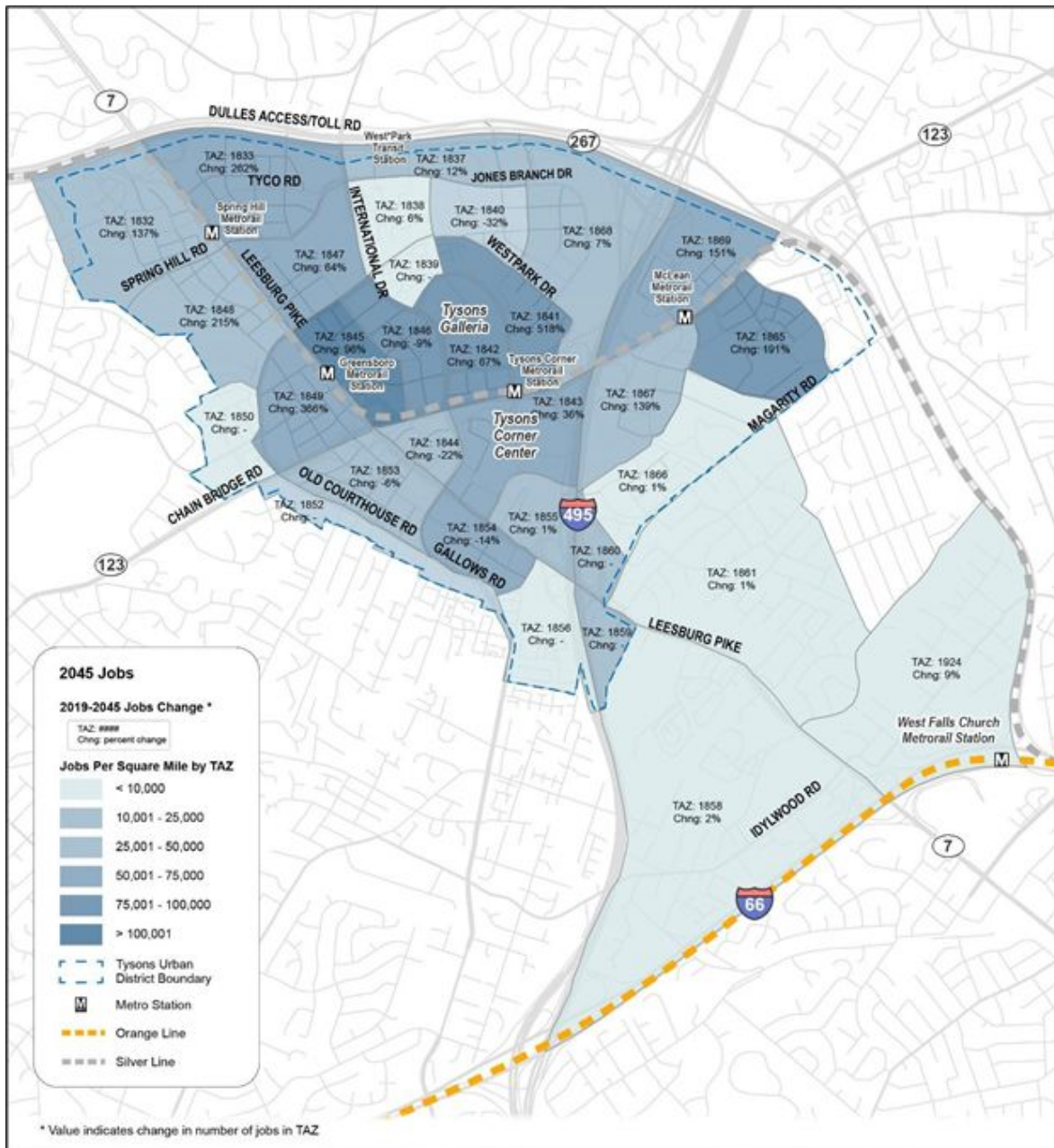
There are an estimated 96,000 jobs in the study area in 2019, with jobs concentrated in the areas without large numbers of residents as shown in

Figure 5-10 . Employment density is concentrated within the Tysons Urban District boundary primarily west of I-495. The highest concentration of employment is found in TAZs that correspond with Tysons Corner Center, the area bounded by Chain Bridge Road, International Drive, and Greensboro Drive (adjacent to Tysons Galleria), and the area bounded by I-495, Dulles Toll Road, and Westpark Drive. Employment data indicate that the number of jobs is projected to grow almost 70 percent to approximately 165,500 jobs by 2045 (see **Figure 5-10**).

While employment is expected to grow at a lower rate than either population or households, the 2045 employment projections indicate there will still be substantially more jobs in the study area than people. Employment growth is also inconsistent across TAZs, with some areas far outpacing others in both percentage and numerical job growth. This demonstrates employment growth is likely to be concentrated in several specific TAZs in the study area.

Figure 5-10

Figure 5-10 | Projected Employment in Study Area, 2045



Source: MWCOC Cooperative Land Use Forecast v. 2.3.75

5.3.5 Demographics Summary

Population and employment forecasts indicate a more integrated mix of uses in the study area in 2045. For example, the northwest TAZs show strong additions of both employment and population. The central TAZs surrounding Tysons Galleria and directly north and south of Route 123 also show strong growth of employment and population. These projections point toward more integrated land use, as well as substantial development within the study area. **Table 5-5** provides a summary of the study area demographics by TAZ.

Table 5-5 | Study Area Demographics

	Population				Households				Employment – Jobs			
	2019	2045	Change	%	2019	2045	Change	%	2019	2045	Change	%
Total	35,588	97,796	62,208	175%	16,355	48,529	32,174	197%	96,030	163,424	67,394	70%

Source: MWCOG Cooperative Land Use Forecast v. 2.3.75

5.4 Transit Conditions

This section provides the results of the MOEs related to transit service for the Future No Build and a comparison to the Existing Conditions. As discussed in Section 2, there are several new transit services added to the transportation network for the Future No Build condition, including the full build-out of the Metrorail Silver Line and additional bus routes.

5.4.1 Ridership

Daily bus and Metrorail boardings are shown in **Table 5-6**. Overall, transit ridership is expected to increase from approximately 9,500 daily boardings to nearly 37,000 daily boardings, an increase of 290 percent. Metrorail remains the largest share of overall transit ridership (an increase in 230 percent); however, bus transit, which includes Metrobus and Fairfax Connector, is expected to increase by more than 550 percent.

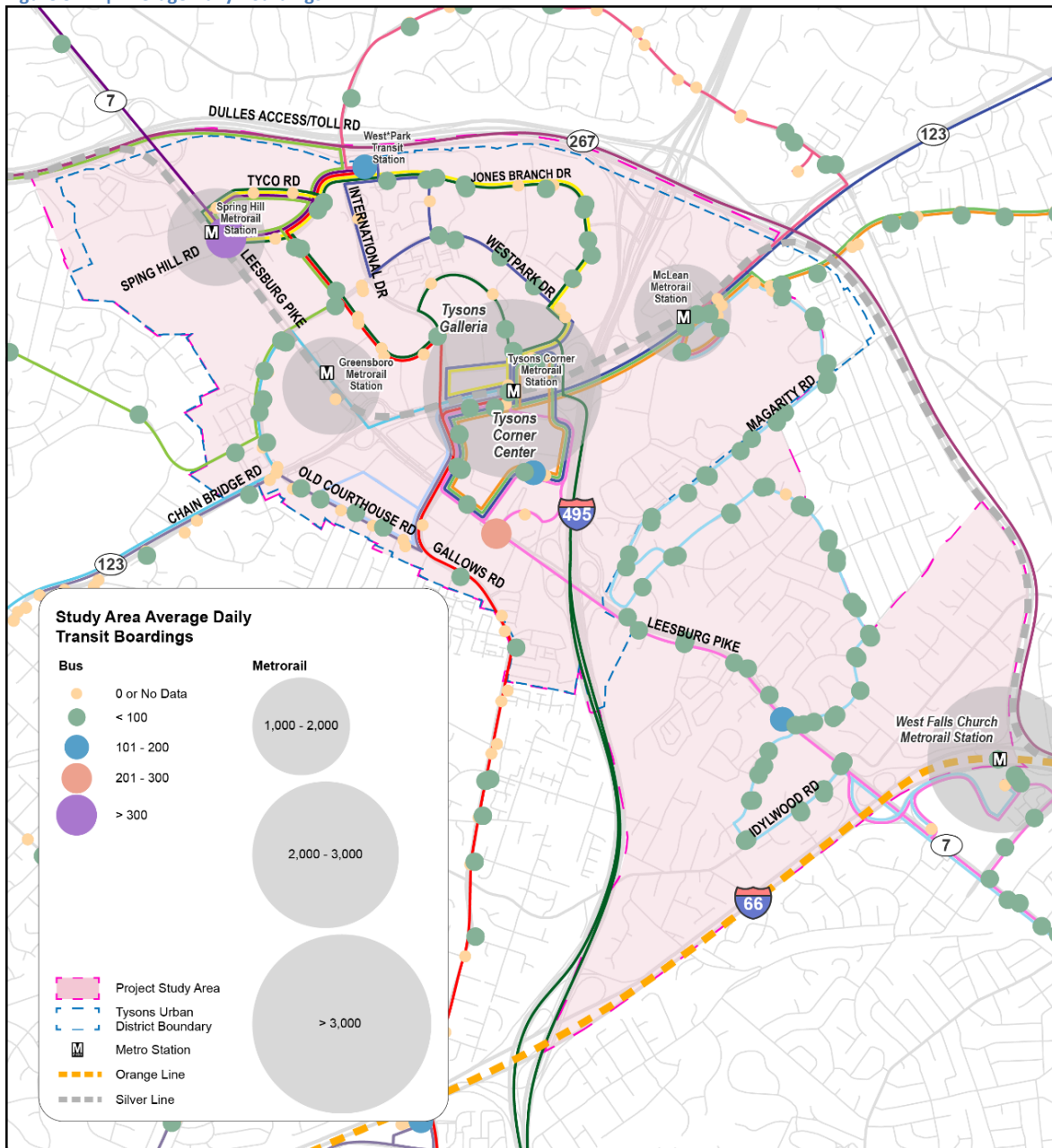
Table 5-6 | Total Daily Transit Boardings in the Study Area

Mode	Existing Conditions	Future No Build	Percent Change (%)
Metrorail	7,778	25,498	228%
Metrobus	1,140	8,641	658%
Fairfax Connector	563	2,540	351%
Total	9,481	36,679	287%

Sources: WMATA, Fairfax County DOT; Future No Build Travel Demand Models

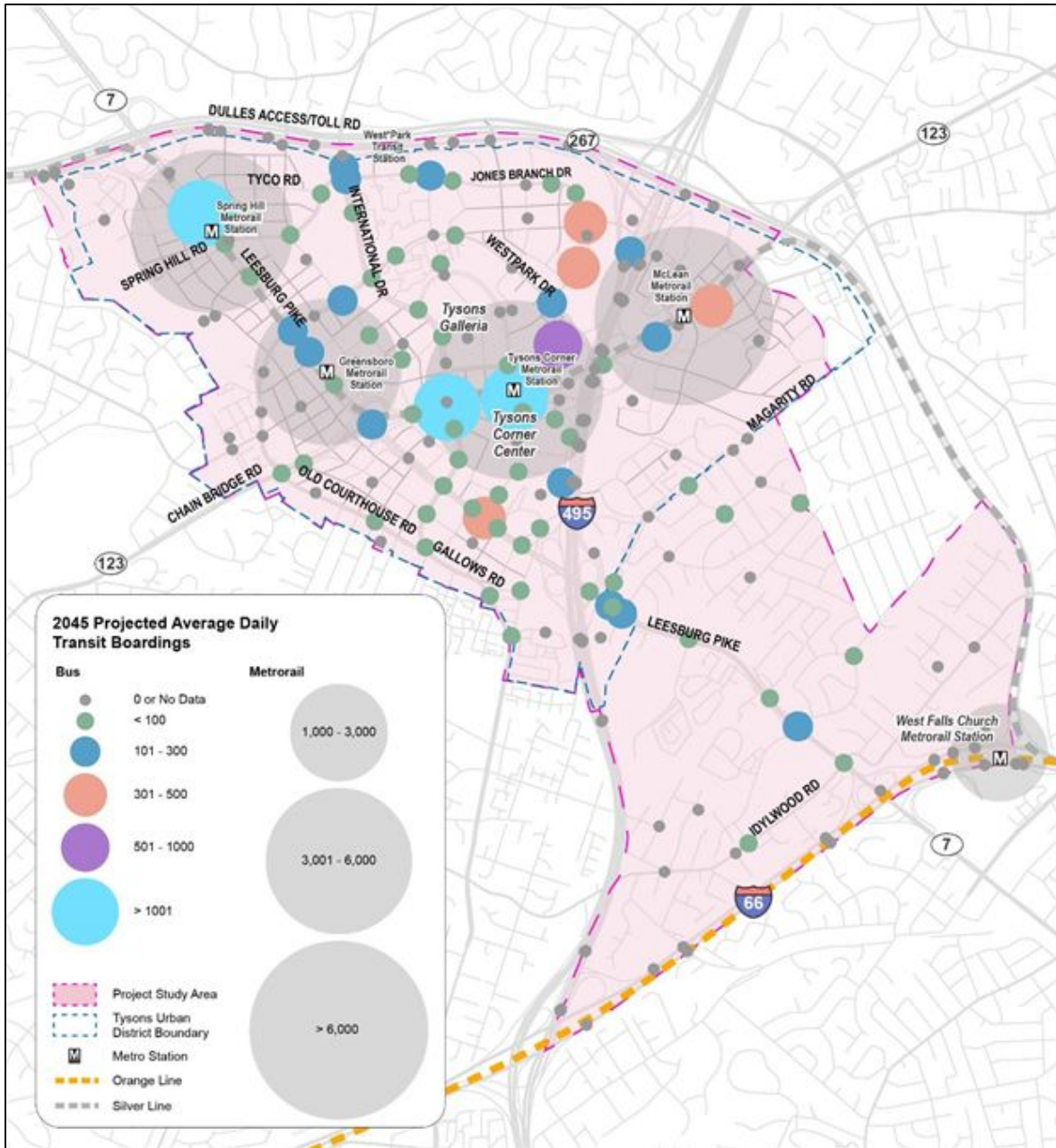
Figure 5-11 and **Figure 5-12** shows the general distribution of transit boardings in the study area in the existing and future no build conditions, respectively. As expected, most transit ridership is generated at the Metrorail stations. Of the Metrorail stations, Tysons Corner Metro Station experiences the highest level of daily boardings. The bus stops with the highest number of daily bus boardings are located at Spring Hill Metrorail Station, Fashion Boulevard on Route 7, Tysons Corner Center Mall, West*Park Transit Station, and Pimmit Drive on Route 7. Fairfax Connector primarily serves the core within the Tysons Urban District Boundary. Bus ridership is generally distributed along the major corridors of Route 7, Route 123, International Drive, and Jones Branch Drive.

Figure 5-11 | Average Daily Boardings



Source: WMATA Metrorail (May 2018), Metrobus (October 2018), Fairfax Connector (August 2017) Transit Ridership

Figure 5-12 | 2045 Projected Average Daily Transit Boardings



Source: Future No Build Travel Demand Model

5.4.2 Transit Mode Share

Approximately five percent of trips originating in the study area are made by transit. During the peak period, this is even higher, with almost 15 percent of trips being made by transit, see **Table 5-7**. **Table 5-8** shows the mode share for transit trips generated in the study area; notably more than 90 percent of these trips are walk access. shows the total transit trips generated in the study area.

As seen in **Table 5-7**, compared to the Existing Conditions, transit mode share is anticipated to increase from 4.9 to 8.6 percent daily, however is expected to decrease from 14.8 to 11.0 percent for the peak period. Trips made by driving remain the predominate mode within the study area. **Table 5-8** shows the mode share for transit trips generated in the study area. Compared with the existing conditions, walking remains the predominate mode for accessing transit. Park and Ride and Kiss and Ride slightly decrease during the peak period trips, however, increases for off-peak period trips. Daily averages remain about the same as the existing condition.

Table 5-7 | Mode Share in Study Area

Mode	Existing Conditions		Future No Build	
	Peak Period*	Daily	Peak Period*	Daily
Drive	85.2%	95.1%	89.0%	91.4%
Transit	14.8%	4.9%	11.0%	8.6%

*Peak Period: (6:00 – 9:00 AM, 3:30 – 7:30 PM)

Source: Existing Conditions and Future No Build Travel Demand Models

Table 5-8 | Transit Ridership Access Mode Share in Study Area

Mode	Existing Conditions			Future No Build		
	Peak Period*	Off Peak Period	Daily	Peak Period*	Off Peak Period	Daily
Walk	87%	96%	91%	90.2%	92.0%	90.9%
Park & Ride	9%	3%	6%	7.0%	5.7%	6.5%
Kiss & Ride	4%	1%	3%	2.8%	2.3%	2.6%

*Peak Period: (6:00 – 9:00 AM, 3:30 – 7:30 PM)

Source: Existing Conditions and Future No Build Travel Demand Models

5.4.3 Transit Travel Speed

Table 5-9 shows a comparison of bus travels speeds from the Existing Condition and the Future No Build traffic models. Bus travel speeds factor in dwell time at bus stops for passenger boarding and alightings. To capture dwell time, bus stops were categorized as low, medium, and high for projected boardings and assigned stepped dwell times for each. Compared to the Existing condition, the transit travel speeds in the Future No Build are generally slower. The Future No Build simulation shows that the morning peak is generally faster than the afternoon peak in most cases, except for the north- and southbound directions between Ramada Road to Idylwood Road (between I-66 and I-495). Northbound International Drive from Route 7 to Chain Bridge Road includes the slowest transit travel speeds.

Table 5-9 | Simulated Peak Period Average Transit Travel Speeds

Direction	Segment	Existing Condition		Future No Build	
		AM	PM	AM	PM
Southbound Route 7	Spring Hill Rd to Westpark Dr	--	--	7.9	6.8
	Fashion Blvd to Ramada Rd	21.7	21.2	19.2	17.4
	Ramada Rd to Idylwood Rd	11.7	14.0	7.7	14.5
Northbound Route 7	Idlywood Rd to Ramada Rd	11.2	14.0	9.4	12.5
	Ramada Rd to Fashion Blvd	29.6	29.4	14.6	29.6
	Westpark Dr to Spring Hill Rd	--	--	11.3	5.7
Northbound International Dr	Route 7 to Chain Bridge Rd	8.5	4.3	3.8	3.4
Southbound International Dr	Chain Bridge Rd to Route 7	10.8	6.6	8.2	4.6

Source: Existing and Future No Build Traffic Models

5.4.4 Transit Reliability

Table 5-10 shows the standard deviation of bus travel times within the identified corridor segments. The higher the standard deviation, the wider the range of travel times relative to the average. The Future No Build simulation results indicate less reliable bus travel times than the Existing condition. While the morning peak period has the fastest transit travel speeds, the Future No Build simulation also shows that generally the variation of transit travel times are the highest during this period. Segments with the highest standard deviation include southbound Route 7 from Ramada Road to Idylwood Road in the AM, northbound Route 7 from Westpark Drive to Spring Hill Road in both AM and PM, and northbound International Drive from Route 7 to Chain Bridge Road in the both AM and PM.

Table 5-10 | Transit Reliability

Direction	Segment	Existing Condition		Future No Build	
		AM	PM	AM	PM
Southbound Route 7	Spring Hill Rd to Westpark Dr	--	--	0.6	0.6
	Fashion Blvd to Ramada Rd	0.3	0.4	0.1	0.4
	Ramada Rd to Idylwood Rd	0.6	0.8	1.5	0.5
Northbound Route 7	Idlywood Rd to Ramada Rd	0.3	0.4	0.9	0.4
	Ramada Rd to Fashion Blvd	0.1	0.1	0.7	0.1
	Westpark Dr to Spring Hill Rd	--	--	0.2	0.9
Northbound International Dr	Route 7 to Chain Bridge Rd	0.1	0.5	1.4	0.7
Southbound International Dr	Chain Bridge Rd to Route 7	0.1	0.2	0.2	0.3

Source: Existing Conditions and Future No Build Traffic Models

5.4.5 Transit Person Throughput

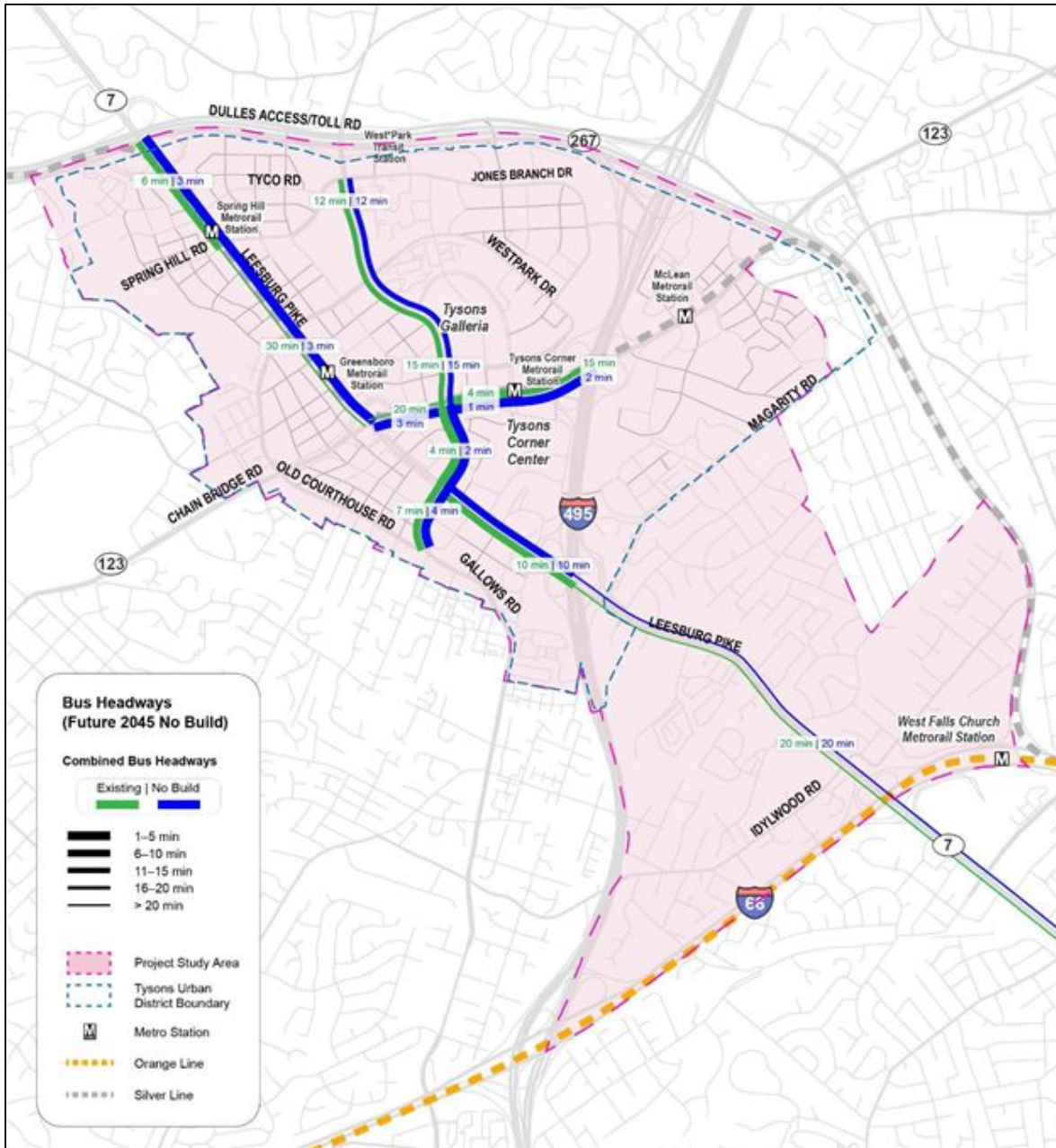
Transit person throughput quantifies the number of people using transit along the corridor. **Table 5-11** shows the projected number of persons using bus transit along the major corridors in the study area, excluding Metrorail. The locations listed below show a combined transit throughput in both directions. Further, **Figure 5-13** shows the projected combined peak period bus headways for all bus routes operating on the selected corridors. The segments where combined peak period bus headways are expected to be the highest coincide with the segments with the largest transit throughput. The segment along Route 7 between International Drive and Spring Hill Road is expected to see a large increase in bus transit services and are the segment with the largest transit person throughput in the study area. The other three segments are expected to see 50 to 100 percent increase in transit person throughput.

Table 5-11 | Combined Transit Person Daily Throughput (both directions)

Location	Existing Conditions	Future No Build	Percent Change (%)
Route 7 near Westpark Drive	--	3,062	N/A
International Drive near Tysons Blvd	920	1,645	79%
Route 7 near Fashion Boulevard	725	1,424	96%
Route 7 near Dominion Drive	1,525	2,385	56%

Source: Existing Conditions and Future No Build Travel Demand Models

Figure 5-13 | Existing and Future No Build Combined Bus Headways on Select Corridors



Source: Existing WMATA and Fairfax Connector Timetables; CLRP

5.5 Traffic Conditions

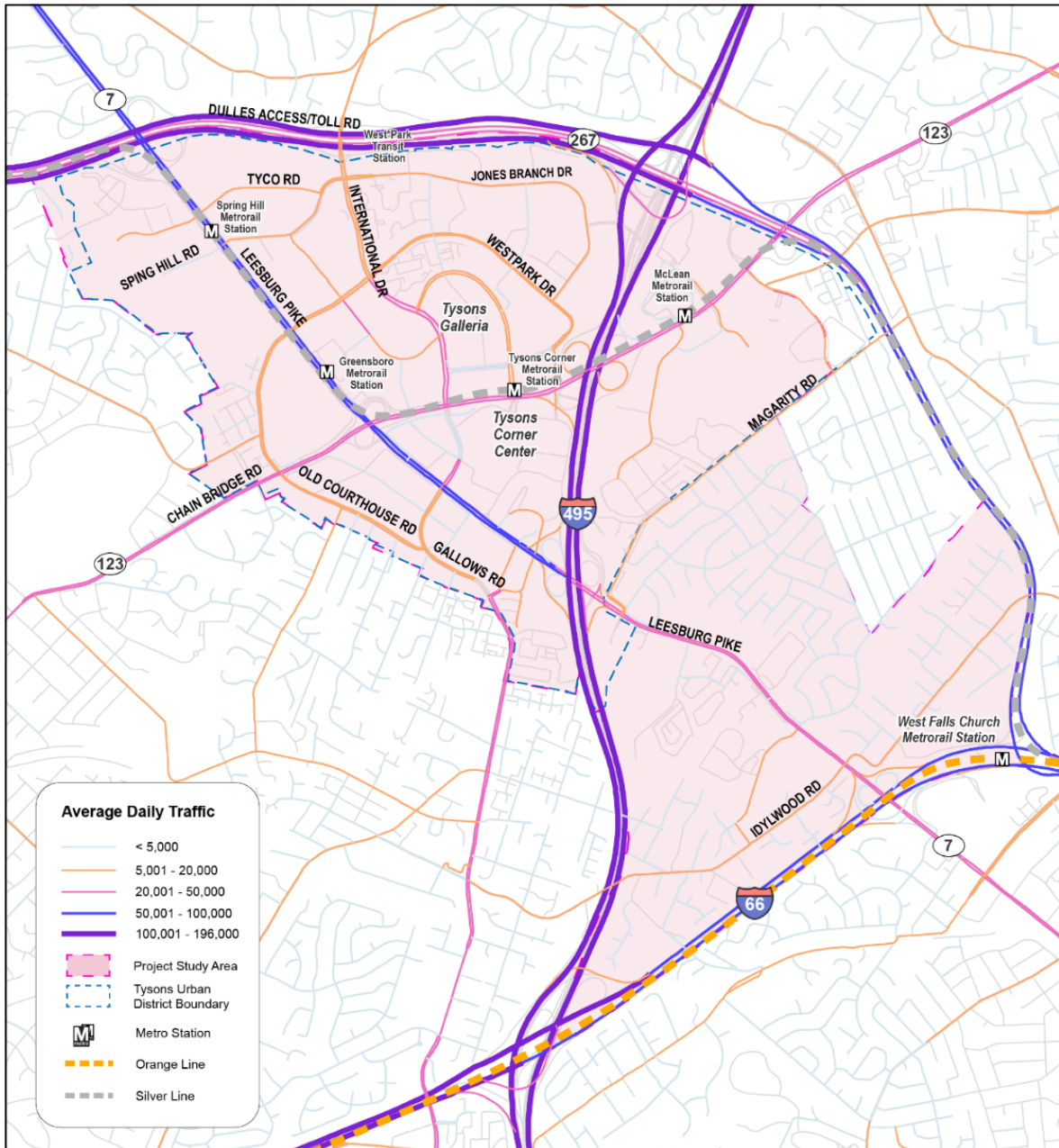
This section describes the Future No Build traffic conditions for the study area. Vehicle speeds, intersection delay, and several other MOEs give a full picture of traffic conditions in the study area.

5.5.1 Average Daily Traffic Volumes

Roadways within the study area consist of highly trafficked arterials and highways to low and medium-trafficked local streets and collectors. High-traffic-volume roads (greater than 50,000 ADT) consist of I-495, Dulles Toll Road, I-66 and the northern half of Route 7. Route 7 maintains a higher average volume north of I-495 than south of I-495. Roads within Tysons Urban Boundary show medium volume (20,000 – 50,000 ADT) roadways and some lower volume (less than 20,000 ADT) roadways. The neighborhoods surrounding the project study area are lower volume with the exception of some collector roads.

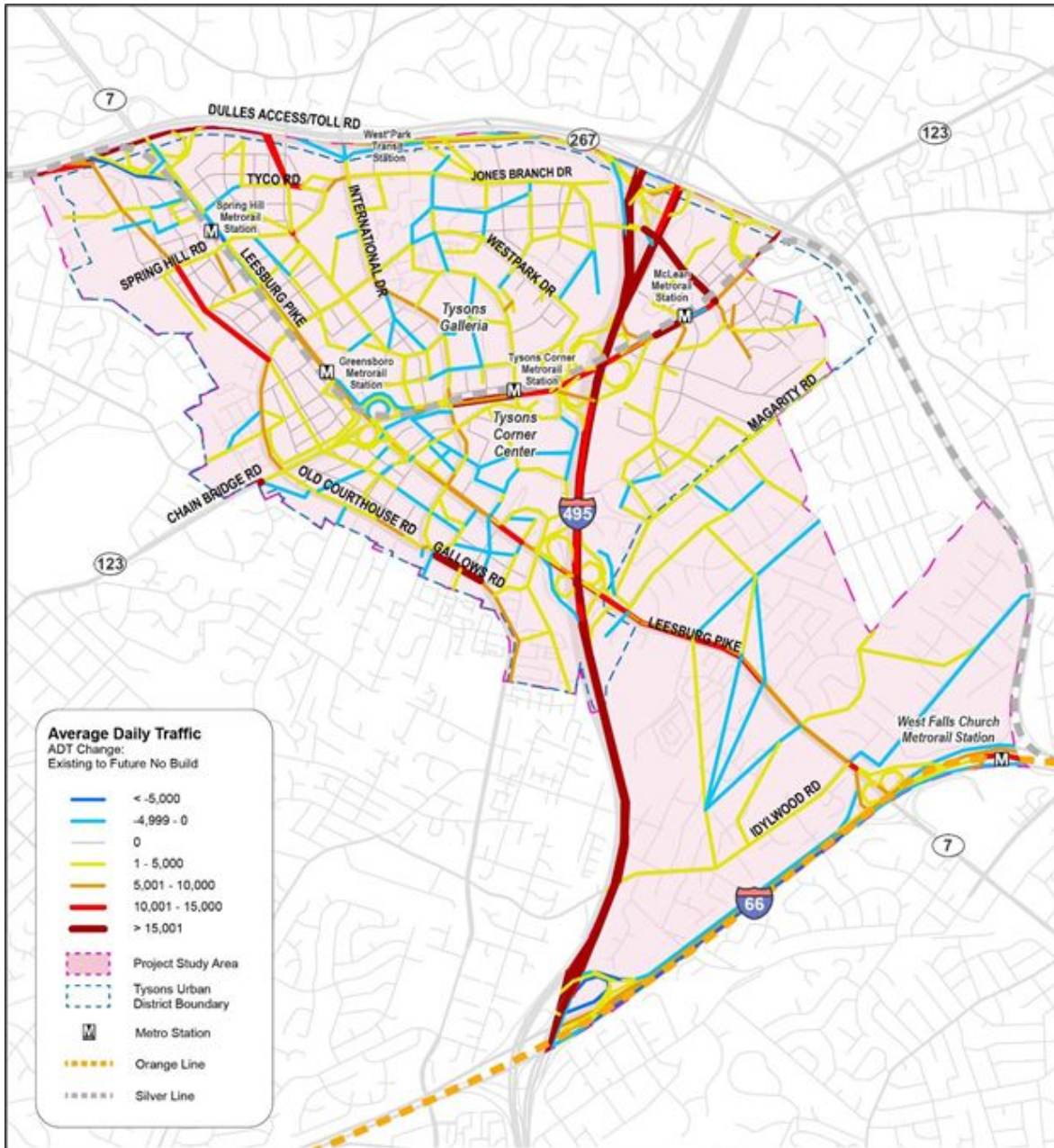
A comparison of the Existing conditions and Future No Build traffic volumes suggests the new grid of streets, specifically the Boone Boulevard extension and the Greensboro Drive extension and toll ramp, disperses the travel volumes from Route 7 to these new parallel corridors, particularly near the Spring Hill Road intersection. Roadways such as I-495, Chain Bridge Road, and Leesburg Pike (near the beltway) gain significant traffic volumes. Other minor roadways see a slight decrease in traffic volumes (less than 5,000 vehicles per day). Future No Build daily traffic volumes are seen in **Table 5-15** and changes from the Existing are seen in **Figure 5-15**.

Figure 5-14 | Average Daily Traffic Volumes - July 2019



Source: Virginia Department of Transportation (VDOT), July 2019

Figure 5-15 | Daily Traffic Volumes Change from Existing



Source: Existing Conditions and Future No Build Travel Demand Models

5.5.2 Person Throughput

Person throughput is an MOE used to quantify the number of people being moved on a corridor during a specific time period. This MOE accounts for people traveling in automobiles (as either drivers or passengers) and in buses. shows a comparison of the daily person throughput at four key locations in the study area for the Existing Conditions and the Future No Build. Additionally, **Table 5-13** shows the average peak hour directionality of the person throughput.

Overall, person throughput increases during both peak periods as well as in the off-peak for both southbound and northbound directions. The largest percentage increases occur on Southbound Route 7 near Fashion Boulevard (59% - AM; 39% - PM) and Northbound Route 7 near Dominion Drive (62% - AM; 70% - PM). International Drive near Tysons Boulevard experiences an overall 23 percent decrease in total daily throughput which is likely a result of new grid connections providing alternative route options, particularly for southbound PM peak trips.

Table 5-12 | Daily Person Throughput for Selected Locations

Location	Existing	Future No Build
Route 7 near Westpark Drive	97,850	108,045
International Drive near Tysons Blvd	48,010	36,944
Route 7 near Fashion Boulevard	89,080	111,707
Route 7 near Dominion Drive	58,720	71,407

Source: Existing Conditions and Future No Build Travel Demand Models

Table 5-13 | Average Hourly Peak Person Throughput by Direction

Location	Existing			Future No Build		
	Southbound	Northbound	Total	Southbound	Northbound	Total
AM Peak Hour						
Route 7 near Westpark Drive	2,441	2,405	4,846	2,827	2,736	5,563
International Drive near Tysons Blvd	629	1,446	2,075	706	1,719	2,425
Route 7 near Fashion Boulevard	1,619	2,860	4,479	2,567	2,960	5,527
Route 7 near Dominion Drive	1,481	1,417	2,898	2,007	2,296	4,303
PM Peak Hour						
Route 7 near Westpark Drive	2,808	2,461	5,269	2,930	2,918	5,848
International Drive near Tysons Blvd	2,617	1,192	3,809	1,864	1,513	3,377
Route 7 near Fashion Boulevard	2,462	2,534	4,996	3,416	2,977	6,393
Route 7 near Dominion Drive	2,404	1,501	3,905	2,619	2,553	5,172

Source: Existing Conditions and Future No Build Travel Demand Models

5.5.3 Corridor Travel Speed

Average corridor travel speeds were simulated for each direction during the AM and PM peak periods for Route 7 and International Drive. As seen in **Table 5-14**, average corridor travel speeds are slower in the Future No Build compared to the Existing Conditions, except for southbound Route 7 in the PM peak period which may be due to the planned road widening. AM travel speeds decreases range from 5 to 10 mph.

Table 5-14 | Average Travel Speeds (mph)

Direction	Existing Condition		Future No Build	
	AM	PM	AM	PM
Southbound Route 7	22.9	15.0	15.8	16.1
Northbound Route 7	23.6	17.5	14.5	17.7
Northbound International Dr	19.1	13.8	10.8	8.1
Southbound International Dr	23.1	19.2	18.1	12.3

Source: Existing Condition and Future No Build Traffic Models

5.5.4 Intersection Operations

Intersection Level of Service is calculated based on the amount of vehicle delay occurring at an intersection. Within the Tysons Urban District Boundary, intersection LOS of E or better is deemed to be acceptable; outside of this area, LOS D or better is deemed acceptable. Thirty-three (33) critical intersections were selected in the study based on their proximity to Route 7, their traffic volume, and their likelihood of being part of the future BRT route alignment. Based on field data collected in May 2018, these intersections were evaluated for morning peak and afternoon peak traffic operations. These measurements provide multiple evaluations that may provide crucial insight for future decisions on design alternatives such as bus lane placement, bus and turn lanes (as a reminder, BAT lanes are lanes dedicated to buses, right-turn movements, or business entrance only), or areas for the BRT alignment to avoid.

The map in **Figure 5-16** shows the morning and evening peak hour level of service (LOS) for critical intersections in the study area. The intersection of Route 7 at Gosnell Road/Westpark Drive is the only location to experience a LOS² of E or F during the morning peak hour. More intersections operate at LOS E or F during the evening peak hour, although all are within the Tysons Urban Boundary. The LOS for each intersection is also highlighted in **Figure 5-17**.

For this Future No Build analysis, six additional intersections were added to the study beyond the Existing Conditions evaluation to more thoroughly evaluate the plan to introduce a more urban street grid in Tysons. The intersection operations results comparing the Existing conditions to the Future No Build are provided in **Table 5-15**, **Table 5-16**, **Figure 5-16**, **Figure 5-17**, **Figure 5-18**. Detailed intersection turning movement results including delay, LOS, and maximum queue lengths can be found in **Appendix C**.

In the Future No Build scenario, intersection delay generally increases at most intersections, resulting in degraded LOS for some intersections. Even at intersections in which the through volumes on Route 7

² LOS values correspond to Highway Capacity Manual LOS for calculated VISSIM delays.

decrease (due to the additional streets and a more enhanced grid), intersection LOS deteriorates due to considerable increase in volumes on the minor roads crossing Route 7.

During the AM peak hour for the Existing conditions, none of the intersections operate with LOS F compared to five intersections in the Future No Build. Intersections operating with LOS F are generally located in the northwest area of the study area on Leesburg Pike Westpark Drive, Westpark Drive and Greensboro Drive, and along Chain Bridge Road at Old Courthouse Road, International Drive, and Tysons Boulevard.

During the PM peak hour, the increase in the number of intersections operating with LOS F is less pronounced compared to the AM peak hour (three intersections in the existing conditions and six in the Future No Build). These intersections are generally in the same area as in the AM – near Route 7 and Spring Hill Road, Tyco Road, Westpark Road, and along International Drive and Chain Bridge Road.

Table 5-15 | Study Area Intersection Average Vehicle Delay and Level of Service in 2045

Intersection Number	Intersection Cross Streets	Existing		Future No Build	
		AM	PM	AM	PM
1	Rt 7 & Tyco Rd	46.8	62.5	67.2	78.4
2	Rt 7 & Spring Hill Rd	36.1	62.7	39.5	78.6
3	Rt 7 & Westpark Dr	48.4	84.0	138.6	129.0
4	Rt 7 & Chain Bridge Rd SB	5.7	12.9	21.3	27.3
5	Rt 7 & Chain Bridge Rd NB	5.0	13.4	13.5	3.8
6	Rt 7 & International Dr	48.5	79.6	60.6	59.8
7	Rt 7 & Fashion Blvd	17.9	41.1	30.9	38.2
8	Rt 7 & Old Gallows Rd	6.0	18.4	8.7	11.7
9	Rt 7 & I-495 SB	2.1	17.0	13.5	11.3
10	Rt 7 & I-495 NB	19.4	11.0	18.7	19.7
11	Rt 7 & Lisle Ave/Ramada Rd	35.0	32.9	39.1	44.9
12	Rt 7 & Marshall HS Driveway	2.1	3.9	6.4	2.4
13	Rt 7 & George Marshall Dr	22.9	24.2	22.7	16.0
14	Rt 7 & Dominion Dr	3.0	2.6	16.3	1.7
15	Rt 7 & Patterson Rd	10.1	10.0	28.6	7.8
16	Rt 7 & Pimmit Dr	27.2	28.4	82.4	27.4
17	Rt 7 & Idylwood Rd	39.8	34.2	42.0	27.1
18	Rt 7 & I-66 SB	15.9	12.1	14.8	11.4
19	Rt 7 & I-66 NB	10.1	4.2	3.3	4.8
20	Gallows Rd & Old Court House Rd	23.3	73.2	33.2	93.7
21	International Rd & Tysons One Pl	7.4	42.0	69.3	56.0
22	International Dr & Chain Bridge Rd	46.1	59.6	99.8	57.3
23	International Dr & Galleria Dr	7.0	3.2	6.5	4.2
24	International Dr & Greensboro Dr	26.4	24.9	24.0	25.2
25	International Dr & Tysons Blvd	18.1	17.6	20.1	24.6
26	International Dr & Westpark Dr	36.5	80.6	43.2	81.3
27	International Dr & Jones Branch Dr	43.6	45.8	61.9	87.8
28	Spring Hill & Tyco Rd	9.9	13.0	26.9	34.6
29	Spring Hill Rd & Greensboro Dr	24.1	32.2	51.3	94.3
30	Chain Bridge Rd & Old Courthouse Rd	48.2	63.4	105.0	117.8
31	Tysons and Chain Bridge Rd	23.2	44.5	79.0	98.8
32	International Dr & Fletcher St	9.0	21.2	18.6	38.9
33	Westpark Dr & Greensboro Dr	33.1	90.5	161.8	109.9
34	Rt 7 & New Street	--	--	8.0	1.4
35	Rt 7 & Broad Street	--	--	34.7	36.9
36	Chain Bridge Rd & Rt 7 South	--	--	7.8	22.0
37	Chain Bridge Rd & Rt 7 North	--	--	21.2	28.6
38	Chain Bridge Rd & Rt 7	--	--	27.7	14.3
39	Tyco Rd & Greensboro Dr	--	--	30.0	76.4

LOS: Green – A, B, C; Yellow – D; Orange – E Red - F

---- Tysons Urban District Boundary Intersections

Source: Existing Conditions and Future No Build Traffic Models

Table 5-16 | Study Area Intersection Average Vehicle Delay and Level of Service in 2045

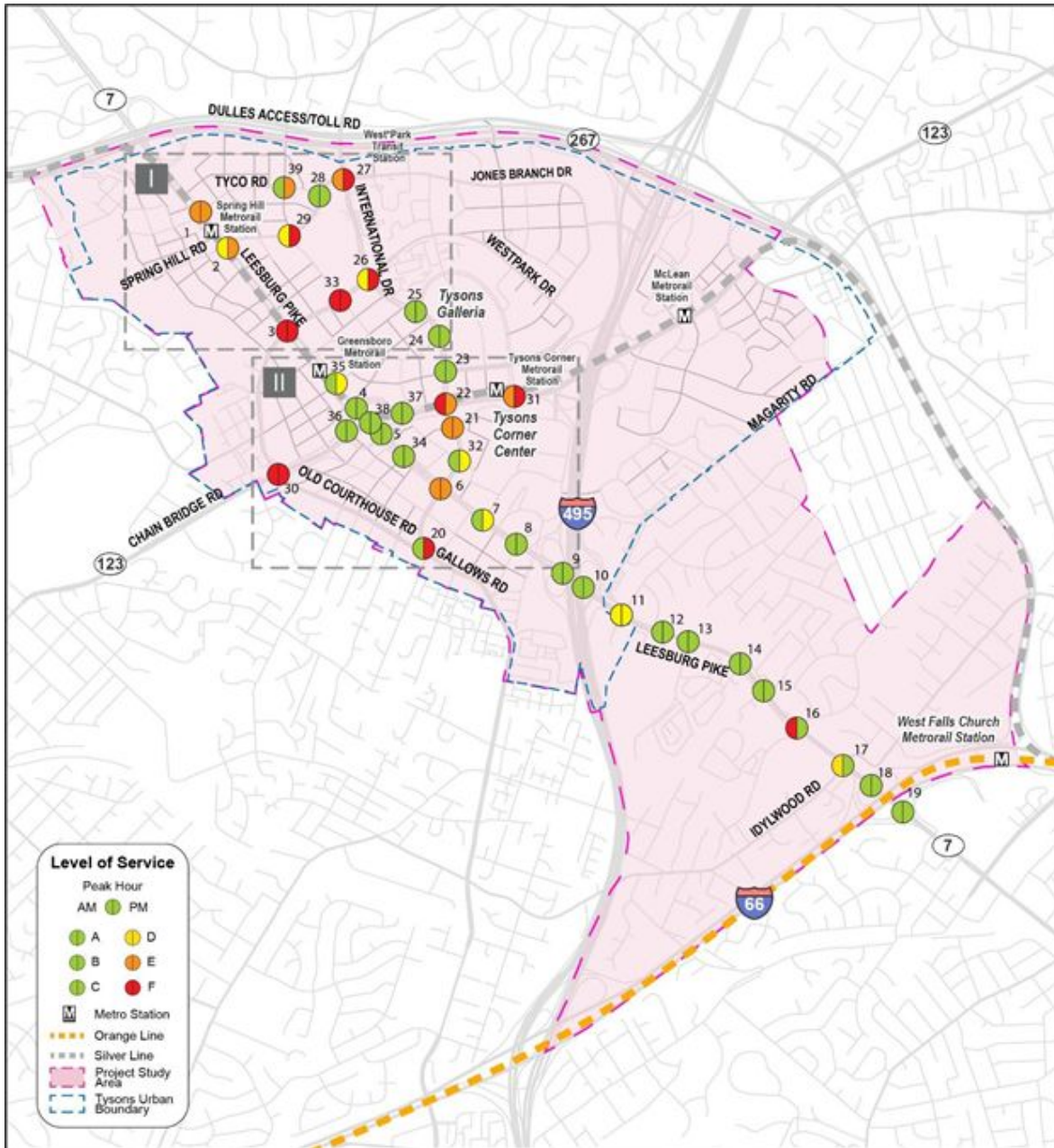
Intersection Number	Intersection Cross Streets	Existing		Future No Build	
		AM	PM	AM	PM
1	Rt 7 & Tyco Rd	D	E	E	E
2	Rt 7 & Spring Hill Rd	D	E	D	E
3	Rt 7 & Westpark Dr	D	F	F	F
4	Rt 7 & Chain Bridge Rd SB	A	B	C	C
5	Rt 7 & Chain Bridge Rd NB	A	B	B	A
6	Rt 7 & International Dr	D	E	E	E
7	Rt 7 & Fashion Blvd	B	D	C	D
8	Rt 7 & Old Gallows Rd	A	B	A	B
9	Rt 7 & I-495 SB	A	B	B	B
10	Rt 7 & I-495 NB	B	B	B	B
11	Rt 7 & Lisle Ave/Ramada Rd	C	C	D	D
12	Rt 7 & Marshall HS Driveway	A	A	A	A
13	Rt 7 & George Marshall Dr	C	C	C	B
14	Rt 7 & Dominion Dr	A	A	B	A
15	Rt 7 & Patterson Rd	B	A	C	A
16	Rt 7 & Pimmit Dr	C	C	F	C
17	Rt 7 & Idylwood Rd	D	C	D	C
18	Rt 7 & I-66 SB	B	B	B	B
19	Rt 7 & I-66 NB	B	A	A	A
20	Gallows Rd & Old Court House Rd	C	E	C	F
21	International Rd & Tysons One Pl	A	D	E	E
22	International Dr & Chain Bridge Rd	D	E	F	E
23	International Dr & Galleria Dr	A	A	A	A
24	International Dr & Greensboro Dr	C	C	C	C
25	International Dr & Tysons Blvd	B	B	C	C
26	International Dr & Westpark Dr	D	F	D	F
27	International Dr & Jones Branch Dr	D	D	E	F
28	Spring Hill & Tyco Rd	A	B	C	C
29	Spring Hill Rd & Greensboro Dr	C	C	D	F
30	Chain Bridge Rd & Old Courthouse Rd	D	E	F	F
31	Tysons and Chain Bridge Rd	C	D	E	F
32	International Dr & Fletcher St	A	C	B	D
33	Westpark Dr & Greensboro Dr	C	F	F	F
34	Rt 7 & New Street	--	--	A	A
35	Rt 7 & Broad Street	--	--	C	D
36	Chain Bridge Rd & Rt 7 South	--	--	A	C
37	Chain Bridge Rd & Rt 7 North	--	--	C	C
38	Chain Bridge Rd & Rt 7	--	--	C	B
39	Tyco Rd & Greensboro Dr	--	--	C	E

LOS: Green – A, B, C; Yellow – D; Orange – E Red - F

---- Tysons Urban District Boundary Intersections

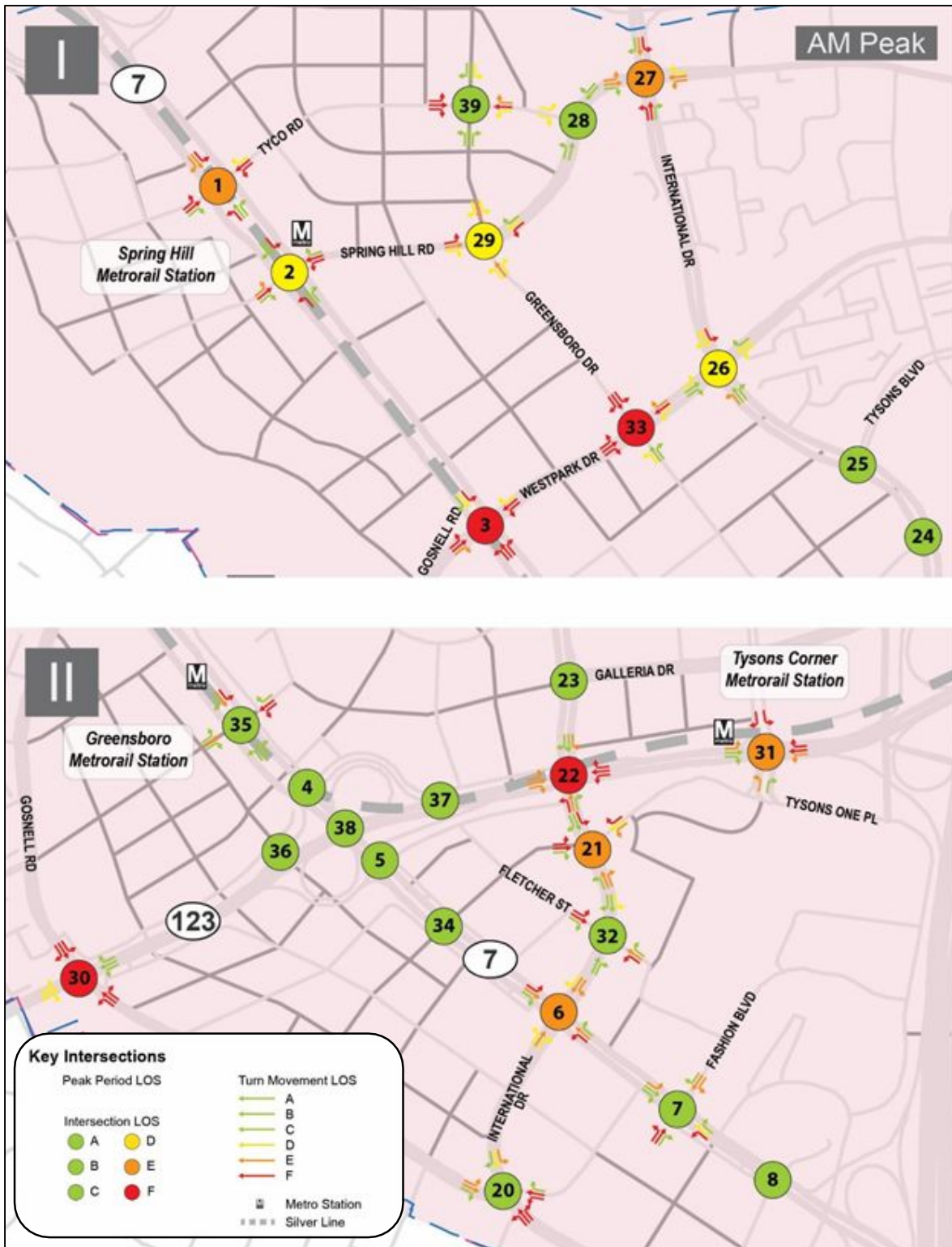
Source: Existing Conditions and Future No Build Traffic Models

Figure 5-16 | Future No Build Level of Service (LOS)



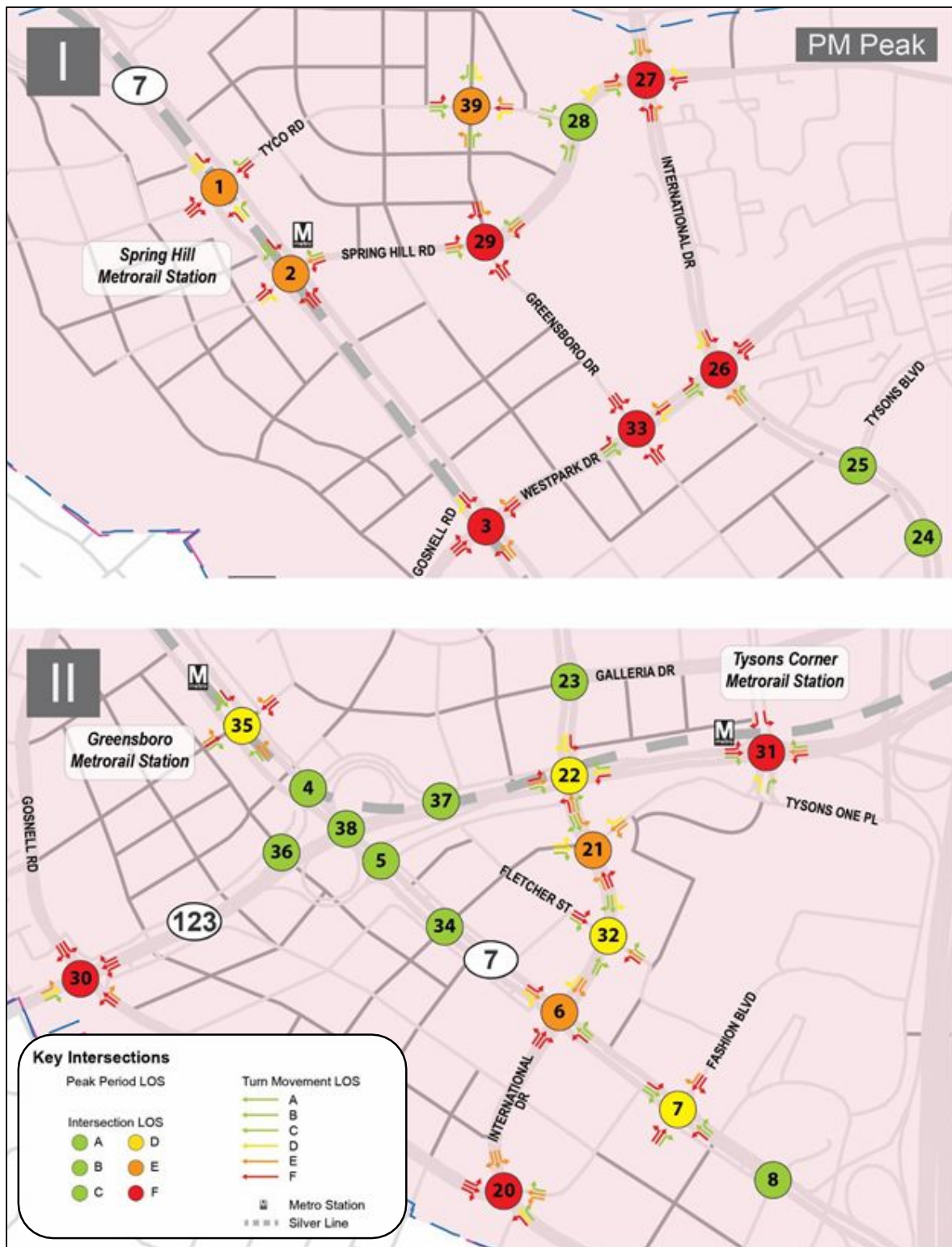
Source: Future No Build Traffic Models

Figure 5-17 | Future No Build Intersection LOS Inset Maps (AM Peak)



Source: Future No Build Traffic Models

Figure 5-18 | Future No Build Intersection LOS Inset Maps (PM Peak)



Source: Future No Build Traffic Models

5.5.5 Vehicle Miles Traveled (VMT) and Vehicle Hours Traveled (VHT)

Table 5-17 shows the daily vehicle miles traveled (VMT) and vehicle hours traveled (VHT) for the study area over one 24-hour period for the Future No Build. Overall, daily total VMT increase by 15 percent and VHT increases by 28 percent.

Table 5-17 | Vehicle Miles Traveled and Vehicle Hours Traveled for the Study Area, 24-hour period

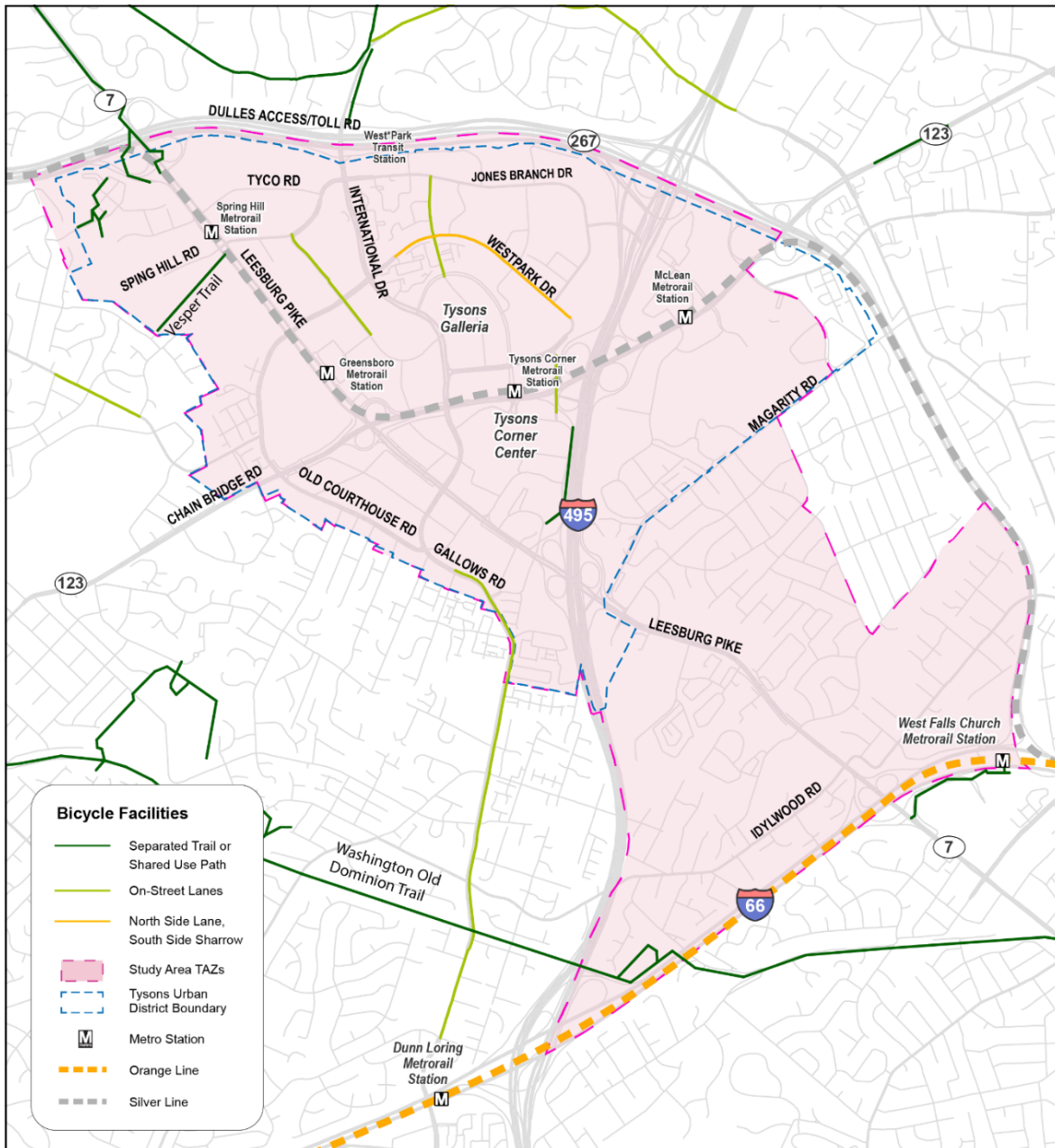
		AM Peak Period	PM Peak Period	Off Peak Period	Daily Total
VMT	Existing Conditions	308,200	439,370	771,400	1,518,970
	Future No Build	340,624	463,679	945,003	1,749,306
VHT	Existing Conditions	11,060	15,120	25,050	51,230
	Future No Build	14,840	18,842	31,859	65,541

Source: Existing Conditions and Future No Build Travel Demand Models

5.6 Bicycle and Pedestrian Facilities

Tysons and the surrounding area have few bicycle facilities as shown in **Figure 5-19**. The most substantial facilities exist to the south and north of the study area, where separated trails connect neighborhoods, schools, and parks. Several roadways feature on-street lanes, but these are not consistent, nor are they connected. These facilities do not constitute a bicycle network; cyclists in the study area likely rely heavily on vehicle lanes and sidewalks for completing trips.

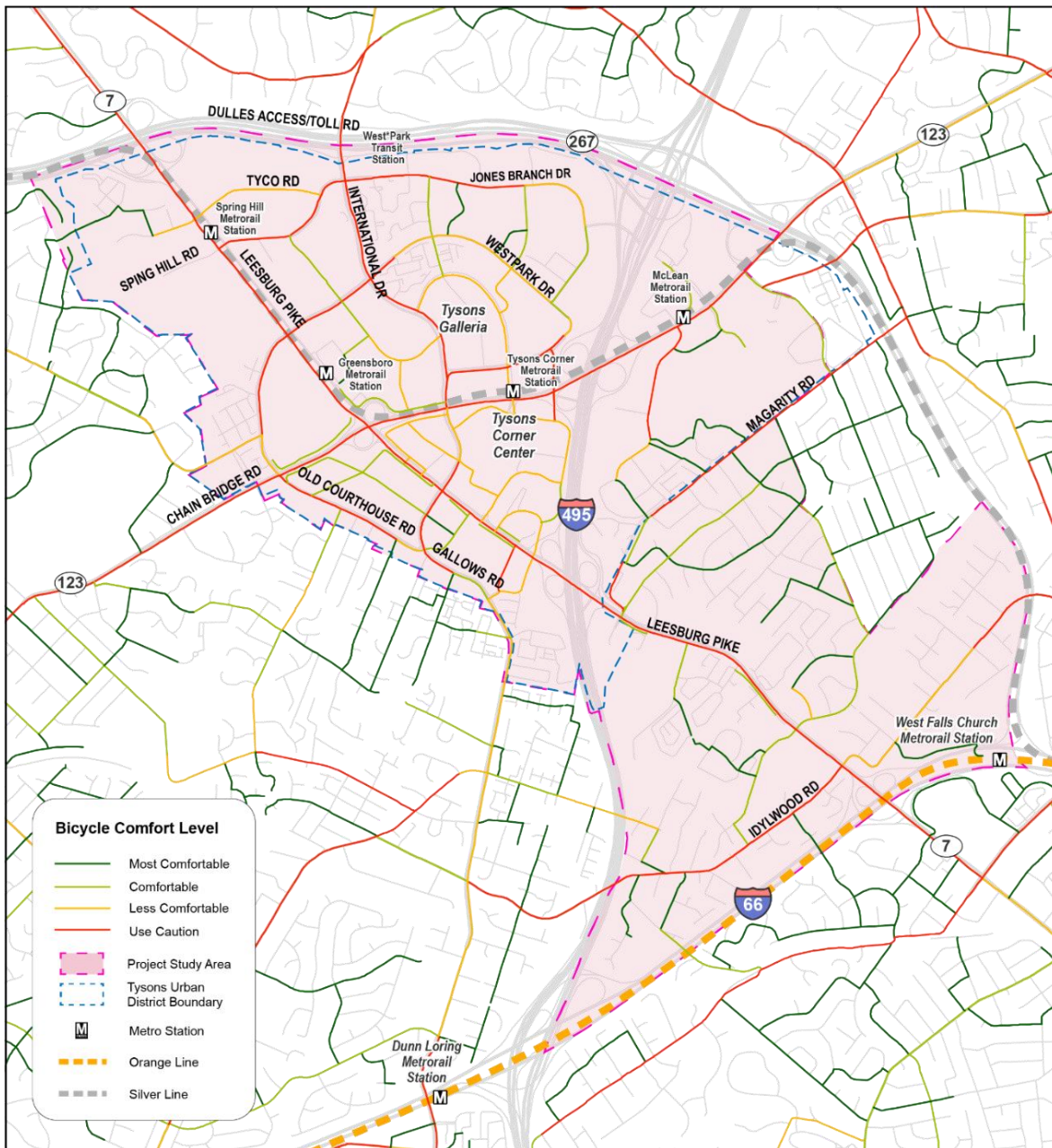
Figure 5-19 | Study Area Bicycle Facilities



Source: Fairfax County, Google Maps

Figure 5-20 shows cyclist comfort level on the roadway as identified by Fairfax County Department of Transportation. Cyclist comfort is not synonymous with the presence of dedicated bicycle facilities. For example, some roads with adjacent shared paths are labeled as uncomfortable because there is no dedicated bicycle facility on the roadway specifically. Additionally, some of the most comfortable roads have no bicycle facilities, but have fewer lanes, lower speed limits, and less traffic. Most roadways within the study area are at a low comfort level for cyclists.

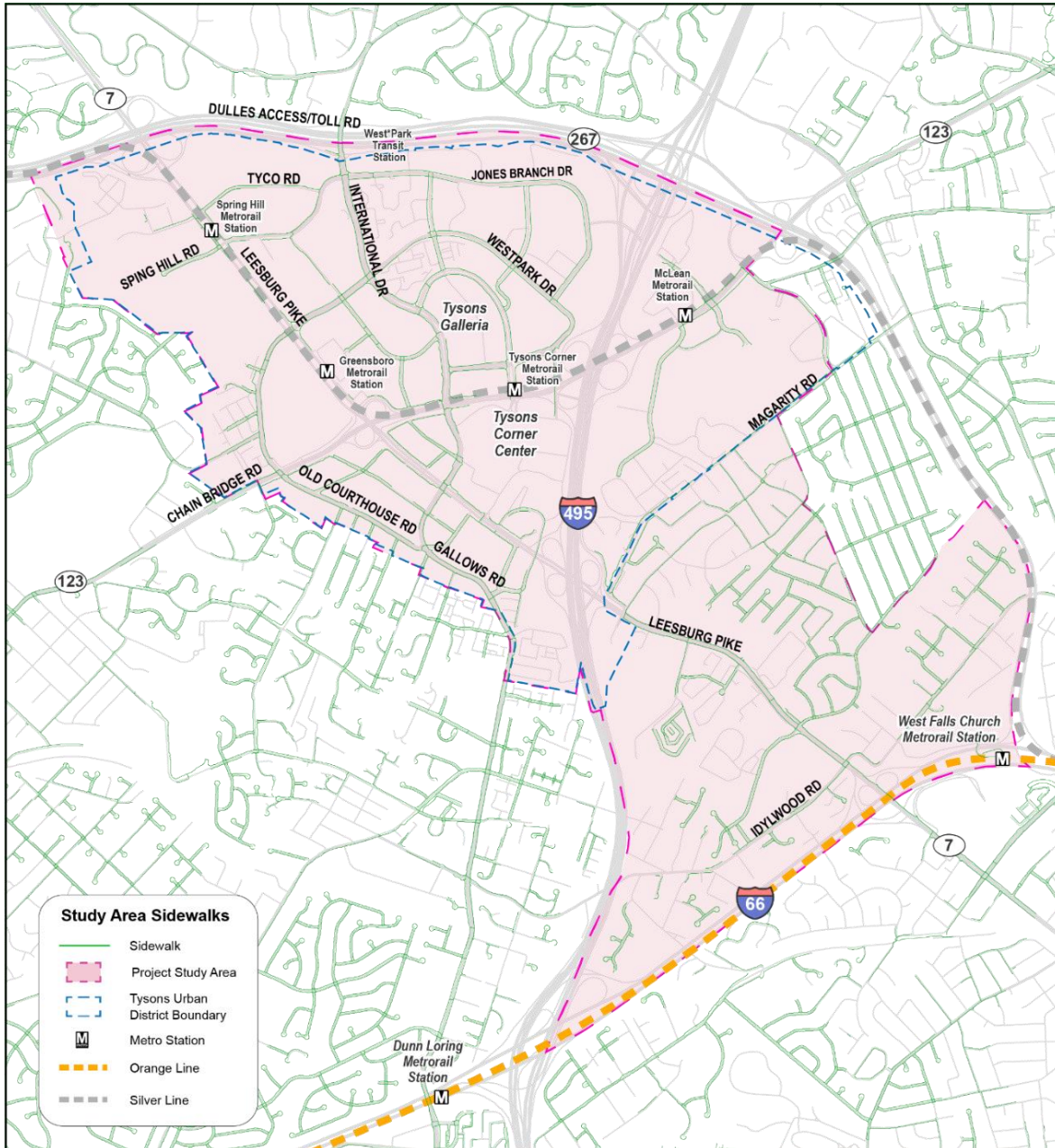
Figure 5-20 | Study Area Roadway Cycling Comfort Level



Source: Fairfax County DOT

Figure 5-21 shows the sidewalk coverage in comparison to the existing roadway network. While mostly complete, some specific neighborhoods and areas more central to the study area are currently missing substantial sidewalk coverage.

Figure 5-21 | Study Area Sidewalk Coverage



Source: Fairfax County DOT

5.6.1 Pedestrian Crossing Times

Pedestrian crossing times were obtained from the simulation model for the existing and Future No Build conditions at seven key intersections along Route 7 and International Drive as listed below:

- Route 7 & Patterson Road,
- Route 7 & Fashion Boulevard,
- Route 7 & International Drive,
- Route 7 & Westpark Drive
- Route 7 & Spring Hill Road
- International Drive & Fletcher Street
- International Drive & Greensboro Drive

These intersections were chosen due to their high pedestrian activity and potential BRT station locations.

Table 5-18 provides a summary of the average pedestrian crossing distances and crossing times across the mainline (i.e., Route 7 or International Boulevard) for the Existing and the Future No Build conditions. Crossing times include both the experienced signal delay and the actual time to cross the mainline. Note that some crossing distances have increased in the Future No Build due to planned roadway widening projects. In general, shorter cycle lengths (ideally less than 90 seconds) and longer walk intervals provide better service to pedestrians, encourage better signal compliance, and improve pedestrian safety. Existing and Future No Build pedestrian crossing times of Route 7 approach exceed 2.5 minutes in both the AM and PM at all locations, with the Spring Hill Drive intersection having the longest average crossing time. The Existing and Future No Build pedestrian crossing times for International Drive range from 1.5 to 2 minutes.

Table 5-18 | Corridor Pedestrian Crossing Times

Corridor	Intersection	Existing			Future No Build		
		Crossing Distance (ft)	AM (mins)	PM (mins)	Crossing Distance (ft)	AM (mins)	PM (mins)
Route 7	Patterson Rd	120	2.2	2.2	130	2.4	2.2
	Fashion Blvd	165	2.3	2.3	175	2.3	2.4
	International Dr	165	2.2	2.4	175	2.3	2.4
	Westpark Dr	225	2.7	2.9	225	2.6	2.4
	Spring Hill Rd	230	2.6	2.7	230	2.7	2.7
International Dr	Fletcher St	105	1.3	1.6	105	2.3	2.1
	Greensboro Dr	145	2.0	2.1	145	1.6	2.1

Source: Existing Conditions and Future No Build Traffic Models

5.7 Existing Conditions and No Build Summary

Table 5-19 compares the Future No Build scenario against the Existing condition of the study area. The following provides a summary of the major findings from the comparison of the two scenarios:

- The residential population is forecast to grow approximately 175 percent (+60,000 residents) by 2045 in the Future No Build scenario. Growth is concentrated along the Silver Line Metrorail corridor, especially adjacent to Route 7. Low residential population growth is characteristic of areas that currently comprise office buildings, retail destinations, and transportation infrastructure such as highways.
- The number of households is forecast to grow approximately 197 percent (+32,000 households) by 2045 in the Future No Build scenario. Household growth is slightly greater than population growth, which suggests a decrease in the average household size.
- Employment is forecast to grow approximately 70 percent (+67,000 jobs) by 2045 in the Future No Build scenario. Employment growth is inconsistent throughout the study area, but job density are concentrated along the Silver Line Metrorail corridor and Route 7.
- Likely a result of an integrated land use policy, population and employment density will increase in the same areas, notably around the four Metrorail stations.
- Overall transit ridership is expected to increase 290 percent (+27,000 riders) by 2045 in the Future No Build scenario. This coincides with a 3.7 percent increase in transit mode share. Approximately two-thirds of transit ridership growth is attributable to the increase in Metrorail ridership. Proposed new bus services support significant growth in bus ridership.
- The Future No Build scenario suggests slower transit travel speeds and less reliable service compared to the Existing Conditions. Overall, transit person throughput will increase between 50 to 100 percent.
- A comparison of the traffic volumes suggests the new grid of streets, specifically the Boone Boulevard extension and the Greensboro Drive extension and toll ramp, disperses the travel volumes from Route 7 to these new parallel corridors. Even with through volumes on Route 7 decreasing, intersection LOS deteriorates due to significant increases in volumes on the minor roads crossing Route 7.
- Person throughput—automobiles and buses—increases approximately 15 percent (+15,000 persons) during both peak periods. This is despite corridor travel times slowing and the study area experiencing greater intersection delays in the Future No Build scenario (5 LOS F in AM Peak/6 LOS F in PM Peak).
- Greater vehicle volumes lead to increase in VMT and VHT in the Future No Build scenario. Vehicle hours increase at a higher rate than vehicle miles, indicating slower vehicle speeds and increased congestion.
- Pedestrian crossing times for Route 7 generally approach or exceed 2.5 minutes at all locations, with Spring Hill Drive having the longest average pedestrian crossing time. Pedestrian crossing times for International Drive are lower at around 1.5 to 2 minutes on average.

Table 5-19 | Existing - Future No Build Comparison Summary Matrix

Measure of Effectiveness	Scenario Comparison	
	Existing Conditions	Future No Build 2045
Goal: Access and Mobility – Provide choices through accessible transit service		
Objective: Serve population, employment, and activity centers with BRT		
Population in Study Area	35,600	97,800
Households in Study Area	16,400	48,500
Employment in Study Area	96,000	163,400
Land Use/Activity Centers	--	Clusters of high density, mixed-used surrounding four Metrorail stations
Goal: Transportation Network Performance - Ensure efficient movement of people and goods		
Objective: Increase Corridor Transit Usage		
Transit Ridership in Study Area	9,500	37,000
Transit Mode Share	4.9%	8.6%
Objective: Improve Transit Operations in Corridor		
Bus Travel Speeds (mph) – min / max	AM: 8.5 / 29.6 PM: 4.3 / 29.4	AM: 3.8 / 19.2 PM: 3.4 / 29.6
Bus Reliability (st. dev) – min / max	AM: 0.1 / 0.6 PM: 0.1 / 0.8	AM: 0.1 / 1.5 PM: 0.1 / 0.9
Transit Throughput (max persons)	1,525 (Route 7 at Dominion Dr)	3,062 (Route 7 at Westpark Dr)
Objective: Maintain acceptable transportation network performance for all modes		
Total Corridor Person Throughput (max persons)	97,850 (Route 7 at Westpark Dr)	111,707 (Route 7 at Fashion Blvd)
Automobile Travel Speed (mph) – min / max	AM: 16.0 / 30.6 PM: 10.8 / 31.0	AM: 10.8 / 18.1 PM: 8.1 / 17.7
Automobile Intersection Delay – Average	AM: 23.0 PM: 35.4	AM: 41.0 PM: 43.7
Automobile Intersection LOS – No. Failing Intersections	AM: 0 PM: 3	AM: 5 PM: 6
Goal: Protect and improve environmental resources		
Objective: Minimize negative impacts to the natural environment		
Change in VMT/VHT in Study Area	VMT: 1,518,970 VHT: 51,230	VMT: 1,749,306 (+15%) VHT: 65,541 (+28%)
Goal: Improve safety for all roadway users		
Objective: Improve the pedestrian environment in the study corridor		
Pedestrian Crossing Times (Avg Corridor Crossing – AM/PM)	Route 7: 2.4 / 2.5 mins International Dr: 1.7 / 1.9 mins	Route 7: 2.5 / 2.4 mins International Dr: 1.5 / 2.1 mins

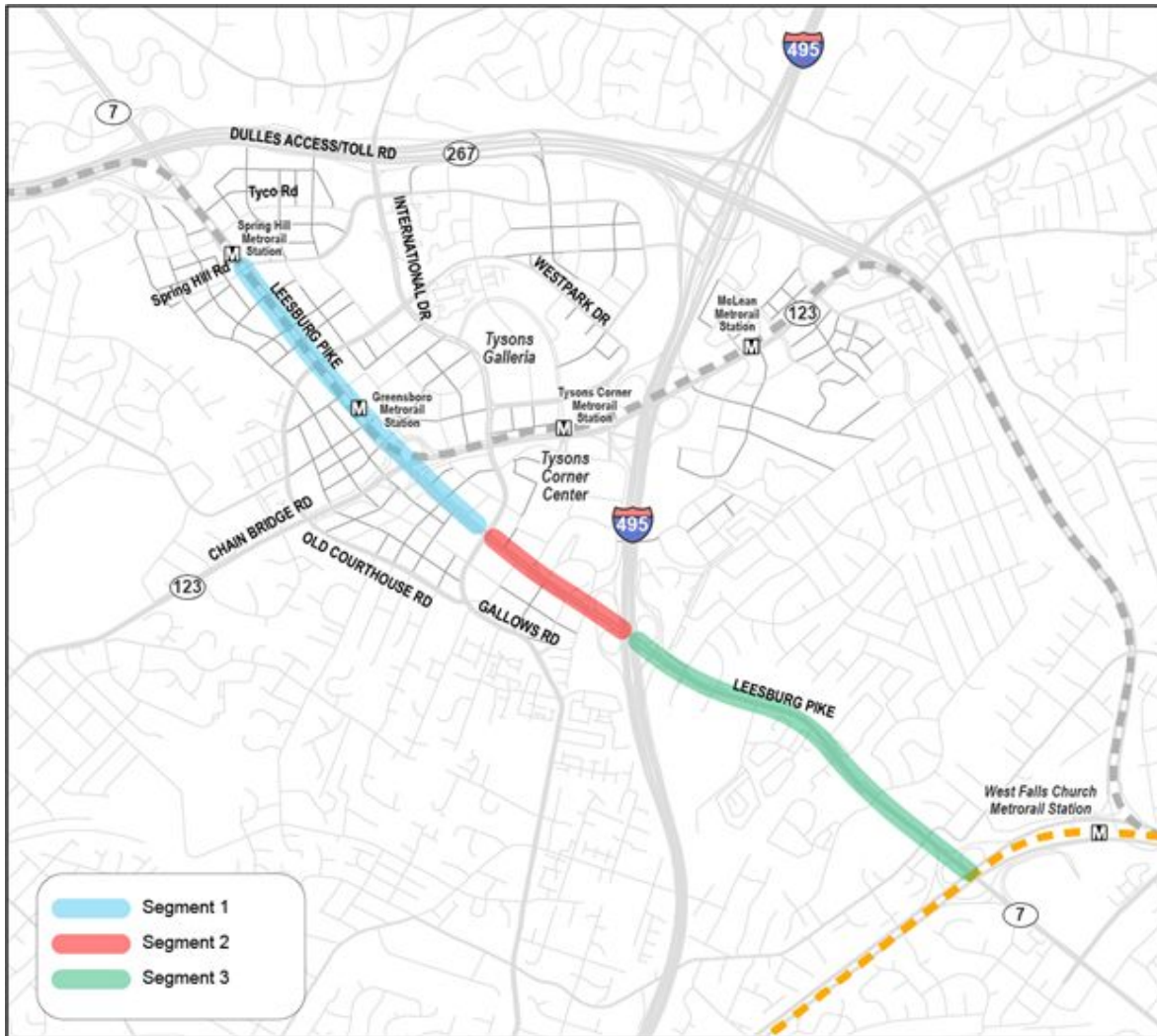
6 Alternatives Development

As an initial phase in the analysis of alternatives for the Tysons Route 7 BRT, FCDOT and the project team brainstormed a large number of potential alternatives to be sure that the full range of possible options related to routing, alignment, and cross-section have been considered. Nine of the most promising alternatives were carried into the Assessment Phase, during which each was analyzed across several Measures of Effectiveness (MOEs). This analysis was used to help cull the number of possible alternatives and develop and refine three complete end-to-end alternatives that were carried forward to the Evaluation Phase of the study. The Assessment Phase includes qualitative and quantitative analyses on the potential costs and benefits of each alternative. More detailed analysis, including travel demand modeling and VISSIM traffic simulation were conducted as part of the Evaluation Phase. The results of the Alternatives Assessment are presented in the following section.

The project team held an Alternatives Development Workshop in April 2019 to discuss the options for developing a range of BRT alternatives for the study. Together with FCDOT and other project stakeholders, the project team developed nine alternatives for study that include options for routing, alignment, and street cross-section. Details of the discussion and results of that workshop are documented in the Alternatives Development Workshop Meeting Minutes (May 2019). These meeting minutes can be found in **Appendix D**.

The corridor alternatives are separated by segment as shown in **Figure 6-1**. Alternatives 1 through 6 are for Segment 1 and Alternatives 7 through 9 are for Segments 2 and 3. At the culmination of the Assessment Phase, the preferred features - including routing, alignment, and cross-sections - were combined to create three end-to-end alternatives across these segments. Transitions between different alignments and cross-sections were studied in greater detail in the Evaluation Phase.

Figure 6-1 | Alignment Segments



6.1 Alternative 1/Segment 1

Route 7 from International Drive to Spring Hill Station Terminus (Curb Busway)

Alternative 1 proposes an alignment on Route 7 with a dedicated BRT curb busway. Station locations are near the existing Spring Hill Road and Greensboro Metrorail stations. **Figure 6-2** shows the alignment and approximate station locations proposed for Alternative 1. The alternative includes a non-revenue turnaround along Tyco Road and Spring Hill Road.

Figure 6-3 shows the potential cross-section for the Route 7 portion of the alignment, which includes three general traffic lanes and an exclusive curb-running BRT lane in each direction on Route 7 from International Drive to the Spring Hill Station terminus. **Figure 6-4** shows the Alternative 1 cross-section of Tyco Road from Route 7 to Spring Hill Road. This cross-section shows two general traffic lanes in each direction. **Figure 6-5** shows the Alternative 1 cross-section of Spring Hill Road from Tyco Road to Route 7. This cross-section also shows two general traffic lanes in each direction.

Figure 6-2 | Alternative 1 Alignment

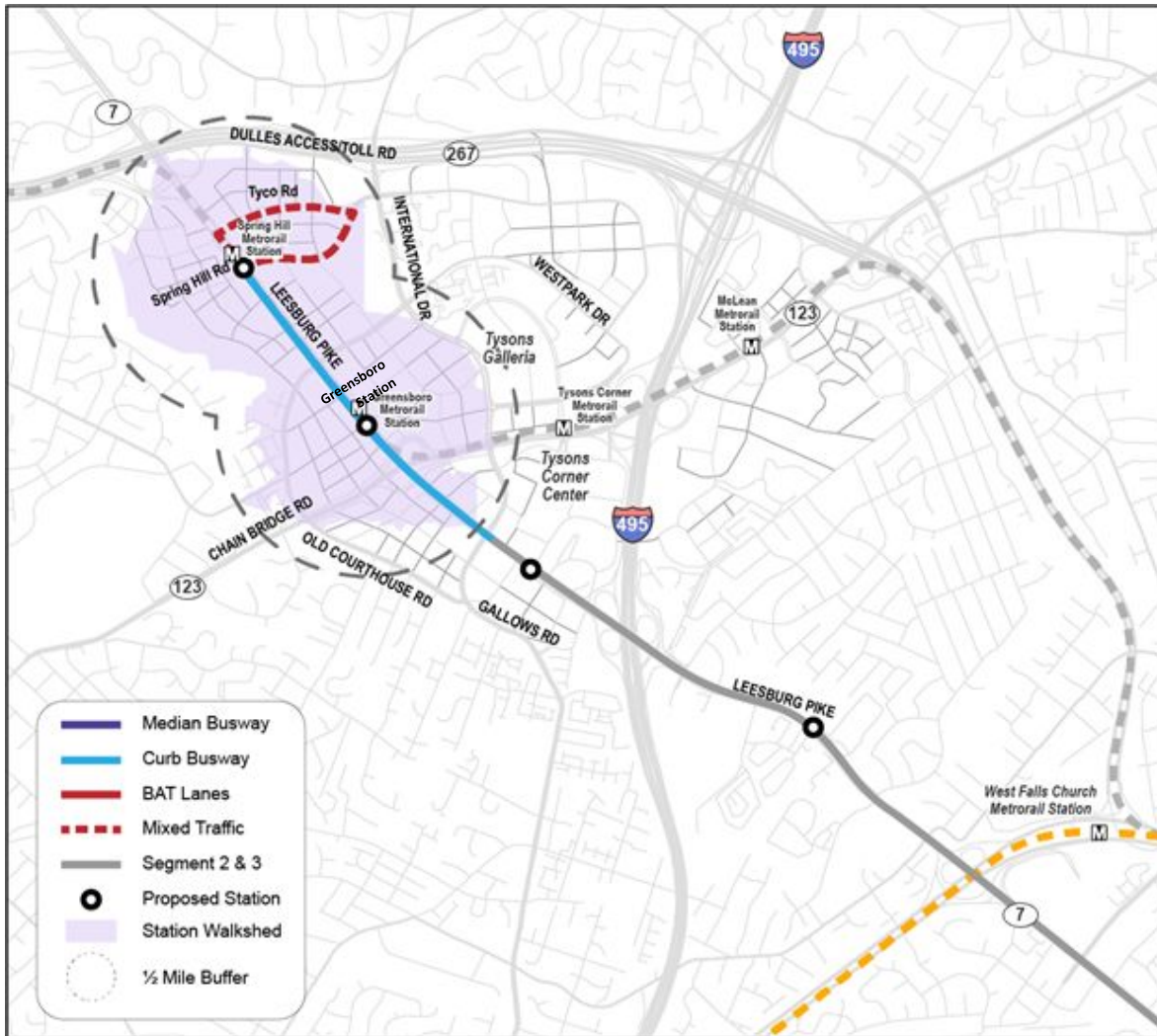


Figure 6-3 | Alternative 1 cross-section of Route 7 from International Drive to Spring Hill Station terminus

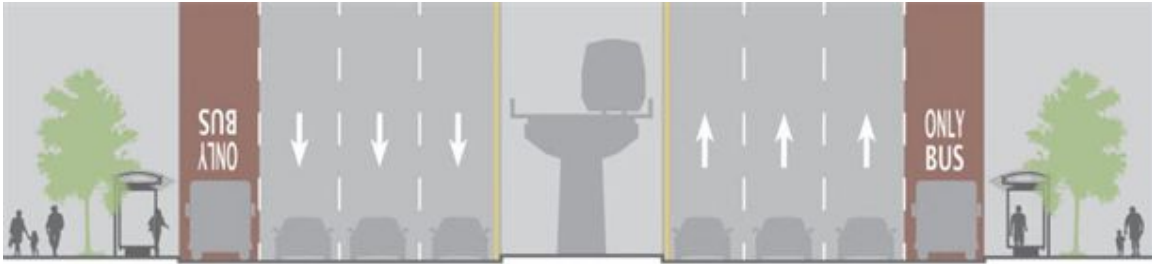


Figure 6-4 | Alternative 1 cross-section of Tyco Road from Route 7 to Spring Hill Road

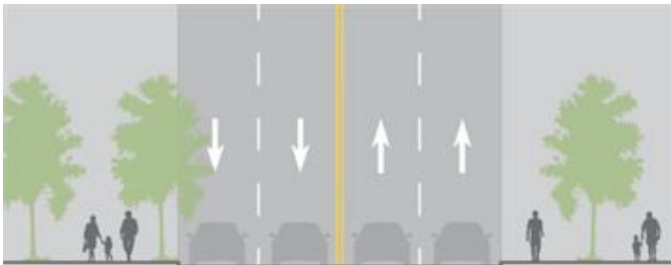
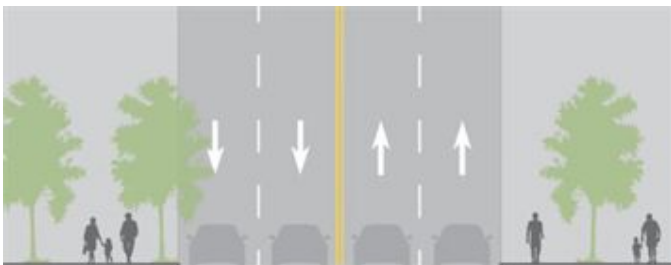


Figure 6-5 | Alternative 1 cross-section of Spring Hill Road from Tyco Road to Route 7



6.2 Alternative 2/Segment 1

Route 7 from International Drive to Spring Hill Station Terminus (Mixed Traffic)

Alternative 2 proposes the same alignment and station locations as Alternative 1 but does not provide exclusive bus lanes. Station locations are near the existing Spring Hill Road and Greensboro Metrorail stations. **Figure 6-6** shows the alignment and station locations proposed for Alternative 2. The alternative includes a non-revenue turnaround along Tyco Road and Spring Hill Road.

Figure 6-7 shows the potential street cross-section for Alternative 2 for the Route 7 portion of the alignment. This cross-section features four general traffic lanes in each direction along Route 7. More detailed consideration of transition points are included as part of the build alternatives development and Evaluation Phase. Figure 6-8 shows the street cross-section for Alternative 2 on Tyco Road from Route 7 to Spring Hill Road. This cross-section features two general traffic lanes in each direction. Figure 6-9 shows the street cross-section for Alternative 2 on Spring Hill Road from Tyco Road to Route 7. This cross-section also features two general traffic lanes in each direction.

Figure 6-6 | Alternative 2 Alignment

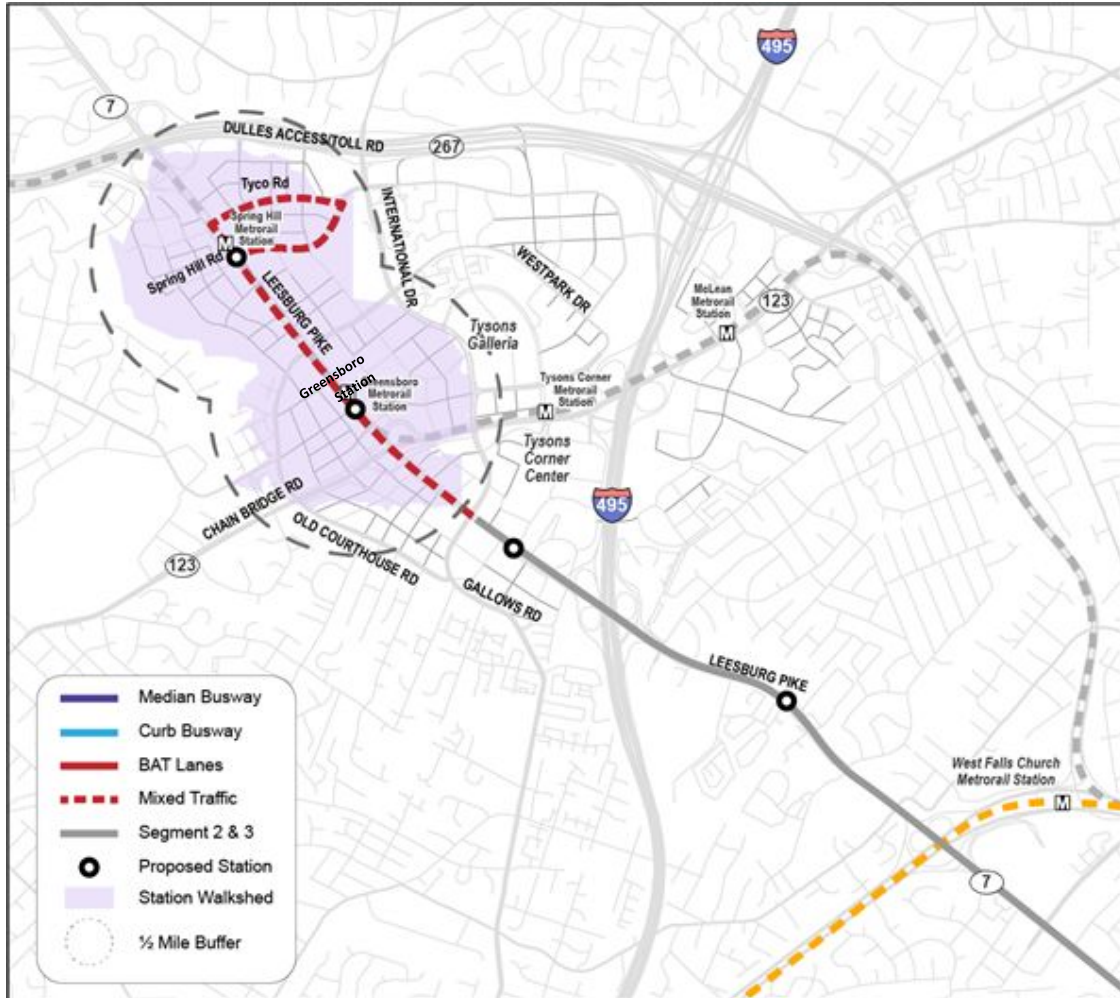


Figure 6-7 | Alternative 2 cross-section of Route 7 from International Drive to Spring Hill Station terminus



Figure 6-8 | Alternative 2 cross-section of Tyco Road from Route 7 to Spring Hill Road

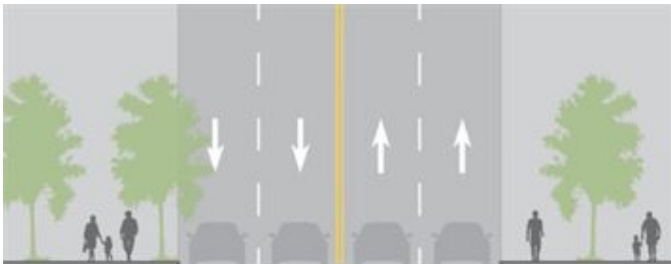
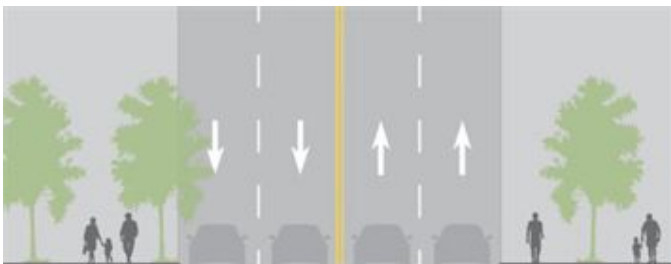


Figure 6-9 | Alternative 2 cross-section of Spring Hill Road from Tyco Road to Route 7



6.3 Alternative 3/Segment 1

Route 7 from International Drive to West*Park Transit Station Terminus via Spring Hill Station

Alternative 3 proposes a similar alignment to Alternative 1 with an extension to the West*Park Transit Station via Tyco Road and Spring Hill Road. BRT will operate in BAT lanes along Route 7 from International Drive to Spring Hill Road via Tyco Road and in mixed traffic on Spring Hill Road. If this alternative had been moved into the Evaluation Phase, additional consideration would have been needed in the design of transition points between the BAT lanes and mixed traffic locations. Station locations would be located at the West*Park Transit Station, Spring Hill Metrorail station, and at the Westpark Drive and Route 7 intersection. **Figure 6-10** shows the alignment and station locations for Alternative 3.

Figure 6-11, **Figure 6-12**, and **Figure 6-13** show the street cross-sections for Alternative 3. **Figure 6-11** shows the cross-section on Route 7 from International Drive to Tyco Road and features three general traffic lanes and one BAT lane in each direction. **Figure 6-12** shows the cross-section on Tyco Road from Route 7 to Spring Hill Road, and **Figure 6-13** shows the cross-section on Spring Hill Road from Tyco Road to the terminus.

Figure 6-10 | Alternative 3 Alignment

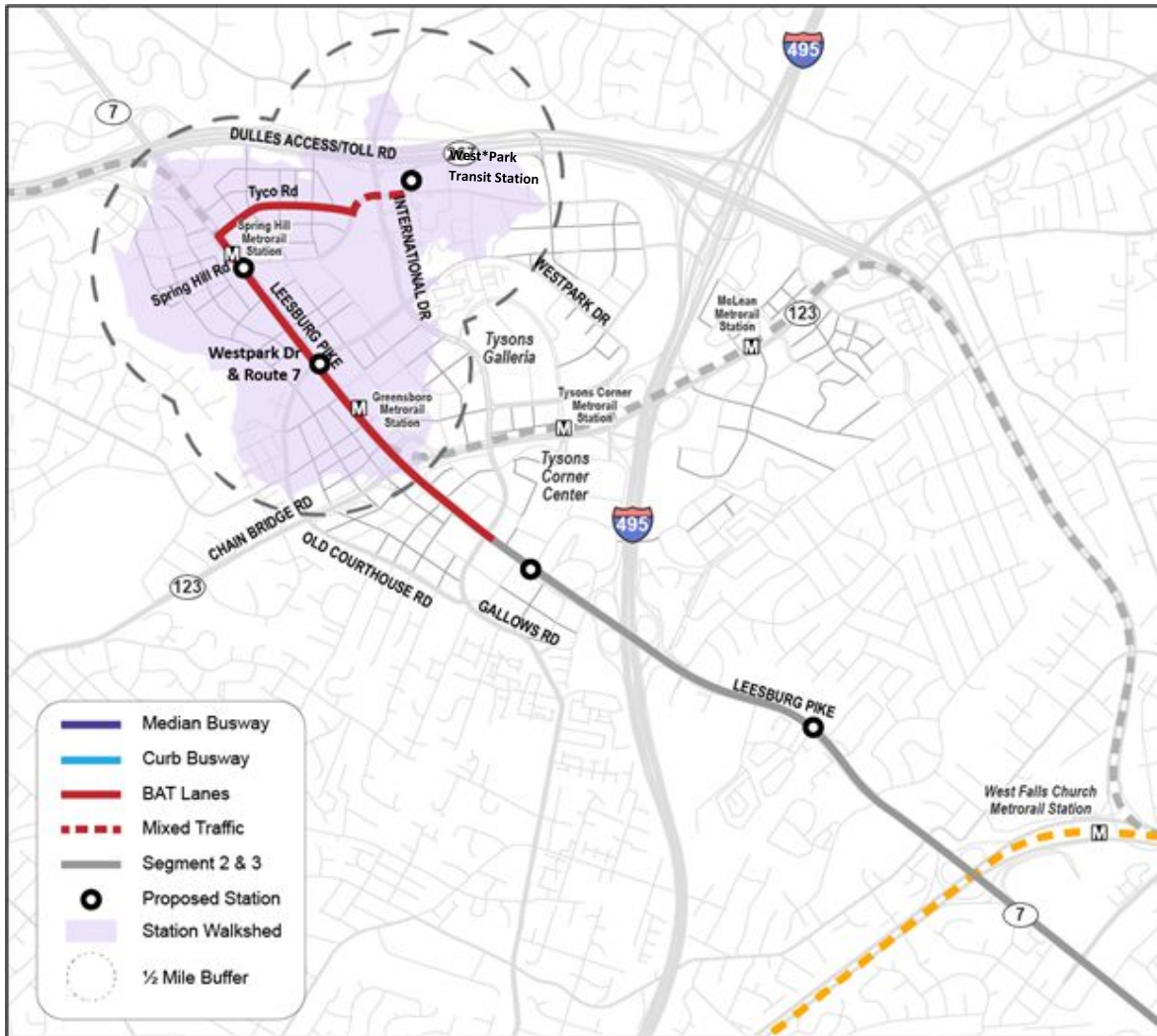


Figure 6-11 | Alternative 3 cross-section of Route 7 from International Drive to Tyco Road

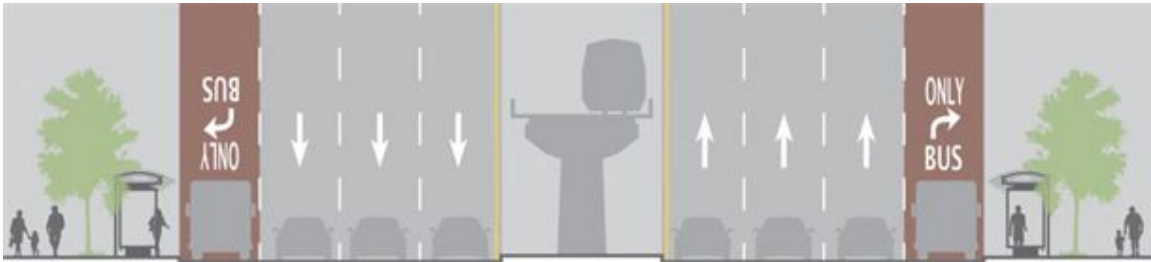


Figure 6-12 | Alternative 3 cross-section of Tyco Road from Route 7 to Spring Hill Road

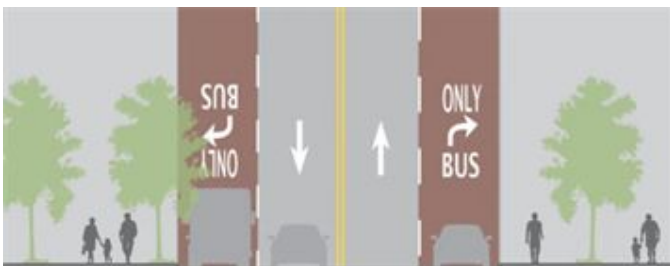
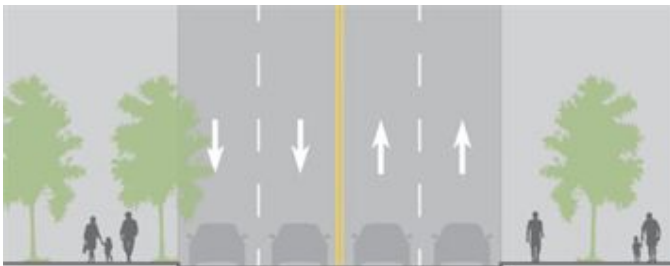


Figure 6-13 | Alternative 3 cross-section of Spring Hill Road from Tyco Road to West*Park Transit Station Terminus



6.4 Alternative 4/Segment 1

International Drive from Route 7 to Tysons Corner Station Terminus

Alternative 4 proposes a shorter alignment with a terminal station at the Tysons Corner Metrorail station. BRT would operate in BAT lanes on International Drive from Route 7 to Chain Bridge Road and in a curb busway on Chain Bridge Road from International Drive to the terminal station at Tysons Corner Center, which is adjacent to the existing Metrorail station. This Alternative adds a new exclusive BRT lane in the segment on Chain Bridge Road from International Drive to the existing bus bays to accommodate additional space for layover. The remaining portion of the route will operate in mixed traffic from the Metrorail station to Route 7 on Tysons Boulevard and Tysons One Place, and International Drive before rejoining the median busway on Route 7. In the Evaluation Phase, additional consideration is needed in the design of transition points between the BAT lanes and mixed traffic . **Figure 6-14** shows the alignment and station locations for Alternative 4.

Figure 6-15, **Figure 6-16**, and **Figure 6-17** show the street cross-sections for Alternative 4.

Figure 6-15 shows the cross-section on International Drive from Route 7 to Chain Bridge Road and features two general traffic lanes and one BAT lane in the eastbound direction and three general purpose lanes in the westbound direction. **Figure 6-16** shows the cross-section on Chain Bridge Road and **Figure 6-17** shows the cross-section on Tysons One Place.

Figure 6-14 | Alternative 4 Alignment

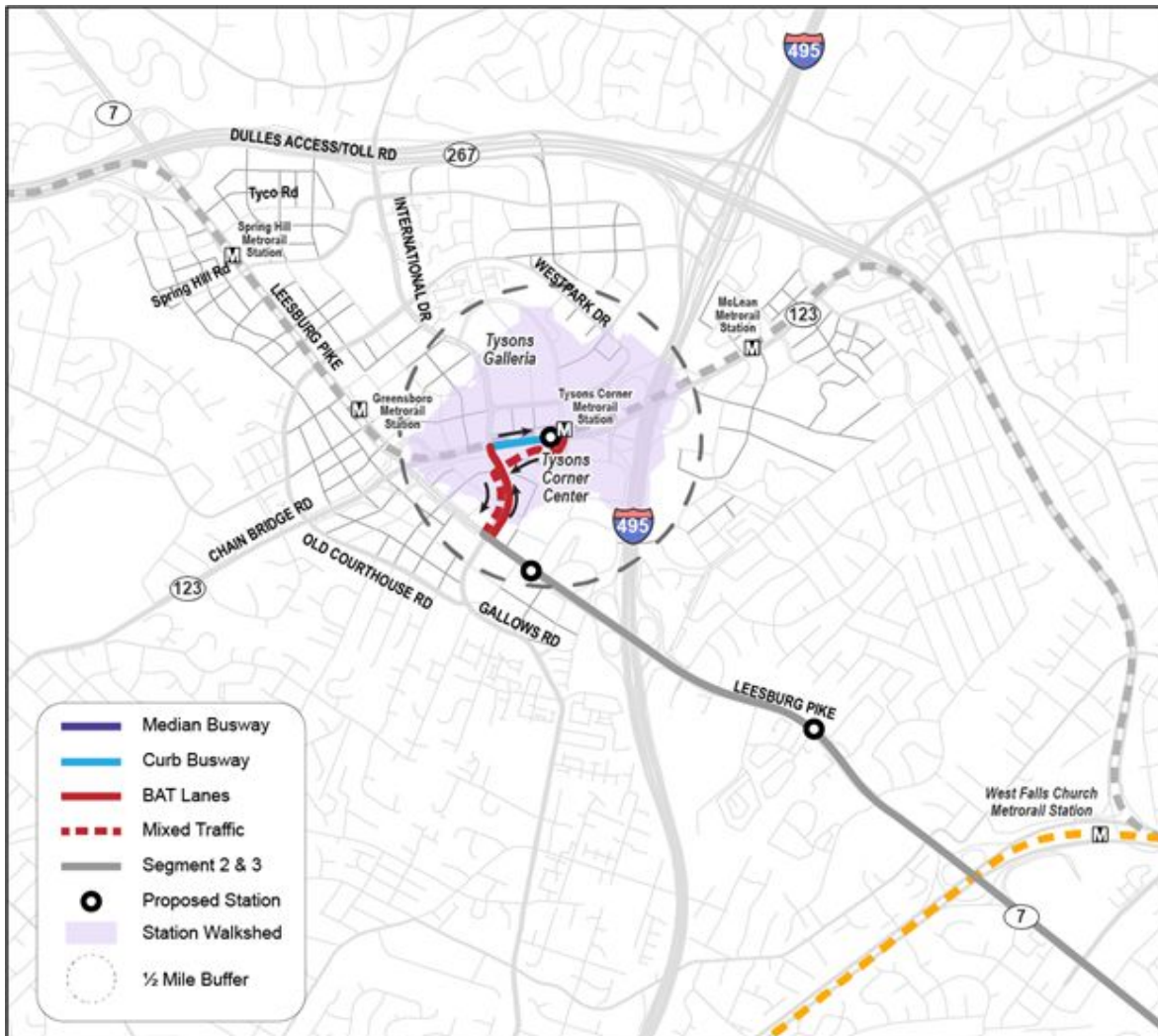


Figure 6-15 | Alternative 4 cross-section of International Drive from Route 7 to Chain Bridge Road

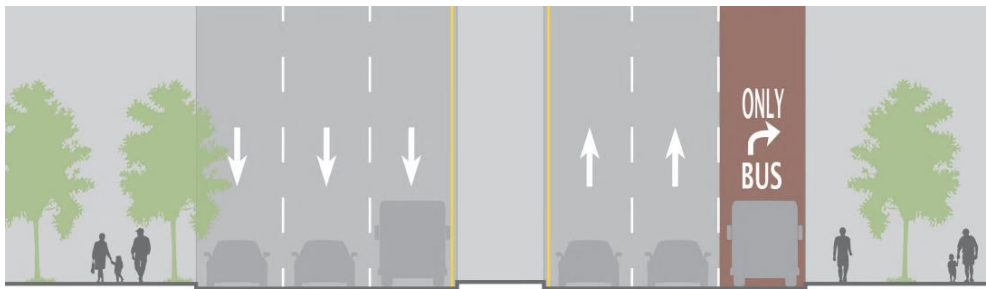


Figure 6-16 | Alternative 4 cross-section of Chain Bridge Road from International Drive to Tysons One Place

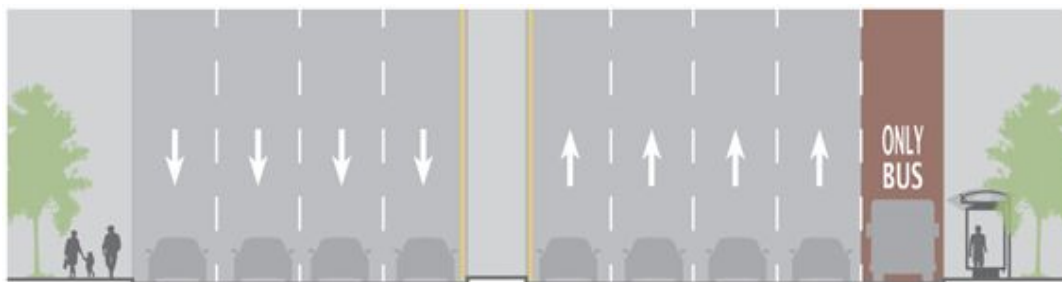
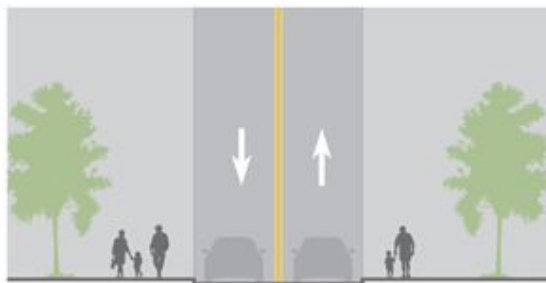


Figure 6-17 | Alternative 4 cross-section of Tysons One Place from Tysons Corner Metrorail Station to International Drive.



6.5 Alternative 5/Segment 1

International Drive from Route 7 to Spring Hill Station Terminus via International Drive

The alignment proposed for Alternative 5 follows International Drive to its terminus at Spring Hill Metrorail station instead of Route 7, as shown in in **Figure 6-18**. This alternative provides BAT lanes on International Drive, Spring Hill Road, and Tyco Road. BAT lanes were chosen for this Alternative due to the number of driveway access points and open median left-turns through the corridor. Stations are located at Chain Bridge Road, Westpark Drive, and Spring Hill Road on International Drive, with a terminal station at Spring Hill Metrorail station. During the Evaluation Phase, additional consideration was needed in the design of transition points between the BAT lanes and the median busway on Route 7.

Figure 6-19 shows the roadway cross-section for Alternative 5 on International Drive from Route 7 to Spring Hill Road. This cross-section features BAT lanes in both northbound and southbound directions. Figure 6-20 shows the roadway cross-section of Alternative 5 on Spring Hill Road from International Drive to Route 7. This cross-section features a westbound BAT lane. Figure 6-21 shows the roadway cross-section of Alternative 5 on Tyco Road from Route 7 to Spring Hill Road. This cross-section features an eastbound BAT lane.

Figure 6-18 | Alternative 5 Alignment

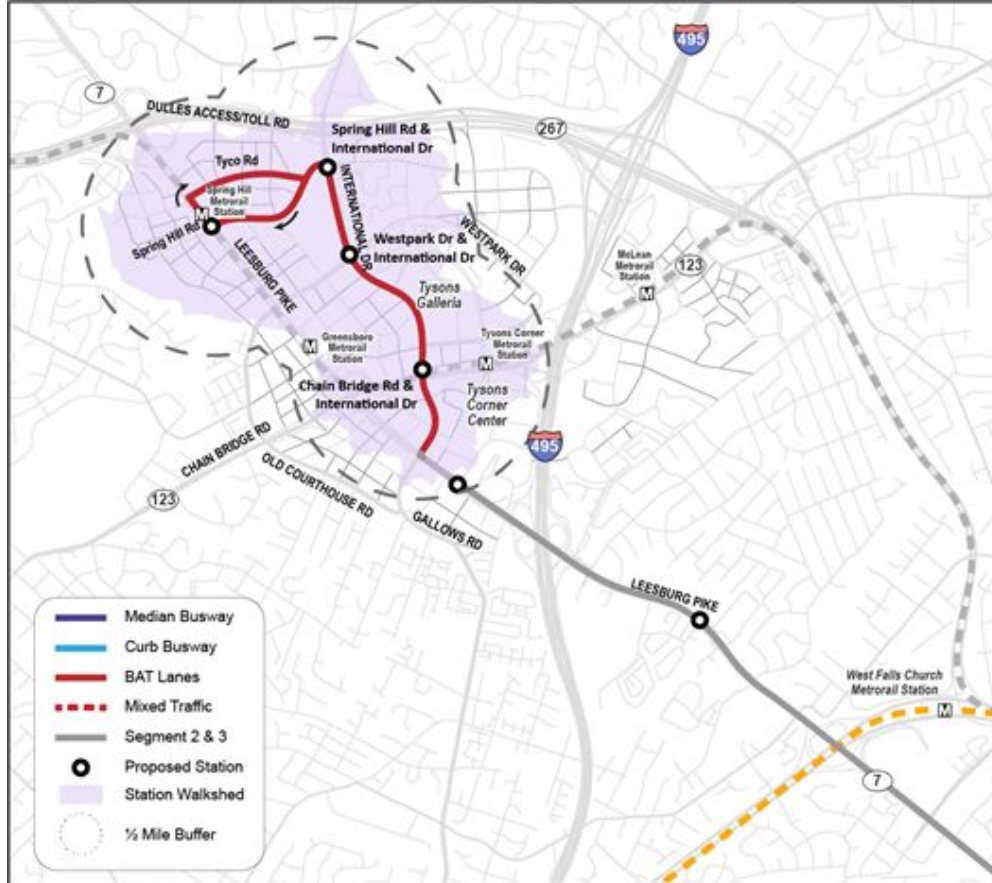


Figure 6-19 | Alternative 5 Cross-section of International Drive from Route 7 to Spring Hill Road

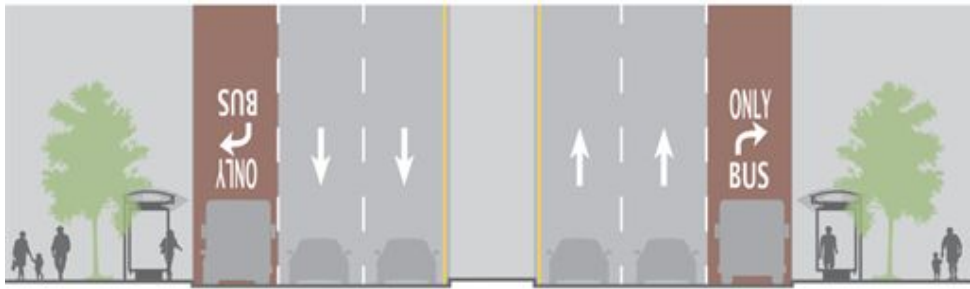
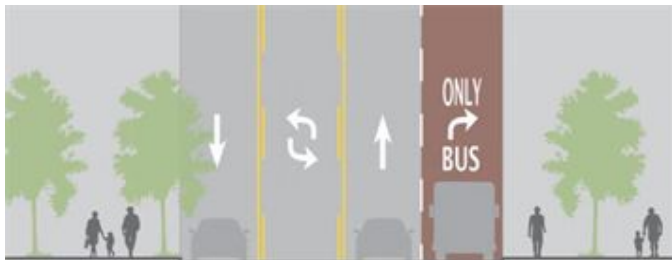


Figure 6-20 | Alternative 5 Cross-section of Spring Hill Road from International Drive to Route 7



Figure 6-21 | Alternative 5 Cross-section of Tyco Road from Route 7 to Spring Hill Road



6.6 Alternative 6/Segment 1

International Drive and Boone Boulevard Loop (Includes Comp Plan Extension for Boone Blvd)

Alternative 6 proposes a one-way loop alignment with stations located at Chain Bridge Road, Westpark Drive, and Spring Hill Road along International Drive, Spring Hill Metrorail station, Boone Boulevard and Gosnell Road, and on Chain Bridge Road. BRT would operate in BAT lanes on International Drive and Spring Hill Road, a curb busway on Boone Boulevard and Chain Bridge Road, and in BAT lanes when rejoining Route 7. **Figure 6-22** shows the alignment and station locations for Alternative 6.

Figure 6-23 shows the roadway cross-section for Alternative 6 on International Drive from Route 7 to Spring Hill Road. This cross-section features a northbound BAT lane. Figure 6-24 shows the roadway cross-section for Alternative 6 on Spring Hill Road from International Drive to Boone Boulevard. This cross-section features a westbound BAT lane. Figure 6-25 shows the roadway cross-section for Alternative 6 on Boone Boulevard from Spring Hill Road to Chain Bridge Road. This cross-section includes a southbound curb busway. Figure 6-26 shows the roadway cross-section for Alternative 6 on Chain Bridge Road from Boone Boulevard to Route 7. This cross-section shows an eastbound curb busway. More detailed consideration of transition points would need to be included as part of the build alternatives development and Evaluation Phase, if this alternative had been selected to move forward.

Figure 6-22 | Alternative 6 Alignment

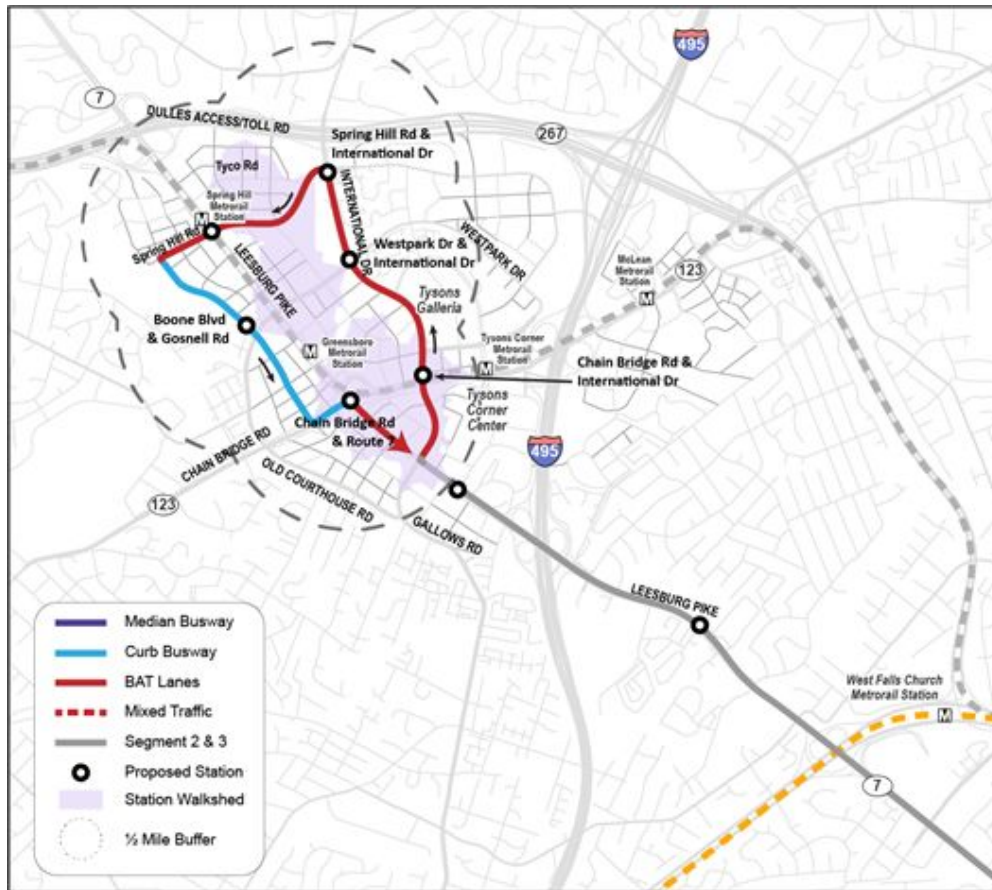


Figure 6-23 | Alternative 6 Cross-section of International Drive from Route 7 to Spring Hill Road

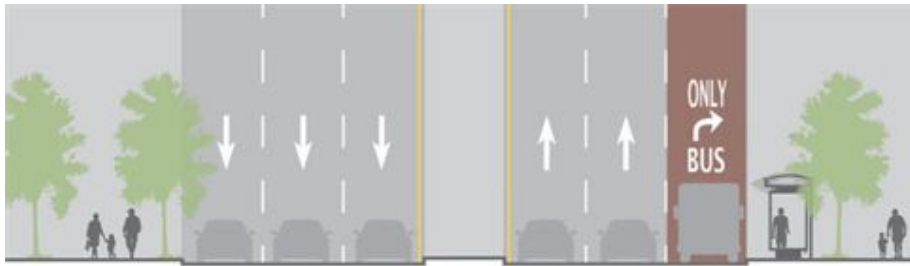


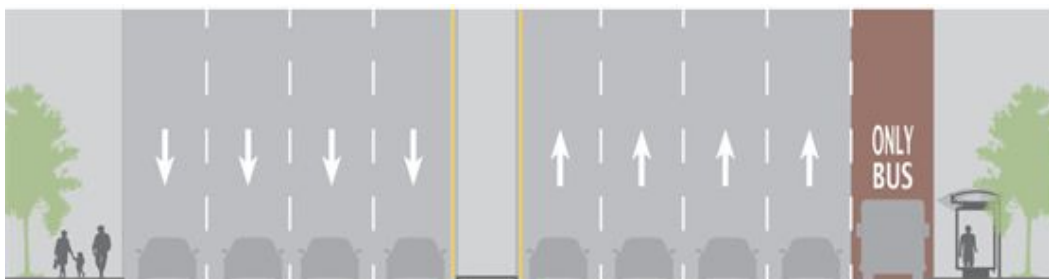
Figure 6-24 | Alternative 6 Cross-section of Spring Hill Road from International Drive to Boone Boulevard



Figure 6-25 | Alternative 6 Cross-section of Boone Boulevard from Spring Hill Road to Chain Bridge Road



Figure 6-26 | Alternative 6 Cross-section of Chain Bridge Road from Boone Boulevard to Route 7



6.7 Alternative 7/Segments 2 and 3

Route 7 between International Drive and I-66, Median Busway (Includes Comp Plan Widening for Transit)

Alternative 7 proposes a median busway on Route 7 from International Drive to I-66, as shown in **Figure 6-27**. Segment 2 from International Drive to I-495 will include a cross-section of three general traffic lanes and one BRT lane. **Figure 6-28** shows the proposed cross-section for Segment 2. Segment 3 from I-495 to I-66 will have a cross-section of two general traffic lanes and one BRT lane. **Figure 6-29** shows the cross-section for Segment 3. This alternative maintains the number of lanes planned for Route 7 (four lanes in each direction west of I-495; three lanes in each direction east of I-495) in the County's Comprehensive Plan.

Figure 6-27 | Alternative 7 Alignment

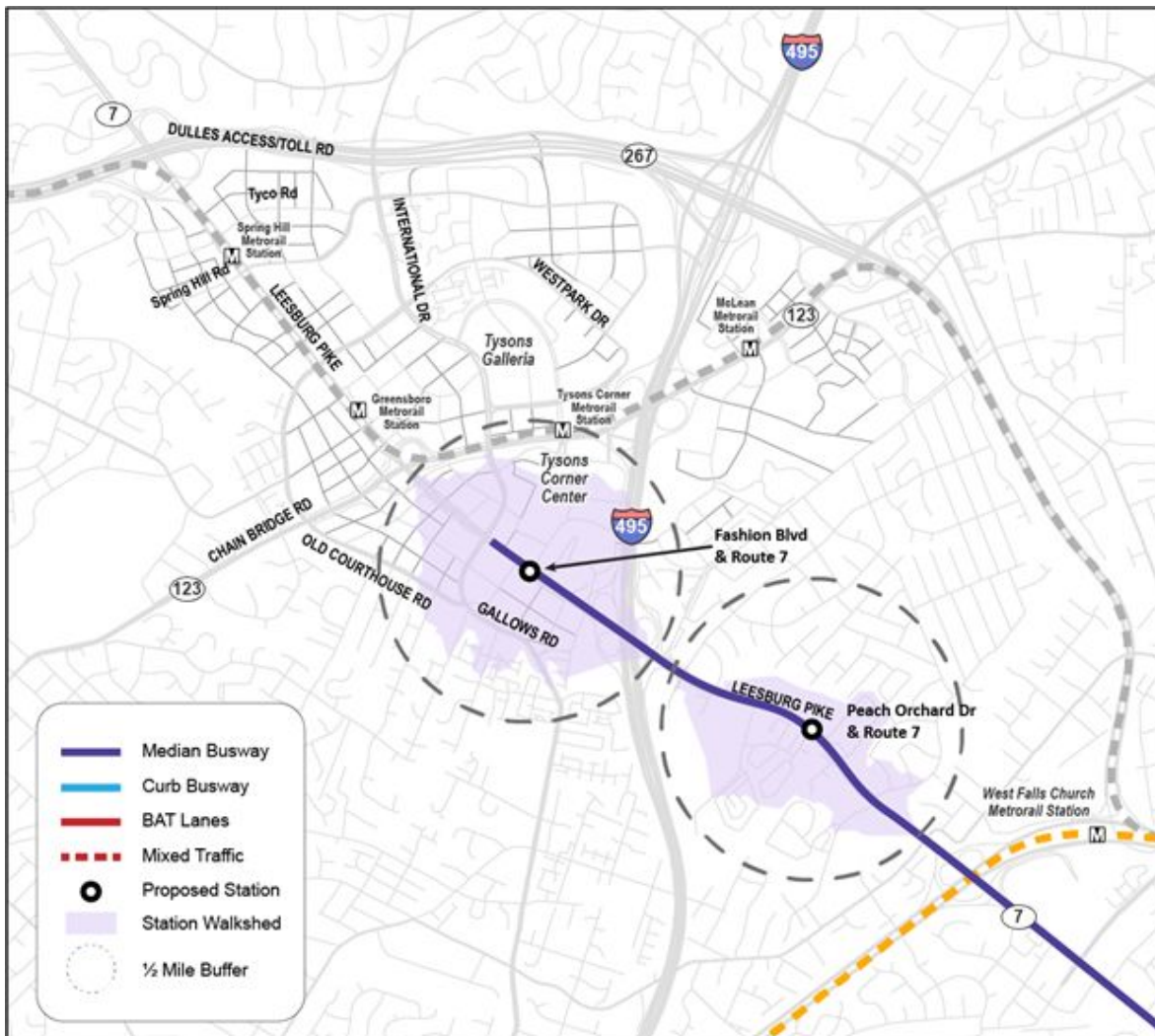


Figure 6-28 | Segment 2 Cross-section of Route 7 from International Drive to I-495



Figure 6-29 | Segment 3 Cross-section of Route 7 from I-495 to I-66



6.8 Alternative 8/Segments 2 and 3

Route 7 between International Drive and I-66, Median Busway with Widening (Includes Comp Plan Widening + Additional Lane for Transit)

Alternative 8 proposes a median busway on Route 7 from International Drive to I-66, as shown in **Figure 6-30**. Segment 2 from International Drive to I-495 will have a cross-section of four general traffic lanes and one BRT lane. **Figure 6-31** shows the proposed cross-section for Segment 2. Segment 3 from I-495 to I-66 will have a cross-section of three general traffic lanes and one BRT lane. **Figure 6-32** shows the proposed cross-section for Segment 3. This alternative adds BRT lanes in addition to the Route 7 widening included in the County's Comprehensive Plan.

Figure 6-30 | Alternative 8 Alignment

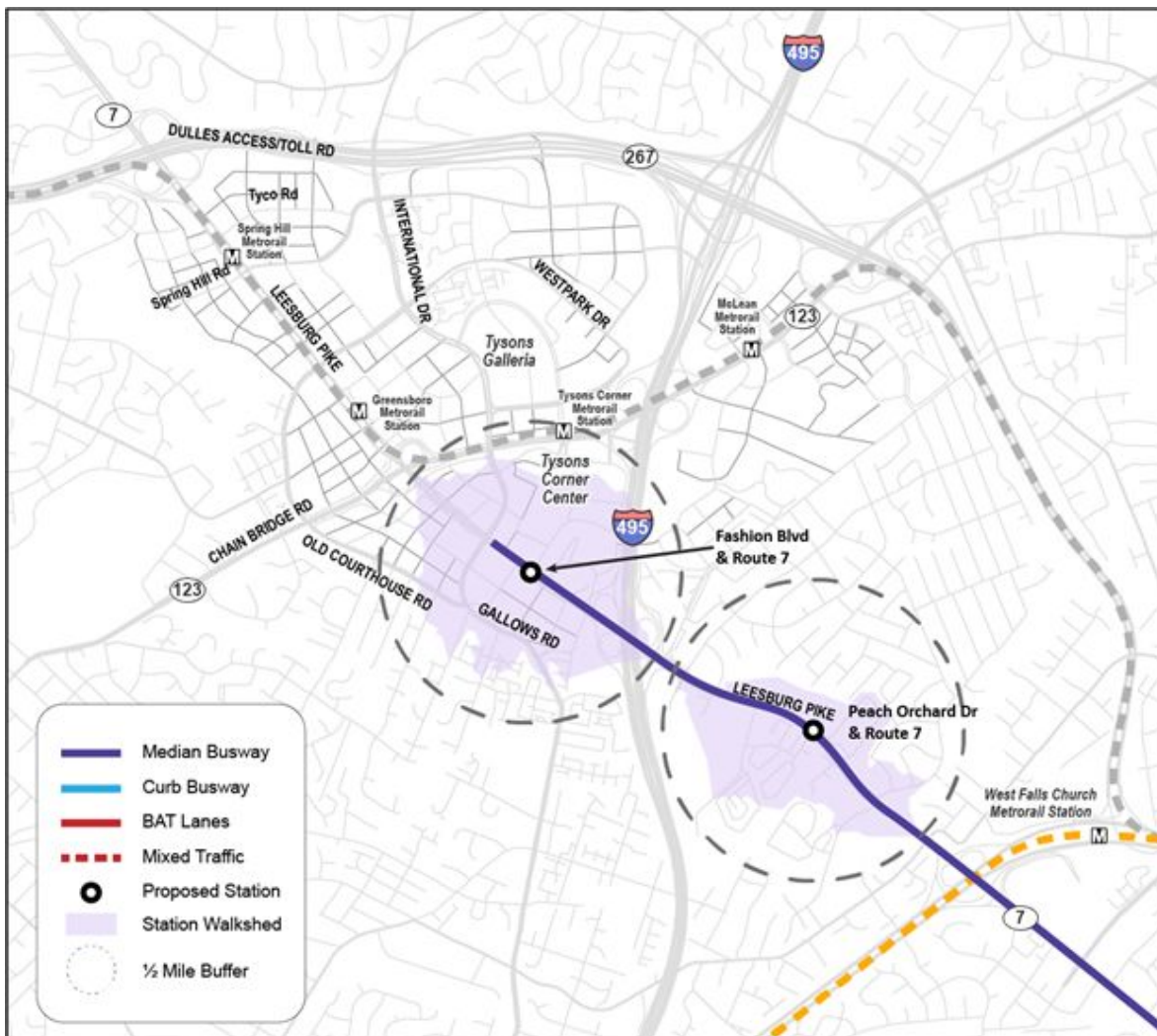


Figure 6-31 | Segment 2 Cross-section of Route 7 from International Drive to I-495



Figure 6-32 | Segment 3 Cross-section of Route 7 from I-495 to I-66



6.9 Alternative 9/Segments 2 and 3

Route 7 between International Drive and I-66, Median Busway Consistent Cross-section (Includes Comp Plan Widening + Additional Lane for Transit in Segment 3)

Alternative 9 proposes a median busway on Route 7 from International Drive to I-66, as shown in **Figure 6-33** with a consistent cross-section of three general traffic lanes and one BRT lane in each direction. Segment 3 from I-495 to I-66 will require one lane beyond the Comprehensive Plan. **Figure 6-34** shows the cross-section throughout both segments.

Figure 6-33 | Alternative 9 Alignment

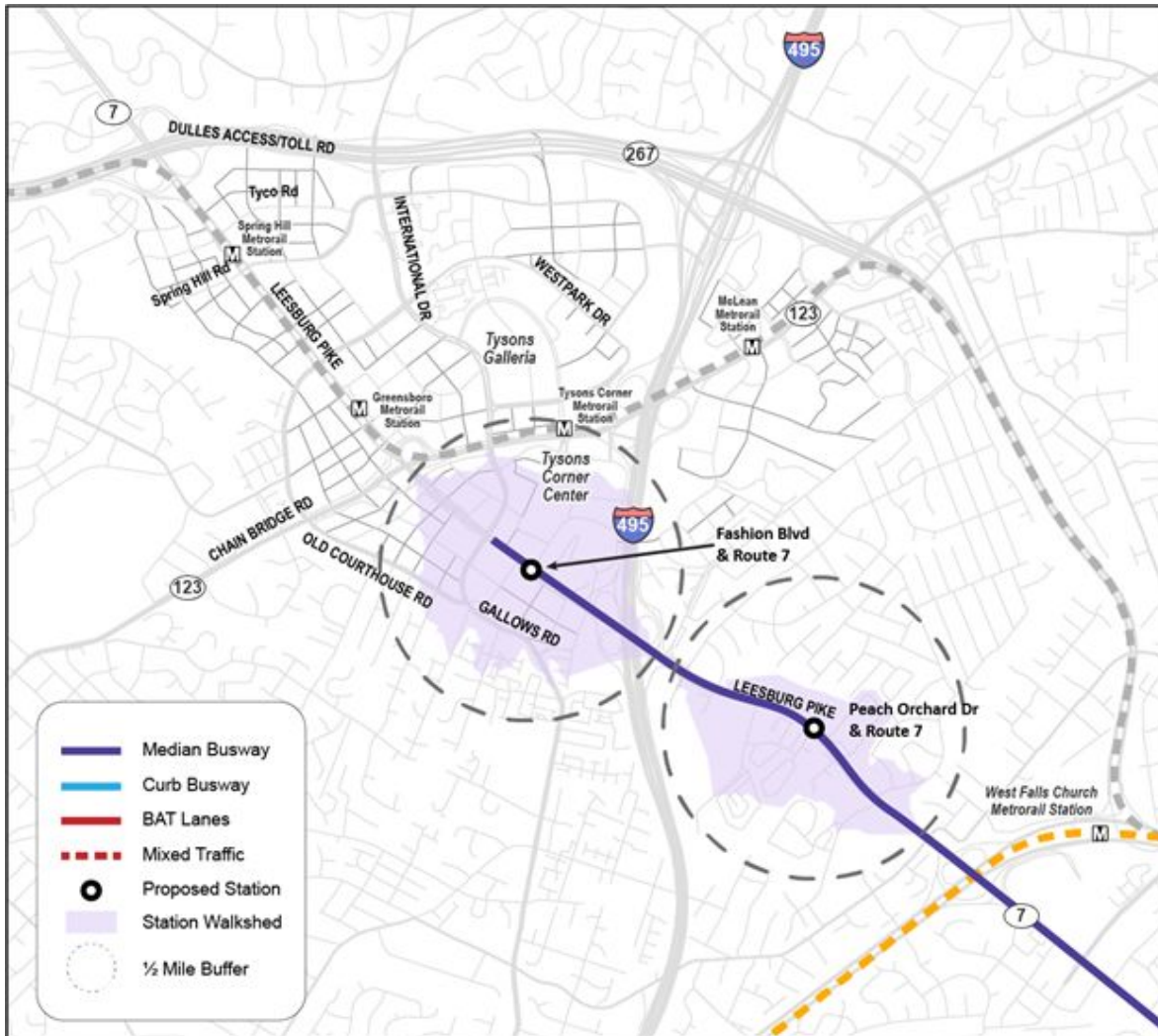


Figure 6-34 | Segment 2 and 3 Cross-section of Route 7 from International Drive to I-66



7 Alternatives Assessment

This section provides the results of the various MOEs for the Alternatives Assessment phase. These measures provide both qualitative and quantitative analysis for each alternative described in the previous section. For this analysis, alternatives in Segment 1 (Alternatives 1 through 6) were compared against each other, while alternatives in Segment 2/3 (Alternatives 7 through 9) were compared against each other. Note that for Segment 2/3, the routing does not change, so the analysis only includes MOEs that provide comparative differences between the alternatives.

7.1 Goal: Access and Mobility

The first objective of this goal is to provide choices through accessible transit service. For the assessment analysis, population and employment estimates were used to calculate the number of residents and jobs within a ½ mile walkshed (½ mile walking path distance) of the BRT stations for existing and future conditions. These MOEs provide an approximate measure of ridership potential and access to transit.

As shown in **Table 7-1** below, the alternatives that have longer routings and more stations provide greater access to population and employment. Alternative 5 along International Drive provides the greatest access to employment centers. While Alternative 6 may seem to offer the greatest coverage and access, the true walkshed, the area within ½ mile walk of stations with service in both directions, is much smaller because of the one-way loop split starting at International Drive.

Table 7-1 | Population and Jobs in Station Walksheds

Alternatives – Segment 1	Route Length (mi)	Population			Employment		
		2015	2030	2045	2015	2030	2045
1 – Spring Hill Station Term. (curb busway)	2.5	7,300	23,200	40,400	45,300	49,200	73,400
2 – Spring Hill Station Term. (mixed traffic)	2.5	7,300	23,200	40,400	45,300	49,200	73,400
3 – West*Park Transit Center Term.	4.0	11,200	26,500	43,900	42,800	48,700	72,100
4 – Tysons Corner Station Term.	1.0	4,000	9,700	15,300	34,000	38,400	45,900
5 – Spring Hill station Term. via International Dr	3.8	11,300	25,900	41,100	52,200	61,400	80,600
6 – Boone Boulevard Loop	3.4	5,500	15,700	24,700	34,200	36,300	47,200

Source: Metropolitan Washington Council of Governments Round 9.1 Cooperative Land Use Forecasts

The second objective of this goal is to provide connections to the regional transit network. For this analysis, connections to Metrorail Stations and Transit Centers were identified for each alternative. **Table 7-2** below shows the number of connections to the larger regional transit network for each alternative. Alternatives that stay on Route 7 have greater access to the Metrorail system at Greensboro Station and Spring Hill Station. The West*Park Transit Center also provides a logical terminus and connections to other regional bus routes.

Table 7-2 | Regional Transit Network Connections

Alternatives – Segment 1	Number of Metrorail Stations / Transit Centers Served
1 – Spring Hill Station Term. (curb busway)	2
2 – Spring Hill Station Term. (mixed traffic)	2
3 – West*Park Transit Center Term.	2
4 – Tysons Corner Station Term.	1
5 – Spring Hill station Term. Via International Dr	1
6 – Boone Boulevard Loop	1

7.2 Goal: Transportation Network Performance - Ensure Efficient Movement of People and Goods

The objective of this goal is to improve corridor performance with better transit operations. Two MOEs were used to demonstrate the possible improvement of transit operations: Percentage of BRT Lanes in Corridor and Route Directness. Both MOEs are used as proxies to measure the potential improvements to transit operations, including speed and reliability. A detailed transit operations analysis was completed during the Evaluation Phase using traffic micro-simulation models.

The percentage of exclusive BRT lanes and BAT lanes in the corridor were calculated for each alternative. Alternatives with a higher percentage of exclusive BRT lanes have a greater likelihood of providing reliable BRT service to passengers. BAT lanes allow for right turning traffic to access right turn pockets while maintaining through operations for transit. Enforcement of BAT lane restrictions is critical for the effective operations of BRT on these lanes.

Route Directness is a measure of the efficiency of travel between a transit route’s origin and destination. Generally, more direct routes are easier to operate and maintain reliable service, while less direct routes include more deviations and turns and are subject to delay and other traffic conflicts.

As shown in

Table 7-3 below, Alternative 1 has the greatest percentage of BRT Lanes in the corridor and is also among the alternatives with the most direct routing. Alternative 6 also has a relatively large percentage of exclusive BRT lanes, however it has the lowest route directness. In addition to its impacts on operations, the large one-way loop in Alternative 6 may be inconvenient for passengers, requiring either a long walk to access service going in their desired direction, or a ride out of their desired direction of travel.

Table 7-3 | Transportation Network Performance by Alternative

Alternatives – Segment 1	Route Length (mi)	Percentage of Exclusive BRT Lanes (revenue Service)	Percentage of BAT Lanes	Route Directness ¹
1 – Spring Hill Station Term. (curb busway)	2.5	100%	0%	100%
2 – Spring Hill Station Term. (mixed traffic)	2.5	0%	0%	100%
3 – West*Park Transit Station Term.	4.0	0%	88%	76%
4 – Tysons Corner Station Term.	1.0	28%	37%	100%
5 – Spring Hill station Term. Via International Dr	3.8	0%	100%	65%
6 – Boone Boulevard Loop	3.4	32%	68%	34%

All calculations only include the portion of the routing running in revenue service.

¹Calculation equation: $1 / \left(\frac{r1+r2}{l} \right)$ where:

- r1 equals the length of the proposed westbound route
- r2 equals the length of the proposed eastbound route
- l equals the length of the most direct route

7.3 Goal: Land Use/Economic Vitality – Support Economic Development and Land Use Goals

The objective for this goal is to minimize the impacts to private property. This assessment provides a qualitative analysis of the ROW needs for each BRT alignment alternative along the corridor. Generally, there are little to no private property impacts for any of the alternatives since existing or available ROW would be repurposed for BRT. The few alternatives that require widening outside of the Comprehensive Plan limits have the most significant ROW impacts, specifically Alternatives 6 and 8.

Table 7-4 below details the ROW needs for each alternative. More detailed analysis on this MOE was conducted as part of the Evaluation Phase for the selected alternatives.

Table 7-4 | Right-of-Way Needs for Alignment Alternatives

Alternatives – Segments 1, 2 and 3	ROW Needs for Alignment Alternatives	Notes
1 – Spring Hill Station Term. (curb busway)	None – General purpose lanes repurposed to curb busway	
2 – Spring Hill Station Term. (mixed traffic)	None – BRT runs in mixed traffic	
3 – West*Park Transit Station Term.	None – General purpose lane repurposed to BAT Lane shared by right turning vehicles	
4 – Tysons Corner Station Term.	Low – ROW needed on south side of Chain Bridge Road to access Bus Loop	
5 – Spring Hill station Term. Via International Dr	None – General purpose lane repurposed to BAT Lane shared by right turning vehicles	
6 – Boone Boulevard Loop	High – BRT Lanes to be included in construction of new Boone Boulevard	Construction of approximately 0.5 miles of new roadway.
7 – Median Busway with Lane for Transit	Low – Repurpose lanes from planned lane widening to accommodate median busway	Approximately 0.75 acres land acquisition required
8 – Median Busway with Widening +1	High – Additional ROW needed for widening and median busway	Approximately 2.5 acres land acquisition required
9 – Median Busway with Lane Repurposing and Widening (Consistent Cross-section)	Medium – Planned widening and additional ROW needed to accommodate median busway	Approximately 2.5 acres land acquisition required

7.4 Goal: Meet the Needs of All Users - Residents, workers, visitors, and disadvantaged populations

This goal measures how well the alternatives serve areas with transit-dependent or transit-inclined populations. For this MOE, the number of low-wage jobs, zero-car households, and households below the poverty line were estimated for the ½ mile station walkshed for each alternative. Similar to the general population and employment estimates, the alternatives that have longer routings and more stations provide greater access to transit-dependent/inclined populations (see **Table 7-5**). Alternative 5 along International Drive provides the greatest access to low-wage jobs. The number of low-wage jobs and low-income households is lowest for Alternative 6, due to the smaller walkshed that is able to access bi-directional service.

Table 7-5 | Transit Dependent/Transit Inclined Populations within ½ Mile of Stations

Alternatives – Segment 1	Route Length (mi)	Low-Wage Jobs	Zero Car Households	Households below Poverty Line
1 – Spring Hill Station Term. (curb busway)	2.5	7,020	110	210
2 – Spring Hill Station Term. (mixed traffic)	2.5	7,020	110	210
3 – West*Park Transit Station Term.	4.0	6,460	150	260
4 – Tysons Corner Station Term.	1.0	5,900	80	125
5 – Spring Hill station Term. Via International Dr	3.8	8,530	135	170
6 – Boone Boulevard Loop	3.4	5,840	165	90

Source: American Community Survey (ACS), 2013-2018 and Longitudinal Employer Household Dynamics (LEHD), 2015

7.5 Goal: Improve Safety for All Roadway Users

The objective for this goal is to improve the pedestrian environment in the study corridor. Two key MOEs were used to compare the alternatives, including Pedestrian Crossing Times at Key Intersections, and the Number of BRT Mixed-Traffic Conflict Points. Additional MOEs were used as part of the Evaluation Phase for the selected Alternatives.

Crossing distances and crossing times were calculated for major pedestrian crossings in the study area. At locations with a pedestrian refuge or median, distance was measured from the curb to the pedestrian refuge area. Average crossing times were calculated for each alternative assuming a walking speed of 3.5 feet per second as per Manual on Uniform Traffic Control Devices (MUTCD). Additionally, the number of “extreme” crossings of 60 seconds or greater were identified as crossings that pose a major barrier to pedestrians. In general, the pedestrian environment for all of the BRT routing alternatives being considered presents challenges to access and comfort. The proposed alternatives do not reduce any existing cross-sections but increase the already wide cross-sections at few intersections along Route 7, south of International Drive. Pedestrian accommodations (e.g., protected median refuge islands, extended and advance walk phases, high visibility markings) should be prioritized at these intersections and station locations.

The number of conflict points between BRT and general-purpose traffic in the mixed-traffic environment can also be used as a qualitative proxy for concerns related to BRT safety. A conflict point has been defined as a turn, alignment transition, intersection, driveway, or any distance spent traveling in mixed traffic. As shown in **Table 7-6**, the alternatives that deviate from Route 7 contain the highest number of turns, transitions, intersections, and driveway conflict points. Alternative 2 includes the longest mixed-traffic segment. It is important to note that the number of driveway conflicts can be reduced as the area is redeveloped and parcel access points are consolidated or relocated to side streets.

Table 7-6 | Conflict Points

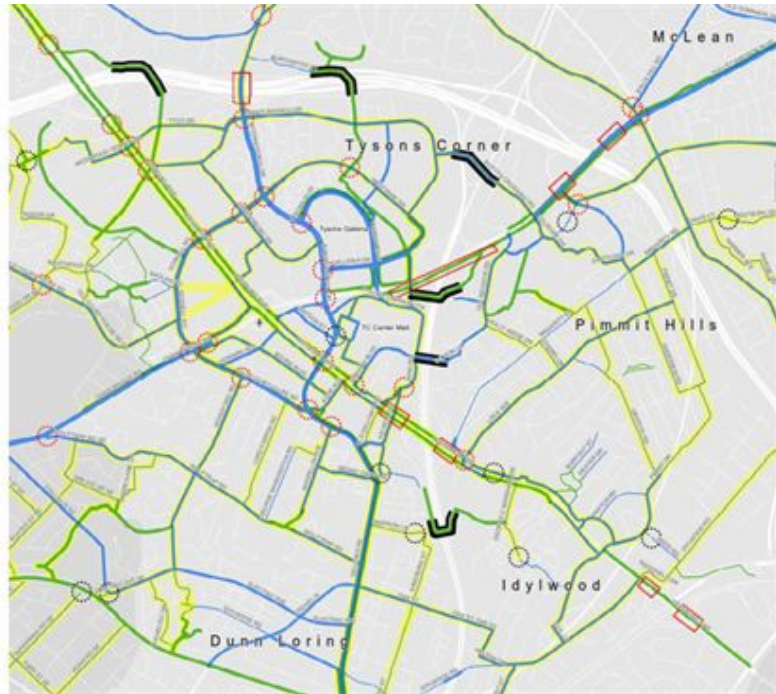
Alternatives – Segment 1	Route Turns	Alignment Transitions	Intersections	Driveways	Mixed Traffic Segment
1 – Spring Hill Station Term. (curb busway) ¹	-	1	3	30	-
2 – Spring Hill Station Term. (mixed traffic) ¹	-	1	3	30	2.0 mi
3 – West*Park Transit Station Term.	2	2	7	52	.5 mi
4 – Tysons Corner Station Term.	4	4	4	8	.5 mi
5 – Spring Hill station Term. Via International Dr	4	1	12	48	-
6 – Boone Boulevard Loop ²	5	3	25	44	-

¹ Excludes non-revenue service loop on Tyco Road and Spring Hill Road

² Does not account for unbuilt driveways on new Boone Boulevard

The Fairfax County Bicycle Master Plan calls for bicycle facilities on Route 7, International Drive, Tyco Road, and Spring Hill Road (see **Figure 7-1**). Generally, the “Primary Trail” planned for Route 7 provides greater benefit for bicycle access and comfort than on-street facilities planned for International Drive, Tyco Road, and Spring Hill Road.

Figure 7-1 | Planned Bicycle Facilities



7.6 Goal: Protect and Improve Environmental Resources

The goal seeks to minimize impacts to the natural and social environments. For this MOE, a preliminary review identified the environmental and social resources within the study area and assessed the potential impact to those resources. Alternative 6 has the highest impact to environmental resources due to the proximity of the new Boone Boulevard segment to a Resource Protection Area and the Difficult Run Stream 100-year Floodplain. Other potential social resources that may be impacted include the Tysons-Pimmit Regional Library, Marshall High School, and St. Paul’s Lutheran Church on Segments 2 and 3 of Route 7.

Table 7-7 | Potential Environmental Impacts

Alternatives – Segments 1, 2, 3	Potential Environmental Impacts
1 – Spring Hill Station Term. (curb busway)	None
2 – Spring Hill Station Term. (mixed traffic)	None
3 – West*Park Transit Station Term.	None
4 – Tysons Corner Station Term.	Impact Potential Low Resource: Scotts Run Stream Branch
5 – Spring Hill station Term. Via International Dr	Impact Potential Low Resource: Floodplain near International Drive and Westpark Drive
6 – Boone Boulevard Loop	Impact Potential High Resources: Resource Protection Area; Difficult Run Stream 100 Year Floodplain
7 – Median Busway with Lane for Transit	Impact Potential Low Resources: Tysons-Pimmit Regional Library; Marshall High School; St Paul's Lutheran Church
8 – Median Busway with Widening +1	Impact Potential Medium Resources: Tysons-Pimmit Regional Library; Marshall High School; St Paul's Lutheran Church
9 – Median Busway with Lane Repurposing and Widening (Consistent Cross-section)	Impact Potential Medium Resources: Tysons-Pimmit Regional Library; Marshall High School; St Paul's Lutheran Church

7.7 Goal: Make Sustainable, Cost Effective Investments in Transit

The objective of this goal is to assess the financial feasibility of BRT. **Table 7-8** highlights the differences in construction difficulty which was used as a proxy for capital costs: high construction difficulty will likely result in higher construction costs. While all alternatives will require some construction costs to build elements such as stations, signage, and intersection improvements, some alternatives will require a significantly higher investment. Alternatives where the alignment and routing are using existing or planned travel lanes are considered easier to construct than those that require the construction of additional lanes. The ratings for Alternatives 1-6 are exclusive to Segment 1 and the ratings for Alternatives 7-9 are exclusive to Segments 2 and 3.

Table 7-8 | Construction Difficulty

Alternatives – Segments 1, 2, 3	Construction Difficulty (Low, Medium, High)
1 – Spring Hill Station Term. (curb busway)	Medium – Repurposing of general purpose lane to exclusive curb busway
2 – Spring Hill Station Term. (mixed traffic)	None
3 – West*Park Transit Station Term.	Low – Repurposing of general purpose lanes to BAT lanes
4 – Tysons Corner Station Term.	Low – Repurposing of general purpose lanes to BAT lanes
5 – Spring Hill station Term. Via International Dr	Low – Repurposing of general purpose lanes to BAT lanes
6 – Boone Boulevard Loop	High – Construction of new roadway; station at Route 123 interchange redesign
7 – Median Busway with Lane Repurposing	Low-High – Reconfiguration of roadway to accommodate median busway
8 – Median Busway with Widening +1	High – Reconfiguration of roadway to accommodate widening and median busway
9 – Median Busway with Lane Repurposing and Widening (Consistent Cross-section)	Medium-High – Reconfiguration of roadway to accommodate widening and median busway

7.8 Summary Matrix

Measure of Effectiveness	Segment 1 Alternatives						Segment 2/3 Alternatives		
	1 Spring Hill Station Term. (curb busway)	2 Spring Hill Station Term. (mixed traffic)	3 West*Park Transit Station Term.	4 Tysons Corner Station Term.	5 Spring Hill Station Term. Via International Dr	6 Boone Boulevard Loop	7 Median Busway with Lane Repurposing (Comprehensive Plan Widening)	8 Median Busway with Widening (Comprehensive Plan Widening +1)	9 Median Busway with Lane Repurposing and Widening (Consistent Cross- section)
Goal: Access and Mobility - Provide choices through accessible transit service									
Objective: Serve population, employment, and activity centers with BRT									
Population within ½ mile walking distance	Pop: 40,400	Pop: 40,400	Pop: 43,900	Pop: 15,300	Pop: 52,200	Pop: 24,700	N/A	N/A	N/A
Employment within ½ mile walking distance	Emp: 73,400	Emp: 73,400	Emp: 72,100	Emp: 45,900	Emp: 80,600	Emp: 47,200	N/A	N/A	N/A
Objective: Provide connections to larger transit network									
Number of Metrorail Stations served	2	2	2	1	1	1	0	0	0
Goal: Transportation Network Performance - Ensure efficient movement of people and goods									
Objective: Improve Transit Operations in Corridor									
Percent of Corridor with Dedicated BRT lanes	100%	0%	0%	28%	0%	32%	100%	100%	100%
Percent of Corridor with BAT Lanes	0%	0%	88%	37%	100%	68%	0%	0%	0%
Route Directness	100%	100%	76%	100%	65%	34%	100%	100%	100%
Goal: Land Use/Economic Vitality – Support economic development and land use goals									
Objective: Minimize impacts to private property									
Qualitative assessment for ROW Needs for BRT Alignment	None	None	None	Low	None	High	Low	High	Medium
Goal: Meet the needs of all users – residents, workers, visitors, and disadvantaged populations									
Objective: Serve areas with transit dependent populations									
Number of transit dependent/transit inclined households and jobs within ½ mile of stations	Low-Wage Jobs: 7,020 Zero Car HH: 110 Poverty HH: 210	Low-Wage Jobs: 7,020 Zero Car HH: 110 Poverty HH: 210	Low-Wage Jobs: 6,460 Zero Car HH: 150 Poverty HH: 260	Low-Wage Jobs: 5,900 Zero Car HH: 80 Poverty HH: 125	Low-Wage Jobs: 8,530 Zero Car HH: 135 Poverty HH: 160	Low-Wage Jobs: 5,840 Zero Car HH: 170 Poverty HH: 90	N/A	N/A	N/A
Goal: Improve safety for all roadway users									
Objective: Improve the pedestrian environment in the study corridor									
Average Pedestrian Crossing Time at Intersections (Walking Speed = 3.5 feet/second)	34	34	42	52	46	45	29	37	34
Percentage of "Uncomfortable" Intersection Crossings (59+ Seconds)	--	--	--	50%	25%	40%	30%	--	--
Number of BRT - Mixed Traffic Conflict Points	36	36 + 2.0 Mile Mixed Traffic Segment	63 + ½ Mile Mixed Traffic Segment	20 + ½ Mile Mixed Traffic Segment	65	77	N/A	N/A	N/A
Safety and comfort of biking environment in the corridor	Primary Trail	Primary Trail	Primary Trail; On-Road Facility	On-Road Facility	On-Road Facility	On-Road Facility; Street Grid	Primary Trail	Primary Trail	Primary Trail
Goal: Protect and Improve Environmental Resources									
Objective: Minimize negative impacts to the natural environment									
Qualitative environmental impacts to parklands, cultural resources, wetlands, woodlands, etc.	None	None	None	Impact Potential Low Resource: Scotts Run Stream Branch	Impact Potential Low Resource: Floodplain near International Drive and Westpark Drive	Impact Potential High Resources: Resource Protection Area; Difficult Run Stream 100 Year Floodplain	Impact Potential Low Resources: Tysons- Pimmit Regional Library; Marshall High School; St Paul's Lutheran Church	Impact Potential Medium Resources: Tysons- Pimmit Regional Library; Marshall High School; St Paul's Lutheran Church	Impact Potential Medium Resources: Tysons- Pimmit Regional Library; Marshall High School; St Paul's Lutheran Church
Goal: Make sustainable, cost effective investments in transit									
Objective: Prove financial feasibility of BRT									
Construction Difficulty (Low, Medium, High)	Medium	None	Low	Low	Low	High	Low-High	High	Medium-High

Summary Matrix

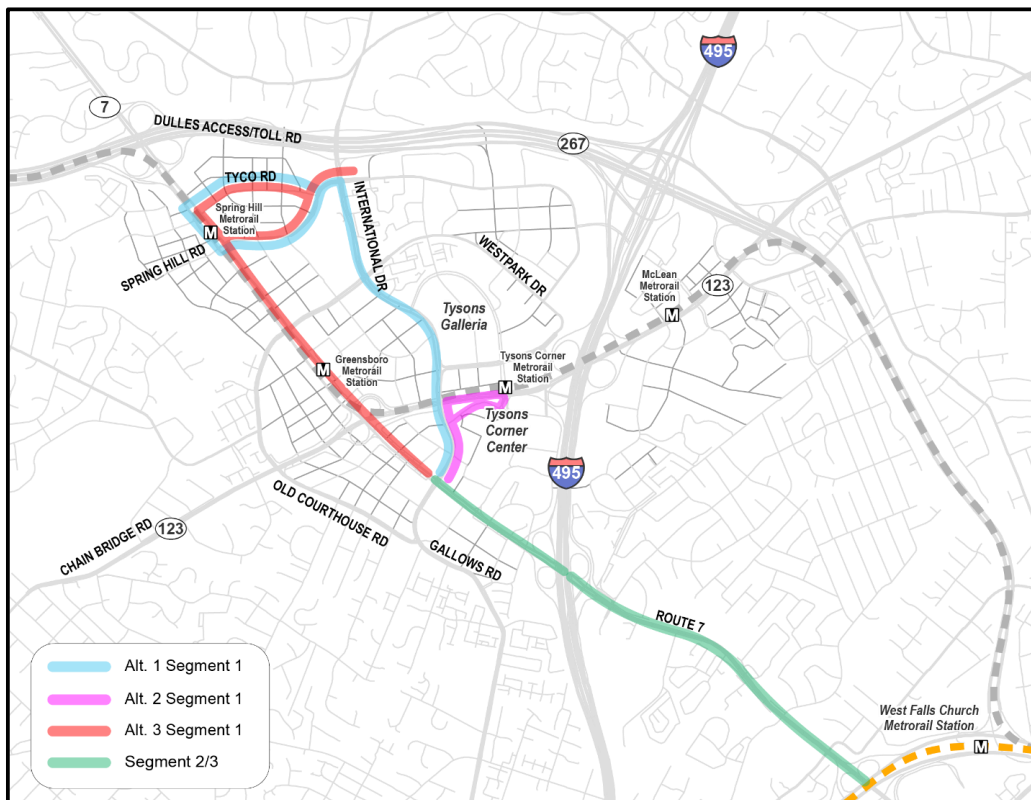
	Segment 1 Alternatives						Segment 2/3 Alternatives		
	1	2	3	4	5	6	7	8	9
	Spring Hill Station Term. (curb busway)	Spring Hill Station Term. (mixed traffic)	West*Park Transit Station Term.	Tysons Corner Station Term.	Spring Hill Station Term. Via International Dr	Boone Boulevard Loop	Median Busway with Lane Repurposing (Comprehensive Plan Widening)	Median Busway with Widening (Comprehensive Plan Widening +1)	Median Busway with Lane Repurposing and Widening (Consistent Cross Section)
Measure of Effectiveness									
Goal: Access and Mobility - Provide choices through accessible transit service									
Objective: Serve population, employment, and activity centers with BRT									
Population within 1/4 mile walking distance	●	●	●	○	●	●	N/A	N/A	N/A
Employment within 1/4 mile walking distance	●	●	●	○	●	○	N/A	N/A	N/A
Objective: Provide connections to larger transit network									
Number of Metrorail Stations served	●	●	●	●	●	●	○	○	○
Goal: Transportation Network Performance - Ensure efficient movement of people and goods									
Objective: Improve Transit Operations in Corridor									
Percent of Corridor with Dedicated BRT lanes	●	○	○	●	○	●	●	●	●
Percent of Corridor with BAT Lanes	○	○	●	●	●	●	○	○	○
Route Directness	●	●	●	●	●	●	●	●	●
Goal: Land Use/Economic Vitality – Support economic development and land use goals									
Objective: Minimize impacts to private property									
Qualitative assessment for ROW Needs for BRT Alignment	●	●	●	●	●	○	●	○	●
Goal: Meet the needs of all users – residents, workers, visitors, and disadvantaged populations									
Objective: Serve areas with transit dependent populations and low-wage jobs									
Number of low-wage jobs within 1/4 mile of stations	●	●	●	○	●	○	N/A	N/A	N/A
Number of households with no vehicle within 1/4 mile of stations	●	●	●	○	●	●	N/A	N/A	N/A
Number of households below the poverty line within 1/4 mile of stations	●	●	●	○	●	○	N/A	N/A	N/A
Goal: Improve safety for all roadway users									
Objective: Improve the pedestrian environment in the study corridor									
Average Pedestrian Crossing Time at Intersections (Walking Speed = 3.5 feet/second)	●	●	●	○	●	●	●	●	●
Percentage of "Uncomfortable" Intersection Crossings (59+ Seconds)	●	●	●	○	●	○	○	●	●
Number of BRT - Mixed Traffic Conflict Points	●	●	○	●	●	○	N/A	N/A	N/A
Safety and comfort of biking environment in the corridor	●	●	●	●	●	○	●	●	●
Goal: Protect and Improve Environmental Resources									
Objective: Minimize negative impacts to the natural environment									
Qualitative environmental impact potential	●	●	●	●	●	○	●	●	●
Goal: Make sustainable, cost effective investments in transit									
Objective: Prove financial feasibility of BRT									
Construction Difficulty (Low, Medium, High)	●	None	●	●	●	○	●	○	●

8 Build Alternatives Refinement

In August 2019, the study team conducted a second Alternatives Development Workshop to review the results of the Alternatives Assessment and discuss the alternatives to advance to the Evaluation Phase. Details of the discussion and results of that workshop are documented in the Alternatives Development Workshop Meeting Minutes (August 2019). These meeting minutes can be found in **Appendix D**. The Assessment Phase determined three end-to-end alternatives out of the initial nine alternatives for further analysis in the Build Alternatives Evaluation Phase of the project, see **Figure 8-1**. The three alignment alternatives are composed of segments which delineate changes in street cross-section configuration and are as now known as follows:

- **Alternative 1:** International Drive to Spring Hill Metrorail Station
- **Alternative 2:** International Drive to Tysons Corner Metrorail Station
- **Alternative 3:** Route 7 to West*Park Transit Center

Figure 8-1 | Tysons BRT Build Alternatives



8.1 BRT Assumptions

The three BRT alternatives, including runningway configurations, routing, stations, headways, operational speeds, and vehicles were coded into the Travel Demand and Traffic Simulation (VISSIM) models for the purposes of the Build Alternatives Evaluation Phase of the project.

8.1.1 Bus Operations

The BRT service is assumed to operate on 10 minute peak and 15 minute off-peak headways at an operational speed of 35 mph. BRT station platforms are assumed to be designed to accommodate level boarding and alighting, all-door boarding, and off-board fare collection, resulting in a 1.5 second/passenger boarding and alighting time and 2 seconds for door closure. BRT is assumed to utilize articulated buses with a passenger capacity of 110 people.

8.1.2 Transit Signal Priority

Transit Signal Priority (TSP) was assumed for the BRT service at each intersection the BRT travels through and for both directions of travel. The TSP works by extending the traffic signal green time for a phase, which provides right of way to BRT buses while truncating phases that provide right of way to conflicting movements.

8.1.3 BRT Ridership

The recommended alternative (or default alternative) from the 2017 NVTC Envision Route 7 Study was analyzed using the adopted modeling data and methodology for the Route 7 BRT Tysons Study. Due to differing travel demand modeling methodologies and tools, the default alternative ridership does not match the previously estimated ridership. An adjustment factor of 1.57 was determined by comparing the Route 7 Tysons Study estimated ridership to the previously developed ridership estimate. This adjustment factor was applied to each BRT alternative to provide stop-level ridership estimates that are consistent with the previous NVTC study.

8.2 Build Alternative 1 – International Drive to Spring Hill Metrorail Station

The proposed alignment in Alternative 1 follows Route 7 and International Drive to the terminus at Spring Hill Metrorail station, see **Figure 8-2**. This alternative consists of a median busway on Route 7 and International Drive followed by a bus and turn (BAT) lane on Spring Hill Road and Tyco Road which form a one-way couplet through the terminus. Proposed stations are located at Patterson Road, Fletcher Street, Greensboro Drive, Lincoln Circle, and at Spring Hill Metrorail station. The one-way route length is 3.7 miles. **Figure 8-3** shows the roadway cross-sections and descriptions for Alternative 1. **Figure 8-4** through **Figure 8-10** show the individual station locations and platform configurations.

Figure 8-2 | Proposed Alternative 1 Alignment

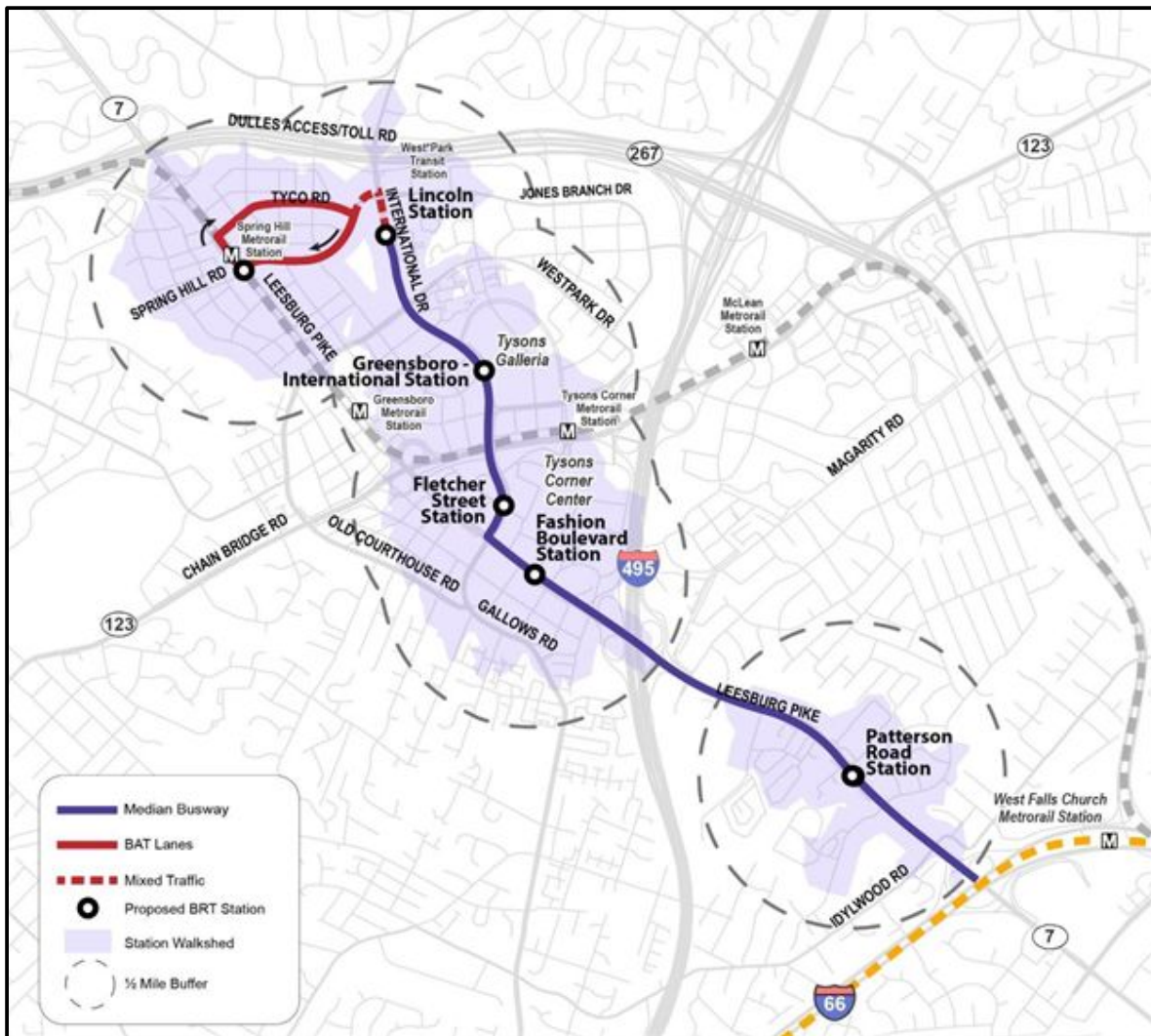


Figure 8-3 | Alternative 1 Street Cross-Sections

Street Name and Section

Description

Tyco Road



Eastbound BAT lane and two general traffic lanes in each direction

Spring Hill Road



Westbound BAT lane and two general traffic lanes in each direction

International Drive – Lincoln Circle to Spring Hill Road



Mixed traffic in both directions to facilitate transition to/from median busway

International Drive 0 Route 7 to Lincoln Circle



Median busway and two general traffic lanes in each direction

Route 7 Segment 2 – International Drive to I-495



Median busway and three general traffic lanes in each direction

Route 7 Segment 3 – I-495 to I-66



Median busway and two general traffic lanes in each direction

Figure 8-4 | Patterson Road Station Location and Platform Configuration



Figure 8-5 | Fashion Boulevard Station Location and Platform Configuration

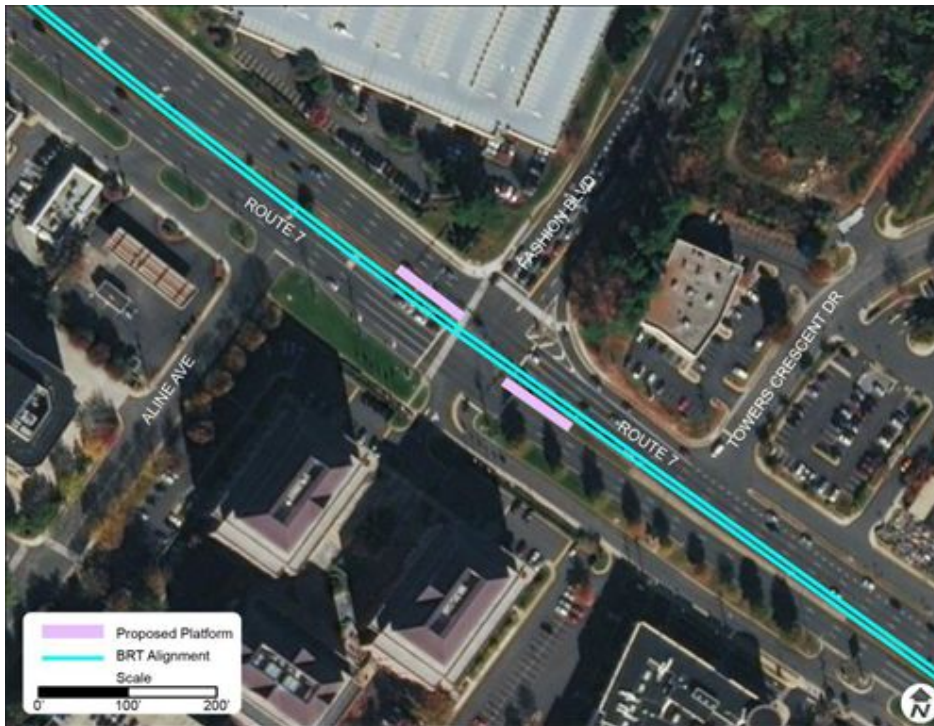


Figure 8-6 | Fletcher Street (Option 2) Station Location and Platform Configuration

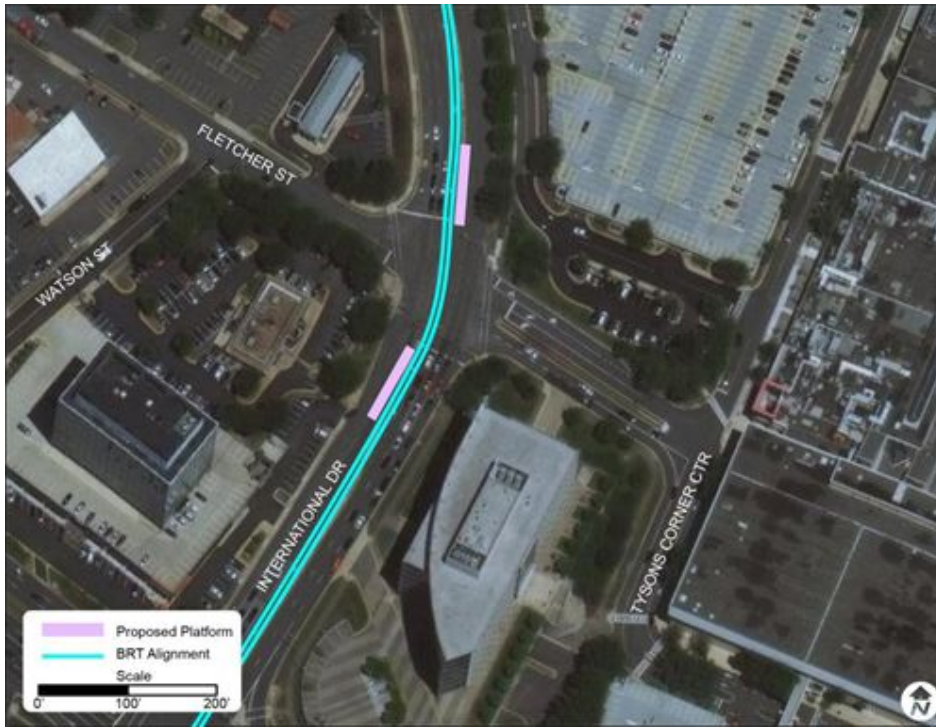


Figure 8-7 | Greensboro Road Station Location and Platform Configuration



Figure 8-8 | Spring Hill Road (at International Drive) Station Location and Platform Configuration



Figure 8-9 | Spring Hill Metrorail Station Location and Platform Configuration



8.3 Build Alternative 2 – International Drive to Tysons Corner Metrorail Station

Alternative 2 proposes a shorter alignment with the terminal station at Tysons Corner Metrorail station, see **Figure 8-10**. This alternative consists of a median busway on Route 7 followed by BAT lanes on International Drive from Route 7 to Chain Bridge Road, and in a curb busway on Chain Bridge Road from International Drive to the terminus adjacent to the existing Metrorail station. This alternative will add a new exclusive northbound BRT lane to the segment of Chain Bridge Road from International Drive to the existing bus bays which will accommodate additional layover space. BRT vehicles will then operate in mixed traffic from the Metrorail station to Route 7 on Tysons Boulevard and Tysons One Place, and International Drive before rejoining the median busway on Route 7. The one-way route length is 2.3 miles. **Figure 8-11** shows the street cross-sections for Alternative 2. **Figure 8-12** through **Figure 8-14** show the individual station locations and platform configurations.

Figure 8-10 | Proposed Alternative 2 Alignment

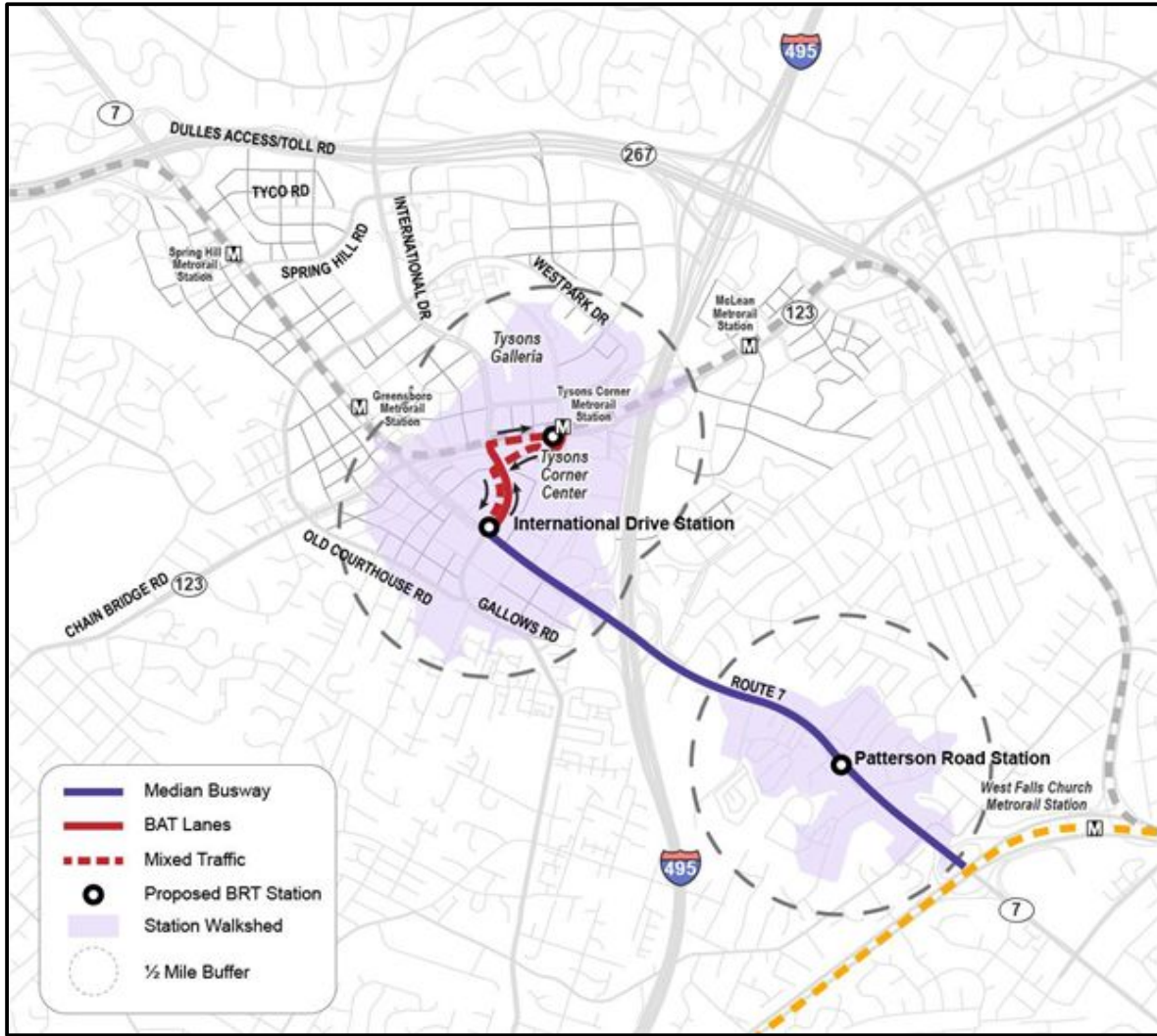


Figure 8-11 | Alternative 2 Street Cross-Sections

Street Name and Section

Description

Chain Bridge Road



Four general traffic lanes in each direction; BRT operates in mixed traffic in the EB direction to bus loop

Tysons One Place



One general traffic lane in each direction; BRT operates in mixed traffic in the WB direction

International Drive



Northbound BAT lane and two general traffic lanes, three southbound general traffic lanes; BRT operates in mixed traffic in SB direction

Segment 2 – International Drive to I-495



Median busway and three general traffic lanes in each direction

Segment 3 – I-495 to I-66



Median busway and two general traffic lanes in each direction

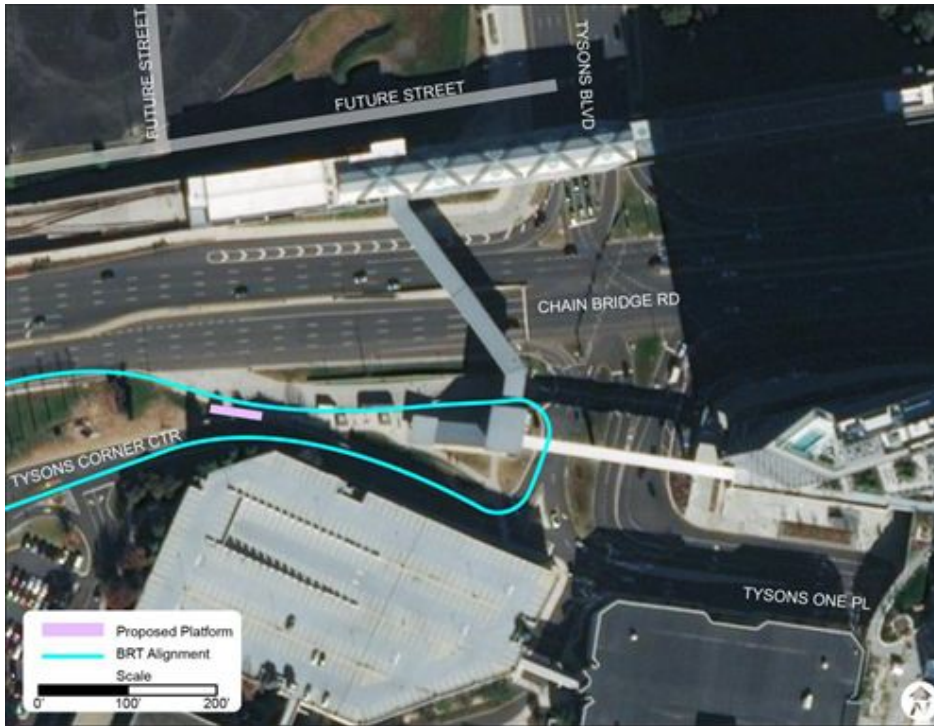
Figure 8-12 | Patterson Road Station Location and Platform Configuration



Figure 8-13 | International Drive Station Location and Platform Configuration



Figure 8-14 | Tysons Corner Center Station Location and Platform Configuration



8.4 Build Alternative 3 – Route 7 to West*Park Transit Center

The proposed alignment in Alternative 3 follows Route 7 to Spring Hill Metrorail station before utilizing Tyco Road to the terminus at West*Park Transit Center, returning to Route 7 along Spring Hill Road, see **Figure 8-15**. This alternative consists of a median busway on Route 7 before transitioning to a curb BAT lane after the International Drive Station, and northbound and southbound BAT lanes on Tyco Road and Spring Hill Road, respectively. Proposed stations are located at Patterson Road, International Drive, Greensboro Metrorail Station, Spring Hill Metrorail Station, and West*Park Transit Center. The one-way route length is 3.8 miles. **Figure 8-16** shows the roadway cross-sections and descriptions for Alternative 3. **Figure 8-17** through **Figure 8-21** show the individual station locations and platform configurations.

Figure 8-15 | Proposed Alternative 3 Alignment

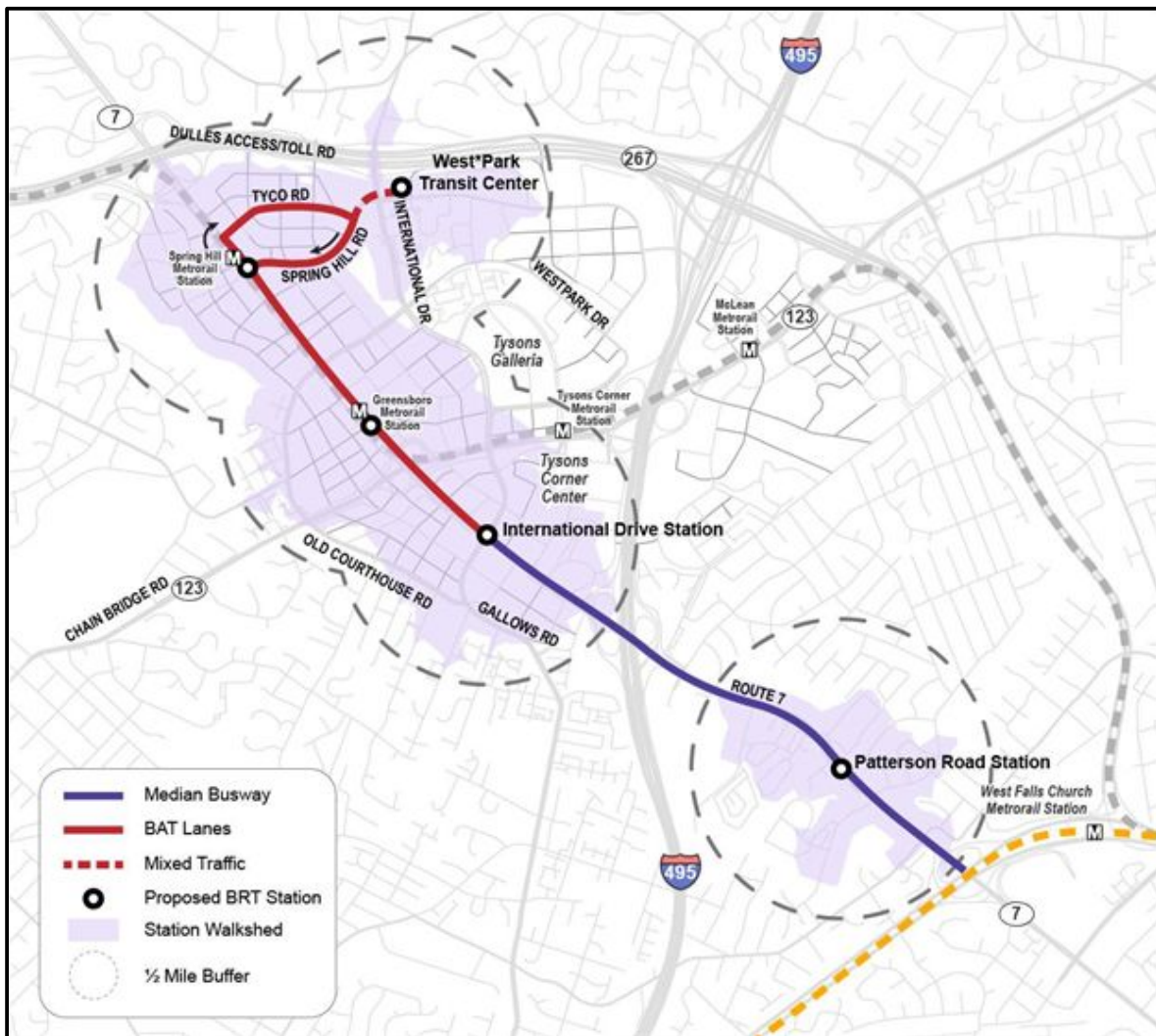


Figure 8-16 | Alternative 3 Street Cross-Sections

Street name and Section

Description

Tyco Road



Northbound BAT lane and two general traffic lanes in each direction

Spring Hill Road



Southbound BAT lane and two general traffic lanes in each direction

Route 7



Curb BAT lanes and three general traffic lanes in each direction

Segment 2 – International Drive to I-495



Median busway and three general traffic lanes in each direction

Segment 3 – I-495 to I-66



Median busway and two general traffic lanes in each direction

Figure 8-17 | Patterson Road Station Location and Platform Configuration



Figure 8-18 | International Drive / Gallows Road Station Location and Platform Configuration



Figure 8-19 | Greensboro Metrorail Station Location and Platform Configuration

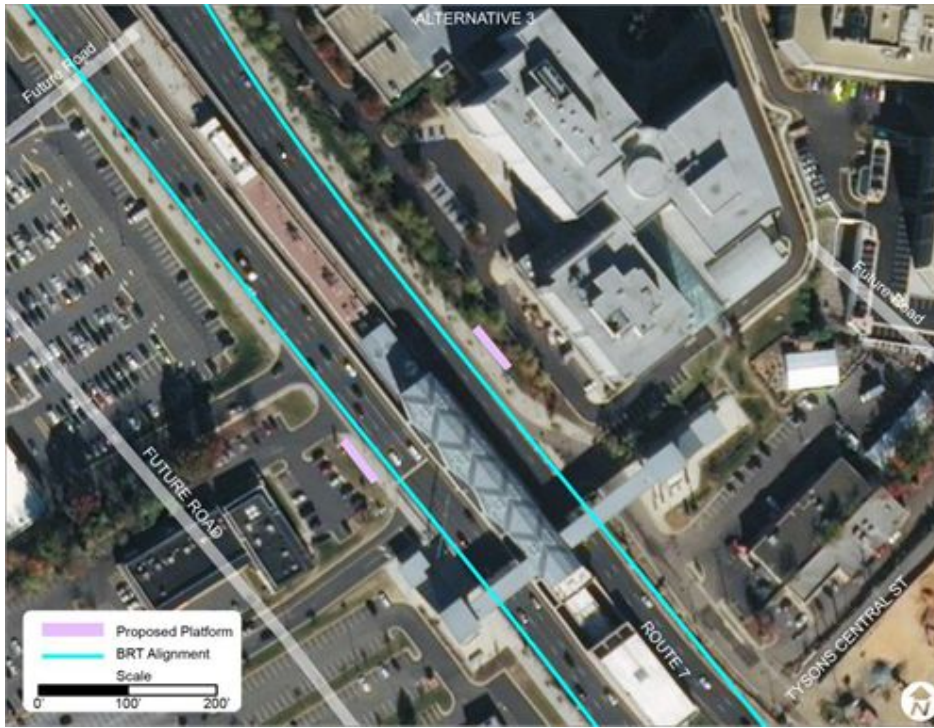


Figure 8-20 | Spring Hill Metrorail Station Location and Platform Configuration



Figure 8-21 | West*Park Transit Center Station Location and Platform Configuration



9 Build Alternatives Evaluation

The purpose of this Build Alternatives Evaluation section is to document the evaluation results including the Measures of Effectiveness (MOEs) and comparison of the three Build Alternatives under consideration for this Route 7 Bus Rapid Transit (BRT) Tysons Study. The multimodal analysis of the future transportation conditions is based on the travel demand and traffic simulation Future Build models. The selected MOEs provide a comparison between the existing conditions, the 2045 Future No Build baseline, and the build alternatives presented in this memorandum. The Existing Conditions section documented the existing multimodal transportation conditions in the study area in 2018, including results from data collection efforts as well as travel demand and traffic simulation model calibration. This memorandum compares the alternatives against the 2045 Future No Build baseline as to determine the alternatives' effectiveness in achieving the project goal and objectives.

9.1 Land Use and Demographics

Land use and demographics are one of the main MOEs used to quantify the impact of the three end-to-end alternatives as part of the Build Alternatives Evaluation Phase. Impact is measured in terms of the level of access each alternative provides to different types of land uses, number of households, population, and employment.

9.1.1 Land Use

The purposed conceptual land use pattern for Tysons includes clusters of high density, mixed-use buildings surrounding the four Metrorail stations; transforming from a large suburban office park into a 24/7 urban center with a mix of workers and residents. Alternative 1 provides the highest access to different types of land uses as compared to the other two alternatives including residential mixed use, retail mixed use, transit station mixed use, residential as well as open space, see **Figure 9-1**. Alternative 2 provides the least access to different types of land use including only residential mixed use, retail mixed use and transit station mixed use, see **Figure 9-2**. For Alternative 3, the access to different types of land use is similar to Alternative 1 in addition to providing access to office land use, see Demographics.

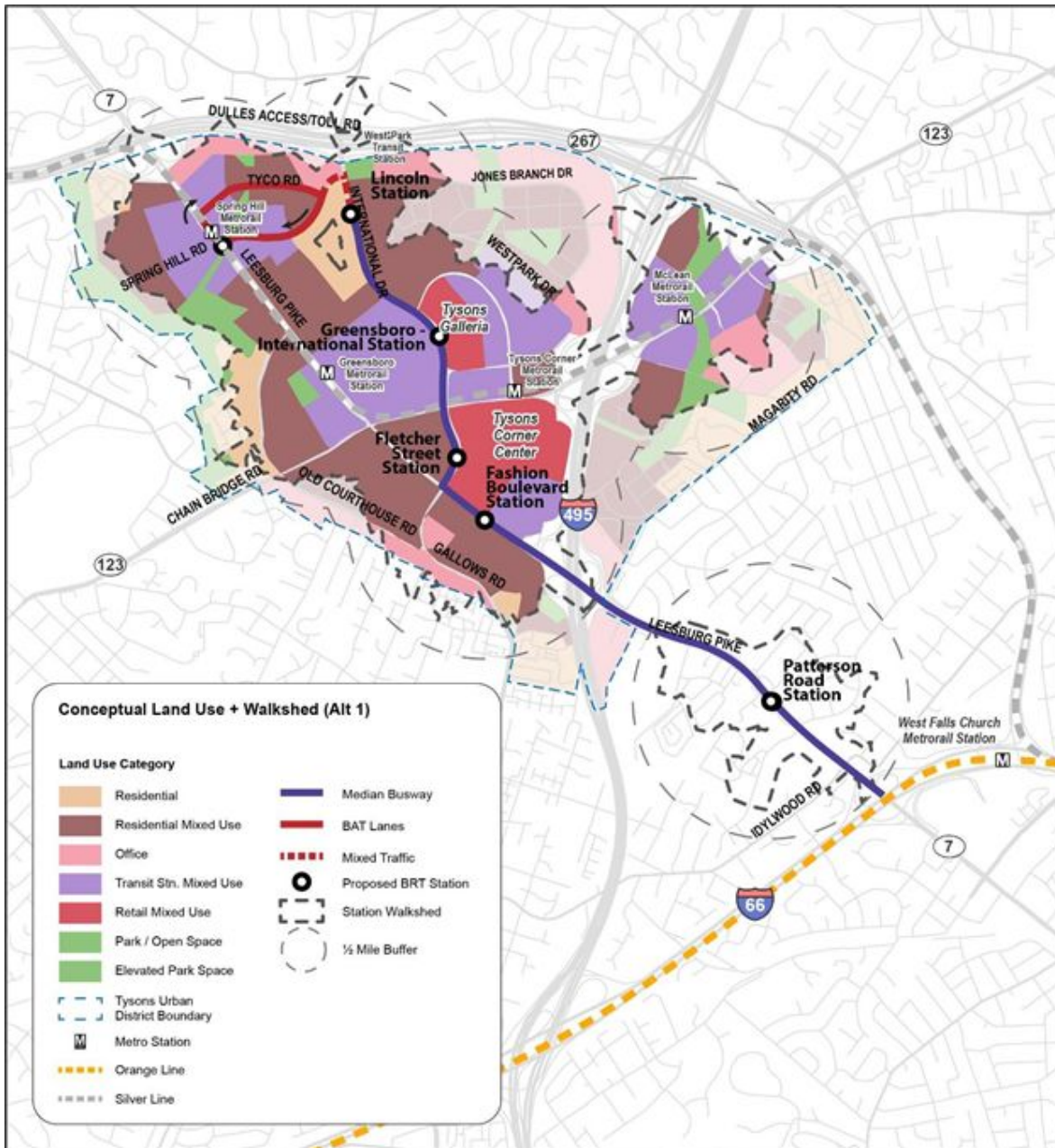
A GIS analysis was conducted for the ½-mile combined BRT and Metrorail station walkshed to capture the demographic metrics for each alternative as an indicator for potential ridership and access to premium transit service. As it relates to demographic metrics of households, population and employment, Alternative 1 provides the greatest access overall. Alternative 1 provides the greatest access to Households (+872), Population (+1,694), and Employment (+2,045) over Alternative 3. Alternative 2 provides the least access to households, population, and employment of the three alternatives. The level of access of the alternatives to households, population and employment is summarized in **Table 9-1**.

Table 9-1 | Demographics Metrics for Build Alternatives

Demographic Metric	Alt 1	Alt 2	Alt 3
Households	8,248	5,495	7,376
Population	16,651	11,504	14,957
Employment	68,257	61,683	66,212

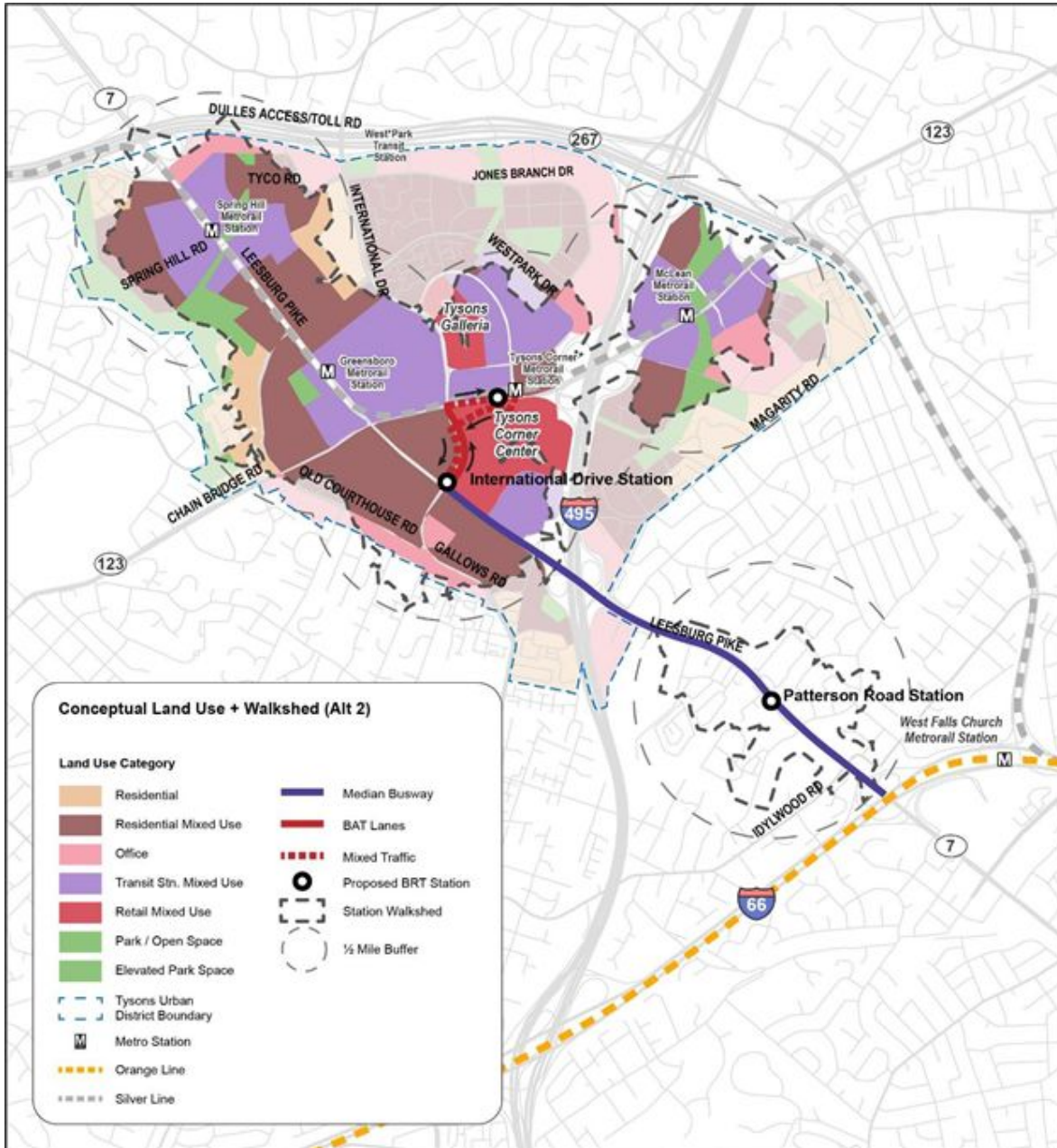
Source: MWCOG

Figure 9-1 | Alternative 1 with Study Area Conceptual Land Use in 2045



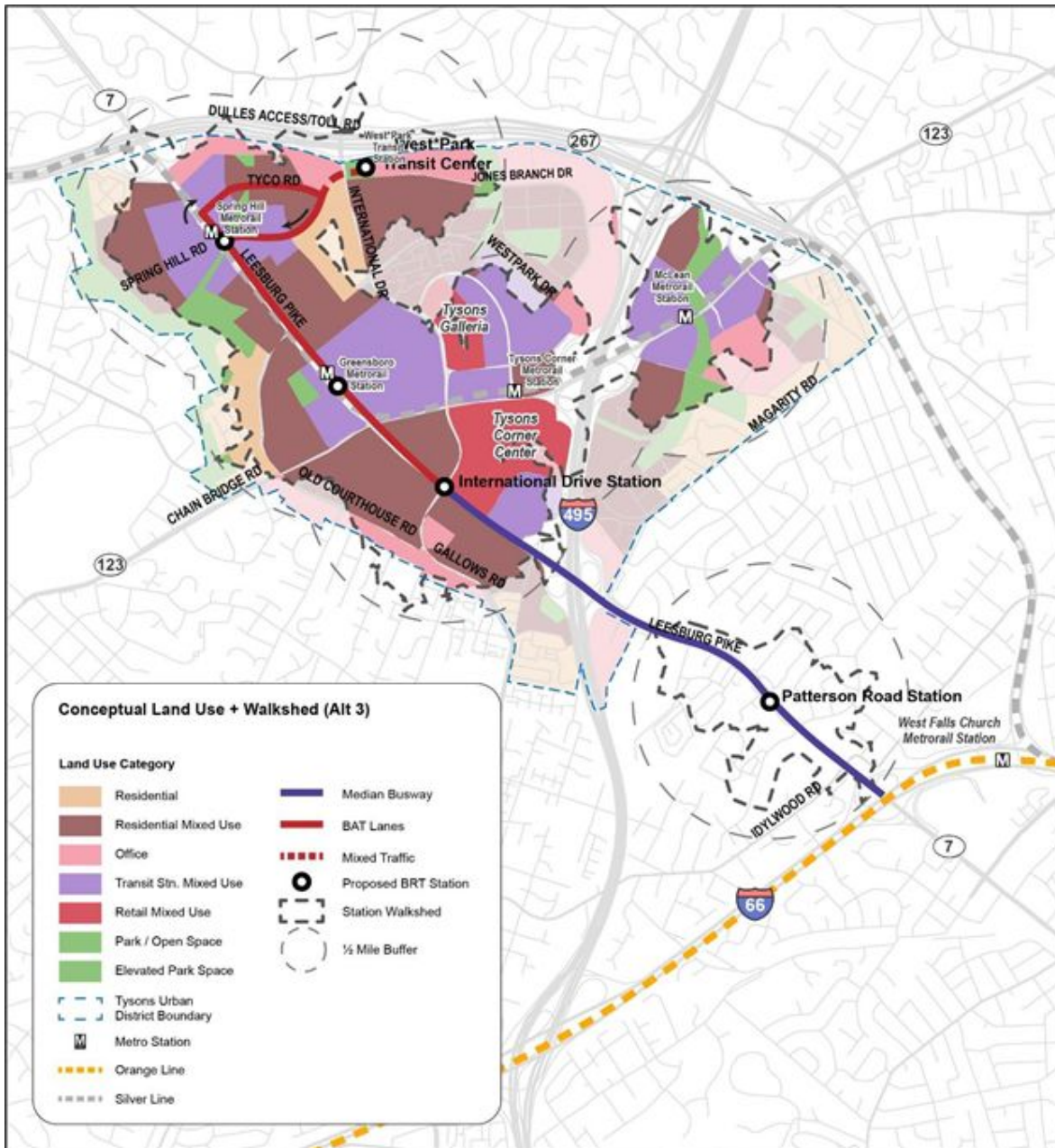
Source: Fairfax County - Tysons Conceptual Land use Plan

Figure 9-2 | Alternative 2 with Study Area Conceptual Land Use in 2045



Source: Fairfax County - Tysons Conceptual Land use Plan

Figure 9-3 | Alternative 3 with Study Area Conceptual Land Use in 2045



Source: Fairfax County - Tysons Conceptual Land use Plan

9.2 Transit

There are several transit MOEs that are considered for quantifying the impact of the three end-to-end alternatives including access to other transit services along the routes, frequency, ridership, mode share, travel speeds, and reliability. For the study, the evaluation assumes several new transit services will be added to the transportation network including the full build-out of the Metrorail Silver Line as well as additional bus routes.

In terms of access to major transit services, Alternative 1 serves the Spring Hill Metrorail station and Alternative 2 serves the Tysons Corner Metrorail station. In comparison, Alternative 3 provides more access to major transit services than both Alternative 1 and Alternative 2. Alternative 3 provides access to both the Spring Hill Metrorail station and the Greensboro Metrorail station, as well as the Tysons West*Park Transit Center, which is served by Fairfax Connector Route 401, 402, 423, 494, and 574.

9.2.1 Ridership

In the study area, the total daily transit boardings for BRT were evaluated for all three alternatives as well as ridership for Metrobus, Metrorail and other transit modes. The total transit ridership for each of the three alternatives was greater than the No Build condition with BRT representing 8 – 17 percent of total daily transit boardings. **Table 9-2** provides ridership by mode for each of the alternatives.

Table 9-2 | Total Daily Transit Boardings in Study Area

Mode	No Build	Alt 1	Alt 2	Alt 3
BRT	--	6,709	3,526	6,985
Metrobus	8,641	6,381	7,647	6,344
Metrorail	25,498	25,320	25,372	25,211
Other	4,188	3,067	3,588	3,223
Total	38,327	41,477	40,133	41,763

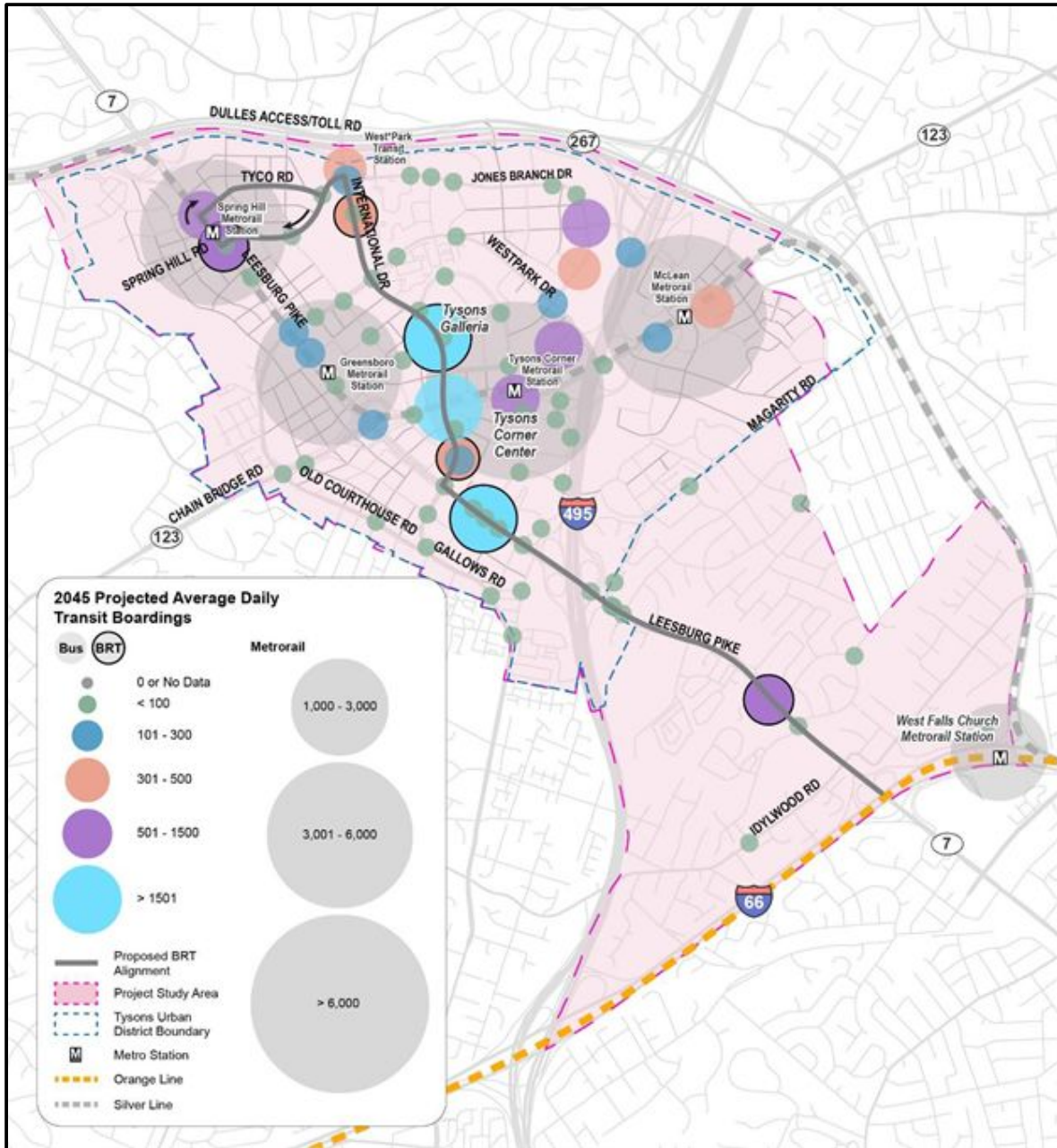
Source: Tysons BRT Study Travel Demand Model

When comparing alternatives, Alternative 3 provides the greatest BRT ridership as well as the greatest overall transit ridership in the study area. Alternative 1 provides slightly lower BRT ridership compared to Alternative 3, and Alternative 2 has the least BRT ridership of all three. However, in terms of impact of BRT on the ridership of other transit modes, Alternatives 2 results in the least amount of ridership being attracted away from other transit options.

For each of the three alternatives, the areas with the strongest demand for BRT are shown in

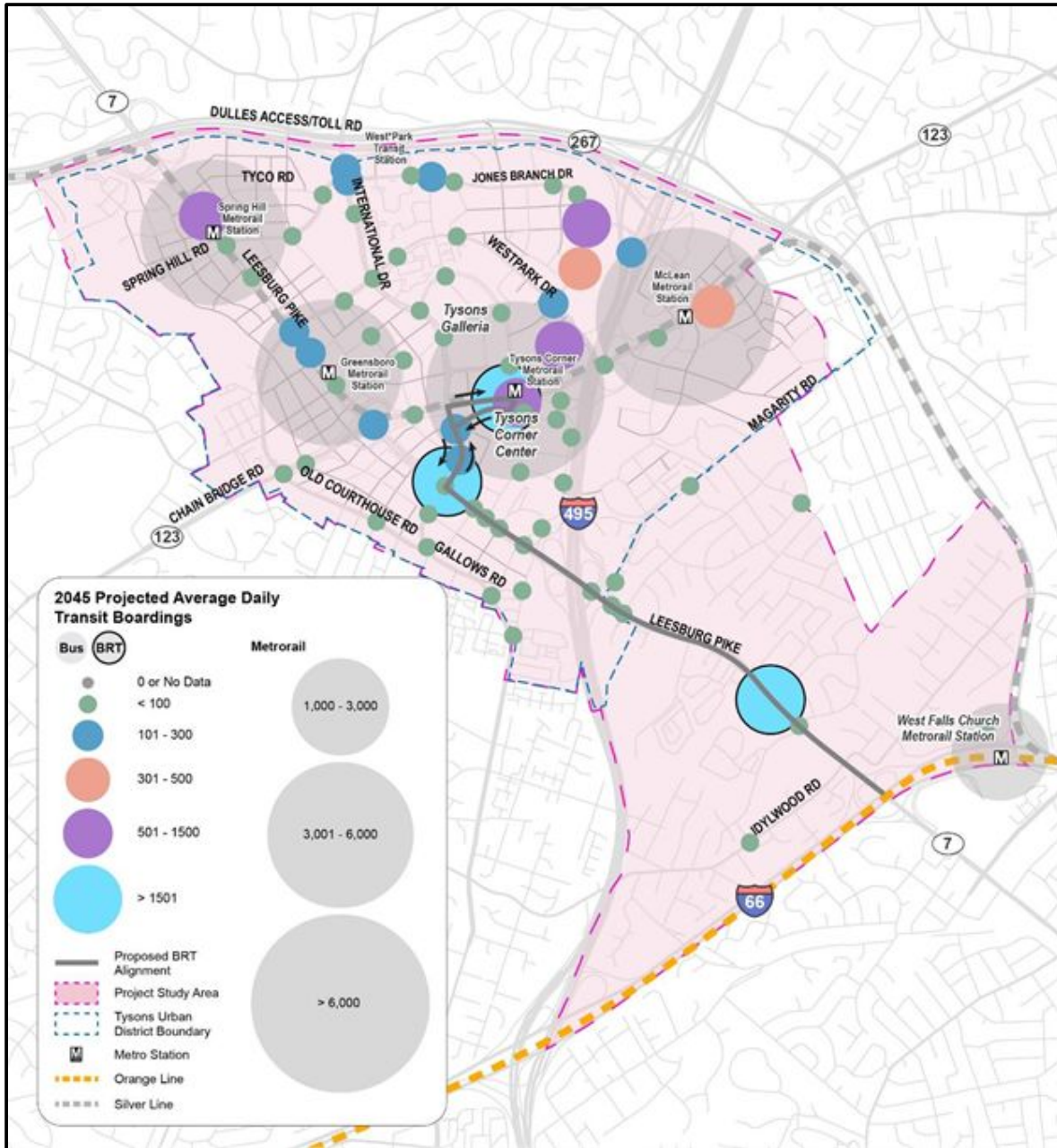
Figure 9-4, Figure 9-5, and Figure 9-6 respectively. For Alternative 1, the areas with the strongest demand for BRT are Tysons Galleria and Fashion Blvd / Gallows Rd along Route 7. For Alternative 2, the areas with the strongest demand for BRT are Tysons Corner Center, Watson St / Aline Ave along Route 7 as well as the proposed Patterson Road station. Then for Alternative 3, the areas with the strongest demand for BRT are Greensboro Metrorail station and Watson St / Aline Ave along Route 7. While Alternative 2 has the lowest overall transit ridership and the lowest BRT, it does benefit from having the most area where the demand for BRT is great than 1501 average daily transit boardings.

Figure 9-4 | Alternative 1 – 2045 Projected Average Daily Transit Boardings



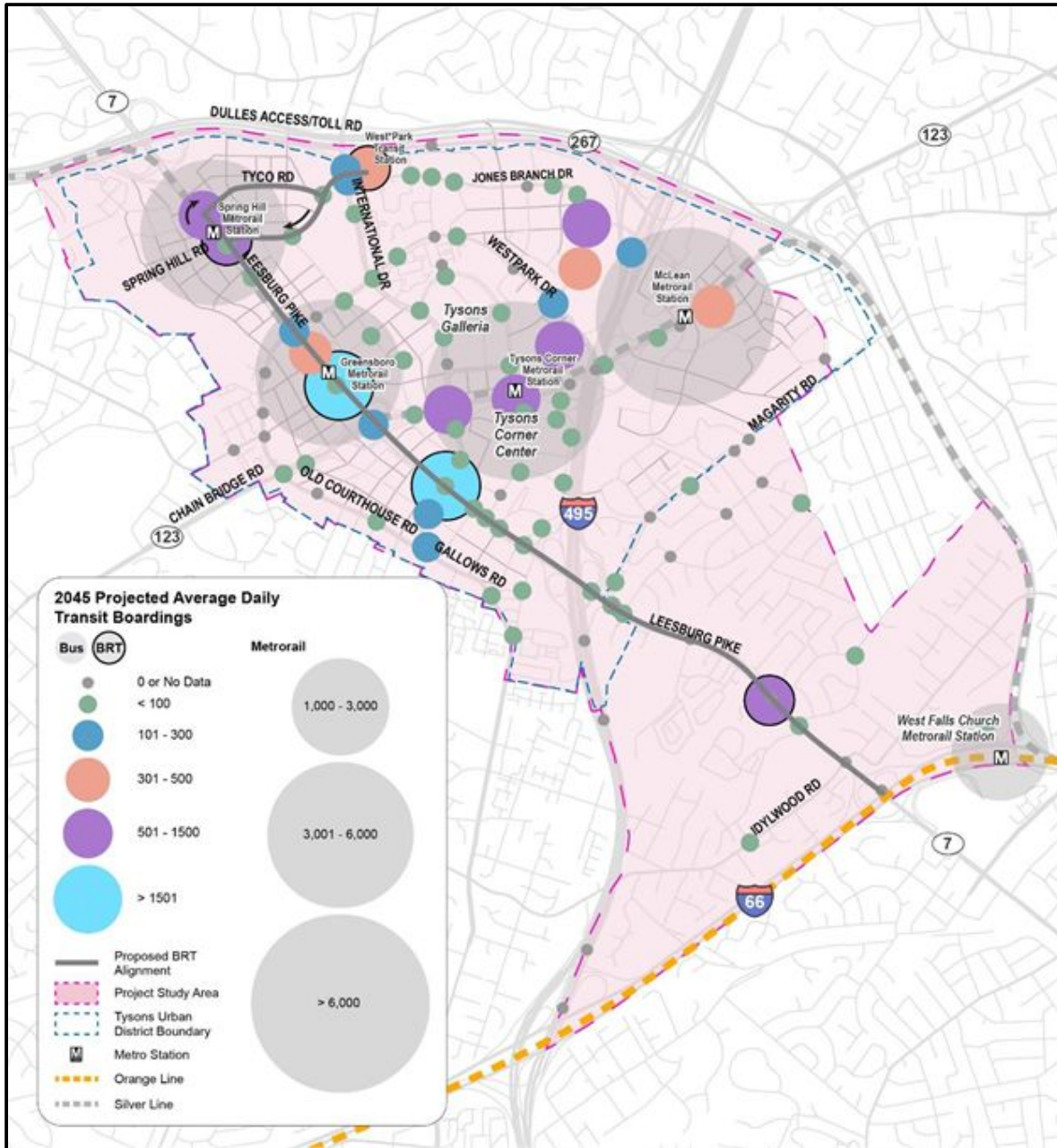
Source: Tysons BRT Study Travel Demand Model

Figure 9-5 | Alternative 2 – 2045 Projected Average Daily Transit Boardings



Source: Tysons BRT Study Travel Demand Model

Figure 9-6 | Alternative 3 – 2045 Projected Average Daily Transit Boardings



Source: Tysons BRT Study Travel Demand Model

9.2.2 Transit Mode Share

Peak and daily transit mode share increases by 0.3 percent for all alternatives resulting in negligible difference between transit mode share shift when comparing each of the alternatives to the No Build condition as seen in **Table 9-3**. In terms of peak and daily drive mode share, there was a decrease of 2.7 percent for peak period mode share and slight decrease of approximately 0.3 percent for daily mode share for each of the alternatives. As such, there is also negligible difference between drive modes share shift when comparing each of the alternatives.

Table 9-3 | Mode Share in Study Area

Mode	No Build		Alt 1 International Dr to Spring Hill Metro		Alt 2 International Dr to Tysons Corner Metro		Alt 3 Route 7 to West*Park Transit Center	
	Peak Period	Daily	Peak Period	Daily	Peak Period	Daily	Peak Period	Daily
Drive	89.0%	91.4%	88.7%	91.1%	88.7%	91.2%	88.7%	91.1%
Transit	11.0%	8.6%	11.3%	8.9%	11.3%	8.8%	11.3%	8.9%

Source: Tysons BRT Study Travel Demand Model

Note: Peak period 6:00 - 9:00 AM, 3:30 - 7:30 PM

In terms of shifts for peak and daily walk mode share as seen in **Table 9-4**. Alternative 1 and Alternative 3 both have an increase of 0.4 percent for the peak period and daily mode share as compared to the No Build condition. Alternative 2 only has an increase of 0.2 percent for the peak period and daily mode share. The increases across each of the alternatives are negligible.

For the Kiss & Ride mode share, all three alternatives show a decrease for both the peak period and daily mode share, with Alternative 3 having the highest decrease of 0.3 percent for both the peak period and daily mode share. However, across all alternatives the differences in the Walk and Ride mode shift is negligible.

For the Kiss & Ride mode share, all three alternatives show a decrease for both the peak period and daily mode share, but as with walk mode share and Walk & Ride mode share the differences are negligible. Overall, there were increases in walk mode share, but decreases in both Walk & Ride as well as Kiss & Ride mode share for all three alternatives for peak and daily periods. In terms of off peak period, alternatives followed same trend as peak and daily across walk, Walk & Ride, and Kiss & Ride mode shares.

Table 9-4 | Transit Ridership Mode Share in Study Area

Mode	No Build			Alt 1 International Dr to Spring Hill Metro			Alt 2 International Dr to Tysons Corner Metro			Alt 3 Route 7 to West*Park Transit Center		
	Peak	Off Peak	Daily	Peak	Off Peak	Daily	Peak	Off Peak	Daily	Peak	Off Peak	Daily
Walk	90.2%	92.0%	90.9%	90.6%	92.3%	91.3%	90.4%	92.2%	91.1%	90.6%	92.4%	91.3%
Walk & Ride	7.0%	5.7%	6.5%	6.8%	5.5%	6.3%	6.9%	5.5%	6.3%	6.7%	5.4%	6.2%
Kiss & Ride	2.8%	2.3%	2.6%	2.7%	2.2%	2.5%	2.7%	2.2%	2.5%	2.6%	2.2%	2.5%

Source: Tysons BRT Study Travel Demand Model

Note: Peak period 6:00 - 9:00 AM, 3:30 - 7:30 PM

9.2.3 Bus Travel Speed

To analyze transit conditions, bus speed in the study area was analyzed using VISSIM for both the local bus routes and the BRT service. The following sections provide the results of the analysis for the local bus and BRT routes.

9.2.3.1 Local Bus Travel Speed

Table 9-5 summarizes average transit travel speed by segment for the AM peak and the PM peak hours for local buses. Key findings are summarized as follows:

- During the PM peak, the local bus travel speed on Route 7 for all the Build Alternatives tends to be lower compared to the future No Build scenario. For the AM peak hour, findings are overall mixed where local bus speed improved along certain segments and decreased on others. The mixed findings can be attributed to the differences in traffic volumes for each scenario as well as the signal timing adjustments, which may impact AM and PM traffic conditions differently.
- Along International Drive, one important finding is that local bus speeds remain very low (less than 5 mph) during the PM peak hour for all the scenarios including the future No Build scenario. In the AM peak hour, local bus speed improved in the northbound direction considerably while speed reductions were observed in the southbound direction.

Table 9-5 | Simulated Peak Average Transit Travel Speeds (mph) for Local Routes

Direction	Segment	No Build – Local Bus		Alt 1 Local Bus		Alt 2 Local Bus		Alt 3 Local Bus	
		AM	PM	AM	PM	AM	PM	AM	PM
Northbound Route 7	Idlywood Rd to Ramada Rd	9.4	12.5	7.0	11.7	7.9	8.1	7.3	6.7
	Ramada Rd to Fashion Blvd	14.6	29.6	25.1	19.3	19.4	15.7	15.9	15.9
	Fashion Blvd to Westpark Dr	--	--	--	--	--	--	--	--
	Westpark Dr to Spring Hill Rd	11.3	5.7	9.8	29.6	10.3	29.4	13.0	13.6
Southbound Route 7	Spring Hill Rd to Westpark Dr	7.9	6.8	8.4	4.0	7.9	8.2	9.9	6.9
	Westpark Dr to Fashion Blvd	--	--	--	--	--	--	--	--
	Fashion Blvd to Ramada Rd	19.2	17.4	22.0	9.9	20.6	8.0	19.0	11.8
	Ramada Rd to Idylwood Rd	7.7	14.5	10.9	16.2	10.2	13.9	10.6	13.7
Northbound International Dr	Route 7 to Chain Bridge Rd	3.8	3.4	8.1	2.7	9.5	3.3	7.8	1.5
	Chain Bridge Rd to Lincoln Circle	--	--	--	--	--	--	--	--
	Lincoln Circle to Spring Hill Rd	--	--	--	--	--	--	--	--
Southbound International Dr	Spring Hill Rd to Lincoln Circle	--	--	--	--	--	--	--	--
	Lincoln Circle to Chain Bridge Rd	--	--	--	--	--	--	--	--
	Chain Bridge Rd to Route 7	8.2	4.6	4.8	4.6	2.9	4.7	7.3	4.2

Source: Tysons BRT Study VISSIM Traffic Models

9.2.3.2 Bus Rapid Transit (BRT) Travel Speed

Table 9-6 show the average BRT travel speed for the AM peak and the PM peak hours. Speeds for the local buses for the No Build condition were also displayed to provide a baseline. Compared to local buses, BRT operates substantially faster in both AM and PM peak hours, especially on segments with median running bus lanes, which avoid any queuing at intersections and allow for uncongested travel. Along segments with median running bus lanes and no BRT stations, speeds over 20 mph were observed in each scenario, indicating the effectiveness of median running bus lanes. Segments with mixed running traffic resulted in the lowest speeds (typically 5 to 10 mph). This is not surprising since BRT buses experience traffic delays along these segments, in addition to the delay that occurs during passenger boarding and alighting.

BAT lanes resulted in higher speeds than the mixed traffic conditions, however, did not perform as well as the median running lanes. This can be explained by the delay due to the right turning vehicles that are also allowed on the BAT lanes, resulting in lower bus speeds, especially at intersections with high turn volumes. Overall, Alternative 1 operated with lower BRT speeds compared to Alternative 2 and Alternative 3 as a result of the mixed traffic segments on International Drive. Alternative 2 operated with higher BRT speeds, although its coverage is much more limited compared to the other two alternatives.

Table 9-6 | Simulated Peak Average BRT Travel Speeds (mph)

Direction	Segment	No Build – Local Bus		Alt 1 BRT		Alt 2 BRT		Alt 3 BRT	
		AM	PM	AM	PM	AM	PM	AM	PM
Northbound Route 7	Idlywood Rd to Ramada Rd	9.4	12.5	22.9	27.1	24.7	18.9	21.4	24.0
	Ramada Rd to Fashion Blvd	14.6	29.6	27.8	29.3	29.9	28.9	30.1	25.1
	Fashion Blvd to Westpark Dr	--	--	--	--	--	--	9.4	10.7
	Westpark Dr to Spring Hill Rd	11.3	5.7	--	--	--	--	14.0	33.2
Southbound Route 7	Spring Hill Rd to Westpark Dr	7.9	6.8	--	--	--	--	22.3	8.5
	Westpark Dr to Fashion Blvd	--	--	--	--	--	--	15.4	9.4
	Fashion Blvd to Ramada Rd	19.2	17.4	19.8	20.5	23.7	21.5	25.2	22.8
	Ramada Rd to Idylwood Rd	7.7	14.5	23.7	26.2	19.4	24.4	25.0	26.1
Northbound International Dr	Route 7 to Chain Bridge Rd	3.8	3.4	11.0	15.5	11.1	9.7	--	--
	Chain Bridge Rd to Lincoln Circle	--	--	9.8	14.3	--	--	--	--
	Lincoln Circle to Spring Hill Rd	--	--	7.0	5.5	--	--	--	--
Southbound International Dr	Spring Hill Rd to Lincoln Circle	--	--	16.1	11.9	--	--	--	--
	Lincoln Circle to Chain Bridge Rd	--	--	10.3	7.8	--	--	--	--
	Chain Bridge Rd to Route 7	8.2	4.6	14.1	7.9	12.1	5.8	--	--

Source: Tysons BRT Study VISSIM Traffic Simulation Models

Notes: Mixed Traffic segments shown in purple; BAT Lanes segment shown in orange

9.2.4 Transit Travel Time Reliability

This section evaluates transit travel time reliability for BRT buses for each alternative. The local bus travel time reliability for the No Build scenario was also included as a comparison. Transit travel time reliability was measured using the 95th percentile bus travel times as a proxy to represent “near-worst case” travel conditions. **Table 9-7** show the 95th percentile BRT travel times for the AM and PM peak hours, respectively. Key findings from the reliability analysis are summarized as follows:

- Overall, BRT is considerably more reliable with much lower 95th percentile travel times compared to local buses on median running segments.
- For Alternative1, BRT on International Drive is less reliable compared to BRT on Route 7, especially in the mixed traffic segments. There are significant reliability issues in segment between Chain Bridge Rd and Westpark Dr.
- For Alternative 3, certain segments of the BAT lanes (e.g., Fashion Boulevard to Westpark Drive) cause unreliable operations with high 95th percentile travel times. This can be attributed to the high right turn volumes along these segments causing friction for BRT vehicles and delaying buses at intersections.

Table 9-7 | Bus Rapid Transit 95th Percentile Travel Times during the AM and PM Peak Hours

Direction	Segment	No Build – Local Bus		Alt 1 BRT		Alt 2 BRT		Alt 3 BRT	
		AM	PM	AM	PM	AM	PM	AM	PM
Northbound Route 7	Idlywood Rd to Ramada Rd	7.8	5.4	2.9	3.0	2.6	3.3	3.0	3.2
	Ramada Rd to Fashion Blvd	2.8	1.0	1.4	1.3	1.4	1.5	1.4	1.5
	Fashion Blvd to Westpark Dr	-	-	-	-	-	-	6.9	6.4
	Westpark Dr to Spring Hill Rd	3.1	6.8	-	-	-	-	2.3	0.8
Southbound Route 7	Spring Hill Rd to Westpark Dr	5.0	5.7	-	-	-	-	1.9	4.5
	Westpark Dr to Fashion Blvd	-	-	-	-	-	-	4.6	6.9
	Fashion Blvd to Ramada Rd	1.6	2.3	2.0	2.9	1.9	2.2	1.7	2.2
	Ramada Rd to Idylwood Rd	9.4	4.7	2.8	2.7	3.6	2.7	3.0	2.6
Northbound International Dr	Route 7 to Chain Bridge Rd	5.5	5.0	1.8	1.8	1.5	3.0	-	-
	Chain Bridge Rd to Lincoln Circle	-	-	4.2	3.0	-	-	-	-
	Lincoln Circle to Spring Hill Rd	-	-	4.0	6.7	-	-	-	-
Southbound International Dr	Spring Hill Rd to Lincoln Circle	-	-	1.7	2.1	-	-	-	-
	Lincoln Circle to Chain Bridge Rd	-	-	4.1	5.0	-	-	-	-
	Chain Bridge Rd to Route 7	1.7	2.8	1.4	2.4	1.2	3.9	-	-

Source: Tysons BRT Study VISSIM Traffic Models

Notes: Mixed Traffic segments shown in purple; BAT Lanes segment shown in orange

9.3 Traffic

This section describes the comparison of the No Build and three BRT traffic conditions. Vehicle speeds, intersection delay, and several other MOEs give a full picture of traffic conditions in the study area under each BRT Alternative scenario.

9.3.1 Corridor Travel Speed

This section presents corridor average vehicle travel speeds obtained from VISSIM on Route 7 and International Drive. **Table 9-8** and **Table 9-9** show the corridor average vehicle travel speed for the AM and PM peak hours, respectively. Simulation results show that International Drive has lower vehicle speeds compared to Route 7 in all analysis scenarios. This can be attributed to the signal timing effects, which typically provide longer green time and enhanced signal progression for Route 7, thereby reducing higher vehicle speeds. Another important finding is that, excluding Alternative 3, the alternatives generally resulted in comparable speeds to the No Build conditions. Specifically, the only exception is for Alternative 3 during the PM peak hour in which average vehicle speeds are considerably lower both along Route 7 and International Drive. This can be explained by the potential reduction in vehicle capacity as a result of lane repurposing that occurred in Alternative 3 for the BAT lane segment, which converted one of the general-purpose lanes into curb side bus only lanes. The effects are more pronounced in the PM peak compared to the AM peak, since the PM peak conditions are more critical with less extra capacity on Route 7, leading to slower speeds.

Table 9-8 | Average Vehicle Travel Speeds (mph) for the AM Peak Hour

Direction/Corridor	No Build	Alt 1	Alt 2	Alt 3
Northbound Route 7	14.5	14.2	13.7	12.6
Southbound Route 7	15.8	17.9	17.1	17.7
Average Route 7	15.2	16.1	15.4	15.2
Northbound International Dr	10.8	12.2	12.8	12.2
Southbound International Dr	18.1	15.7	15.5	18.6
Average International Dr	14.5	14.0	14.2	15.4

Table 9-9 | Average Vehicle Travel Speeds (mph) for the PM Peak Hour

Direction/Corridor	No Build	Alt 1	Alt 2	Alt 3
Northbound Route 7	17.7	17.6	15.7	10.6
Southbound Route 7	16.1	16.1	14.8	13.1
Average Route 7	16.9	16.9	15.3	11.9
Northbound International Dr	8.1	8.9	10.0	6.8
Southbound International Dr	12.3	10.0	10.8	8.0
Average International Dr	10.2	9.5	10.4	7.4

9.3.2 Intersection Operations

This section provides operations results for intersections from the study based on VISSIM outputs, with a focus on intersection level of service (LOS) and vehicle delay. Detailed intersection operation results such as delay and LOS by movement and vehicle queues are provided in **Appendix C**. Error! Reference source not found. **Table 9-10** provides a summary of the total number of intersections operating within each LOS category for each alternative during the AM and PM peak hours. The results show that Alternative 3 has the highest effect on vehicle operations compared to the other scenarios during both peak hours. This can mostly be attributed to the reduction in vehicle capacity along Route 7 because of lane repurposing for the BAT lane segment, which converted one of the general-purpose lanes into curb side bus only lanes. This lane reduction also led to higher traffic volumes on International Drive since it serves as an alternate route to Route 7, increasing vehicle delay along certain intersections.

Table 9-10 | Number of Intersections Operating within each LOS Category for AM and PM Peak Hours

Level of Service	No Build	Alt 1	Alt 2	Alt 3
AM Peak Hour				
LOS A-C	25	25	22	20
LOS D	5	9	9	10
LOS E	5	3	3	4
LOS F	5	3	6	6
PM Peak Hour				
LOS A-C	22	22	24	21
LOS D	4	7	4	5
LOS E	6	5	6	5
LOS F	8	6	6	9

Table 9-11 shows LOS for each study intersection for the AM and PM peak hours. Key findings are summarized as follows:

- As noted previously, Alternative 3 generally resulted in higher vehicle delay and degraded operations both on Route 7 and International Drive intersections both for the AM and PM peak hours. This is consistent with the vehicle corridor travel time savings and can be attributed to the reduction in vehicle capacity along Route 7 north of International Drive.
- Alternative 1 and Alternative 2 performed similarly compared to each other and compared to the Future No Build scenario. This is because these two alternatives have the same number of general-purpose lanes both on Route 7 and International Drive compared to the No Build scenario. The differences in vehicle delay compared to the No Build scenario can be attributed to the signal timing effects of BRT. Where BRT is running in median, all left turn signals that operate with permitted left turns converted to protected only left turn with the future alternatives. Additionally, transit signal priority (TSP) was assumed and modeled in VISSIM to improve BRT speed, which might have increased vehicle delay at signalized intersections.
- Finally, several intersections experience high vehicle delay in all scenarios especially during the PM peak. With a few exceptions, this is mostly due to the capacity issues in the No Build

scenario rather than the effect of BRT, since vehicle delays are also high in the No Build conditions.

Table 9-12 shows vehicle delay for each study intersection for the AM and PM peak hours. Overall, findings were similar to the LOS results discussed above. The results show that the effect of BRT on intersection delay is negligible with Alternative 1 and Alternative 2 compared to the No Build scenario. Alternative 3 increased delay at a few intersections, especially during the PM peak hour as a result of reduction in vehicle capacity on Route 7 and increased vehicle traffic on International Drive.

Table 9-11 | Study Area Signalized Intersection LOS for AM and PM Peak Hours

Int No.	Intersection Cross Streets	No Build		Alt 1		Alt 2		Alt 3	
		AM	PM	AM	PM	AM	PM	AM	PM
1	Rt 7 & Tyco Rd	E	E	E	D	E	D	E	E
2	Rt 7 & Spring Hill Rd	D	E	D	D	D	D	D	E
3	Rt 7 & Westpark Dr	F	F	F	F	F	F	F	F
4	Rt 7 & Chain Bridge Rd SB	C	C	C	B	C	B	C	B
5	Rt 7 & Chain Bridge Rd NB	B	A	B	A	A	A	C	A
6	Rt 7 & International Dr	E	E	E	E	E	F	E	E
7	Rt 7 & Fashion Blvd	C	D	C	D	D	D	D	D
8	Rt 7 & Old Gallows Rd	A	B	A	B	B	B	B	B
9	Rt 7 & I-495 SB	B	B	A	A	B	B	C	C
10	Rt 7 & I-495 NB	B	B	B	C	B	C	C	C
11	Rt 7 & Lisle Ave/Ramada Rd	D	D	D	E	D	E	D	E
12	Rt 7 & Marshall HS Driveway	A	A	C	B	C	C	B	C
13	Rt 7 & George Marshall Dr	C	B	D	C	D	C	D	D
14	Rt 7 & Dominion Dr	B	A	C	A	C	A	C	C
15	Rt 7 & Patterson Rd	C	A	C	B	C	B	B	C
16	Rt 7 & Pimmit Dr	F	C	D	C	D	C	D	D
17	Rt 7 & Idylwood Rd	D	C	C	C	D	C	D	C
18	Rt 7 & I-66 SB	B	B	C	B	C	B	C	B
19	Rt 7 & I-66 NB	A	A	E	A	F	A	F	C
20	Gallows Rd & Old Court House Rd	C	F	D	F	E	F	D	F
21	International Rd & Tysons One Pl	E	E	C	D	C	E	D	F
22	International Dr & Chain Bridge Rd	F	E	D	E	F	E	F	F
23	International Dr & Galleria Dr	A	A	A	D	A	B	A	C
24	International Dr & Greensboro Dr	C	C	C	E	C	C	C	D
25	International Dr & Tysons Blvd	C	C	C	C	C	C	B	C
26	International Dr & Westpark Dr	D	F	D	D	C	E	C	F
27	International Dr & Jones Branch Dr	E	F	D	F	F	F	F	F
28	Spring Hill & Tyco Rd	C	C	C	C	D	C	E	B
29	Spring Hill Rd & Greensboro Dr	D	F	D	D	D	D	D	C
30	Chain Bridge Rd & Old Courthouse Rd	F	F	F	F	F	F	F	F
31	Tysons and Chain Bridge Rd	E	F	C	F	D	E	E	F
32	International Dr & Fletcher St	B	D	B	E	A	E	B	E
33	Westpark Dr & Greensboro Dr	F	F	F	F	F	F	F	F
34	Rt 7 & New Street (except Alternative 3)	A	A	A	A	A	A	C	A
35	Rt 7 & Broad Street	C	D	B	B	B	C	B	D
36	Chain Bridge Rd & Rt 7 South	A	C	A	C	A	C	A	C
37	Chain Bridge Rd & Rt 7 North	C	C	B	C	C	C	B	C
38	Chain Bridge Rd & Rt 7	C	B	C	C	C	C	C	B
39	Tyco Rd & Greensboro Dr	C	E	C	C	C	C	D	C
40	International Dr & Lincoln Circle*	-	-	B	C	-	-	-	-

LOS: Green – A, B, C; Yellow – D; Orange – E; Red – F

Indicates Unsignalized Intersection

---- Tysons Urban District Boundary Intersections

*International Drive and Lincoln Circle was converted to a signalized intersection in Alternative 1 to allow for BRT transition

Table 9-12 | Study Area Signalized Intersection Average Vehicle Delay (seconds) for AM and PM Peak Hours

Int No.	Intersection Cross Streets	No Build		Alt 1		Alt 2		Alt 3	
		AM	PM	AM	PM	AM	PM	AM	PM
1	Rt 7 & Tyco Rd	67.2	78.4	65.2	49.6	64.3	52.5	58.6	74.6
2	Rt 7 & Spring Hill Rd	39.5	78.6	44.2	46.4	37.7	50.0	38.6	64.3
3	Rt 7 & Westpark Dr	138.6	129.0	116.3	101.0	141.0	96.5	144.5	115.5
4	Rt 7 & Chain Bridge Rd SB	21.3	27.3	26.3	14.2	23.7	18.1	27.0	15.2
5	Rt 7 & Chain Bridge Rd NB	13.5	3.8	10.2	5.3	7.3	5.6	26.2	5.0
6	Rt 7 & International Dr	60.6	59.8	65.9	78.3	74.1	92.1	63.5	76.6
7	Rt 7 & Fashion Blvd	30.9	38.2	28.1	36.2	36.3	37.5	36.9	40.9
8	Rt 7 & Old Gallows Rd	8.7	11.7	9.3	11.4	12.9	11.2	13.0	15.3
9	Rt 7 & I-495 SB	13.5	11.3	6.2	8.7	11.4	10.7	16.8	21.9
10	Rt 7 & I-495 NB	18.7	19.7	17.2	21.9	18.3	28.5	22.1	26.0
11	Rt 7 & Lisle Ave/Ramada Rd	39.1	44.9	49.7	59.1	49.7	72.4	47.7	78.7
12	Rt 7 & Marshall HS Driveway	6.4	2.4	15.3	12.8	16.1	16.7	12.7	20.2
13	Rt 7 & George Marshall Dr	22.7	16.0	44.7	21.3	53.9	31.4	43.4	50.3
14	Rt 7 & Dominion Dr	16.3	1.7	28.3	4.1	24.5	3.8	20.5	24.4
15	Rt 7 & Patterson Rd	28.6	7.8	27.8	10.8	24.1	10.6	15.7	25.1
16	Rt 7 & Pimmit Dr	82.4	27.4	49.5	26.1	50.0	32.9	54.4	54.0
17	Rt 7 & Idylwood Rd	42.0	27.1	31.3	30.4	40.0	31.3	40.5	30.6
18	Rt 7 & I-66 SB	14.8	11.4	21.9	14.4	21.7	13.7	24.5	19.3
19	Rt 7 & I-66 NB	3.3	4.8	43.3	5.2	57.2	5.2	64.7	28.0
20	Gallows Rd & Old Court House Rd	33.2	93.7	51.7	106.6	72.3	118.6	39.6	104.0
21	International Rd & Tysons One Pl	69.3	56.0	23.0	38.6	22.1	62.5	36.8	100.7
22	International Dr & Chain Bridge Rd	99.8	57.3	55.0	64.9	90.3	72.1	94.7	82.1
23	International Dr & Galleria Dr	6.5	4.2	7.8	34.4	7.8	11.5	5.2	25.3
24	International Dr & Greensboro Dr	24.0	25.2	25.3	63.0	24.8	25.4	24.2	39.2
25	International Dr & Tysons Blvd	20.1	24.6	28.0	23.3	23.9	23.9	19.5	24.7
26	International Dr & Westpark Dr	43.2	81.3	39.1	48.6	34.1	68.7	34.8	108.7
27	International Dr & Jones Branch Dr	61.9	87.8	54.5	100.9	83.6	88.0	80.3	100.9
28	Spring Hill & Tyco Rd	26.9	34.6	28.7	28.6	49.3	31.4	67.8	18.7
29	Spring Hill Rd & Greensboro Dr	51.3	94.3	42.2	42.0	39.4	53.0	40.1	33.0
30	Chain Bridge Rd & Old Courthouse Rd	105.0	117.8	111.6	98.2	84.4	101.2	103.6	97.6
31	Tysons and Chain Bridge Rd	79.0	98.8	29.1	85.8	44.0	67.2	65.7	149.7
32	International Dr & Fletcher St	18.6	38.9	17.5	61.7	9.8	71.8	11.1	62.9
33	Westpark Dr & Greensboro Dr	161.8	109.9	100.5	94.6	100.1	105.0	134.3	136.8
34	Rt 7 & New Street (except Alternative 3)	8.0	1.4	4.3	2.5	2.1	6.1	20.8	3.5
35	Rt 7 & Broad Street	34.7	36.9	15.3	12.3	12.7	24.3	18.5	48.9
36	Chain Bridge Rd & Rt 7 South	7.8	22.0	6.8	27.6	7.3	29.5	9.6	21.0
37	Chain Bridge Rd & Rt 7 North	21.2	28.6	16.4	25.4	21.8	30.7	19.5	27.8
38	Chain Bridge Rd & Rt 7	27.7	14.3	26.3	22.5	27.2	24.1	31.5	14.9
39	Tyco Rd & Greensboro Dr	30.0	76.4	27.5	33.0	27.8	27.5	42.9	20.9
40	International Dr & Lincoln Circle*	-	-	11.4	25.1	-	-	-	-

LOS: Green – A, B, C; Yellow – D; Orange – E; Red – F Indicates Unsignalized Intersection

---- Tysons Urban District Boundary Intersections

*International Drive and Lincoln Circle was converted to a signalized intersection in Alternative 1 to allow for BRT transition

9.3.3 VMT/VHT

Vehicle Miles Traveled (VMT) and Vehicle Hours Traveled (VHT) are other MOEs for analyzing the impact of each of the alternatives on traffic. Overall, each of the alternatives results in a decrease in VMT and VHT over a 24-hour period. When comparing the individual alternatives, Alternative 3 has the highest decrease in VMT and VHT as seen in **Table 9-13**. On average, the alternatives provide a reduction of approximately 22,300 VMT and 520 VHT as compared to the No Build condition.

Table 9-13 | Vehicle Miles Traveled and Vehicle Hours Traveled for the Study Area, 24-hour period

Miles/Hours Traveled	No Build	Alt 1	Alt 2	Alt 3
VMT	1,749,306	1,727,519	1,729,042	1,724,398
VHT	65,541	65,008	65,209	64,834

Source: AECOM –Travel Demand Model

9.4 Person Throughput

Person throughput is an MOE used to quantify the number of people being moved on a corridor during a specific time period. This MOE accounts for people traveling in automobiles (as either drivers or passengers) and in buses. **Note** that the numbers in the table below correspond to the numbers on the map for the throughput locations.

The analysis indicates that for locations on Route 7, the repurposing of a general travel lane for BRT results in a person throughput reduction of approximately 15,000 total people; however, parallel streets in the new urban street grid experience an approximate 5% increase in total person throughput, suggesting that the new grids of streets are taking on some traffic as drivers alter their travel patterns. Locations on International Drive where lanes are repurposed for BRT show a smaller reduction of total person throughput by approximately 1% to 7% (or less than 3,000 people).

Table 9-14 shows a comparison of the daily person throughput at eight key locations in the study area, while **Figure 9-7** is a map showing where these location are for the No Build and the three BRT Alternatives. Note that the numbers in the table below correspond to the numbers on the map for the throughput locations.

The analysis indicates that for locations on Route 7, the repurposing of a general travel lane for BRT results in a person throughput reduction of approximately 15,000 total people; however, parallel streets in the new urban street grid experience an approximate 5% increase in total person throughput, suggesting that the new grids of streets are taking on some traffic as drivers alter their travel patterns. Locations on International Drive where lanes are repurposed for BRT show a smaller reduction of total person throughput by approximately 1% to 7% (or less than 3,000 people).

Table 9-14 | Person Throughput

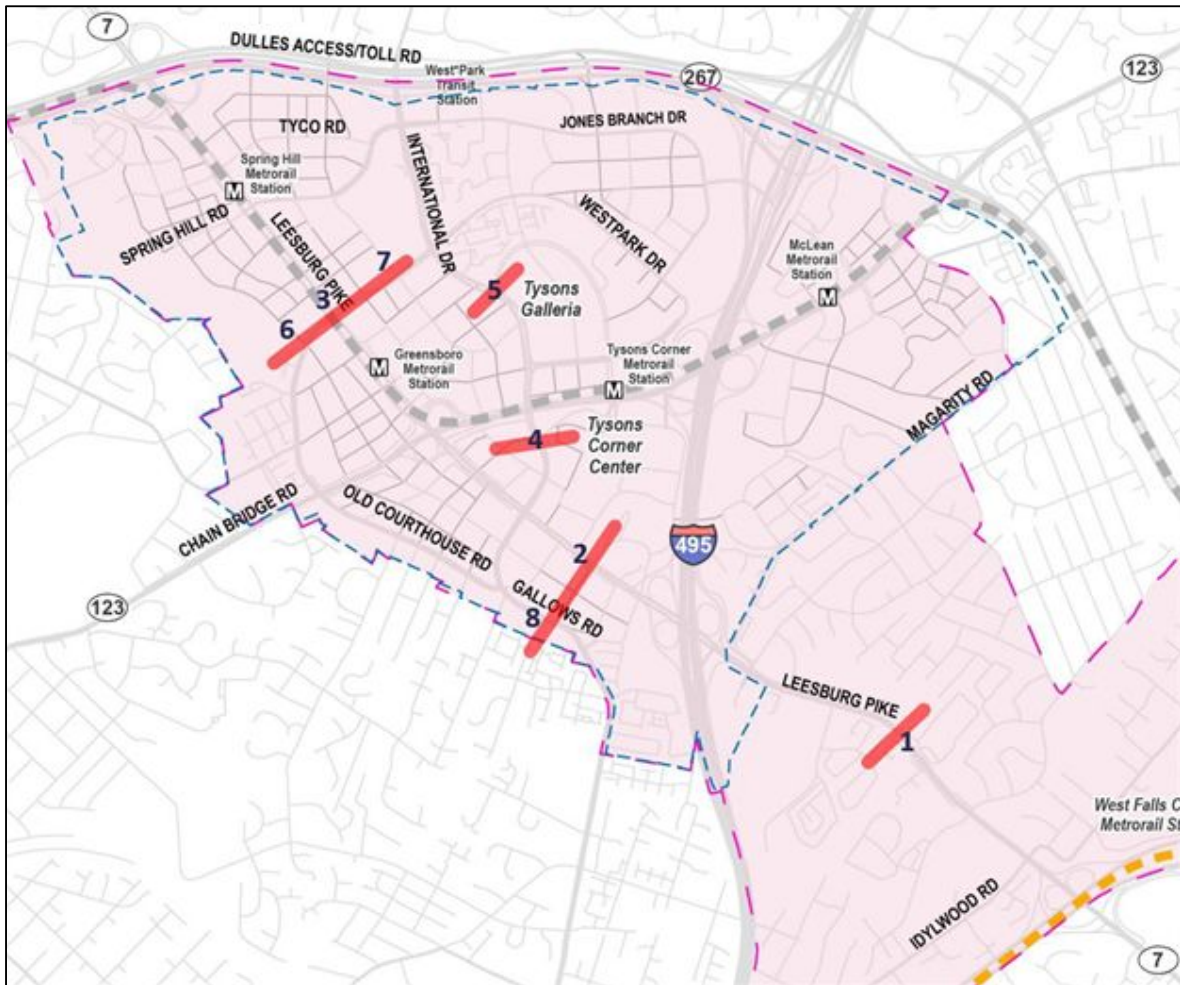
	No Build	Alt 1	Alt 2	Alt 3
1) Route 7 at Dominion Dr	71,400	64,400 (-10%)	63,300 (-11%)	64,100 (-10%)
2) Route 7 at Fashion Blvd	111,700	97,300 (-13%)	96,300 (-14%)	96,600 (-14%)
3) Route 7 at Westpark Dr	107,900	104,600 (-3%)	105,200 (-3%)	95,600 (-11%)
4) International Dr at Tysons One Pl	36,600	36,100 (-1%)	35,400 (-3%)	34,300 (-6%)
5) International Dr at Tysons Corner Blvd	45,200	42,000 (-7%)	44,000 (-3%)	45,900 (+2%)
6) Boones Blvd at Westpark Dr	5,200	5,400 (+4%)	5,200 (0%)	5,500 (+6%)

Route 7 Tysons BRT Study
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7) Greensboro Dr at Westpark Dr	13,500	13,500 (0%)	13,700 (+1%)	13,400 (-1%)
8) Gallows Rd at Madrillion Rd	58,200	61,000 (+5%)	61,800 (+6%)	61,100 (+5%)

Source: Tysons BRT Study Travel Demand Model

Figure 9-7 | Person Throughput Analysis Locations



9.4.1 Transit Person Throughput

Transit person throughput quantifies the number of people using transit along the corridor. **Table 9-15** and **Figure 9-8** shows the projected number of persons using local bus and BRT along the major corridors in the study area, excluding Metrorail. For all alternatives, Route 7 at Locations #1 and #2 (between International Drive and I-66) experience the greatest increase in transit person throughput of any locations indicating BRT is meeting the transit demand in/out of Tysons.

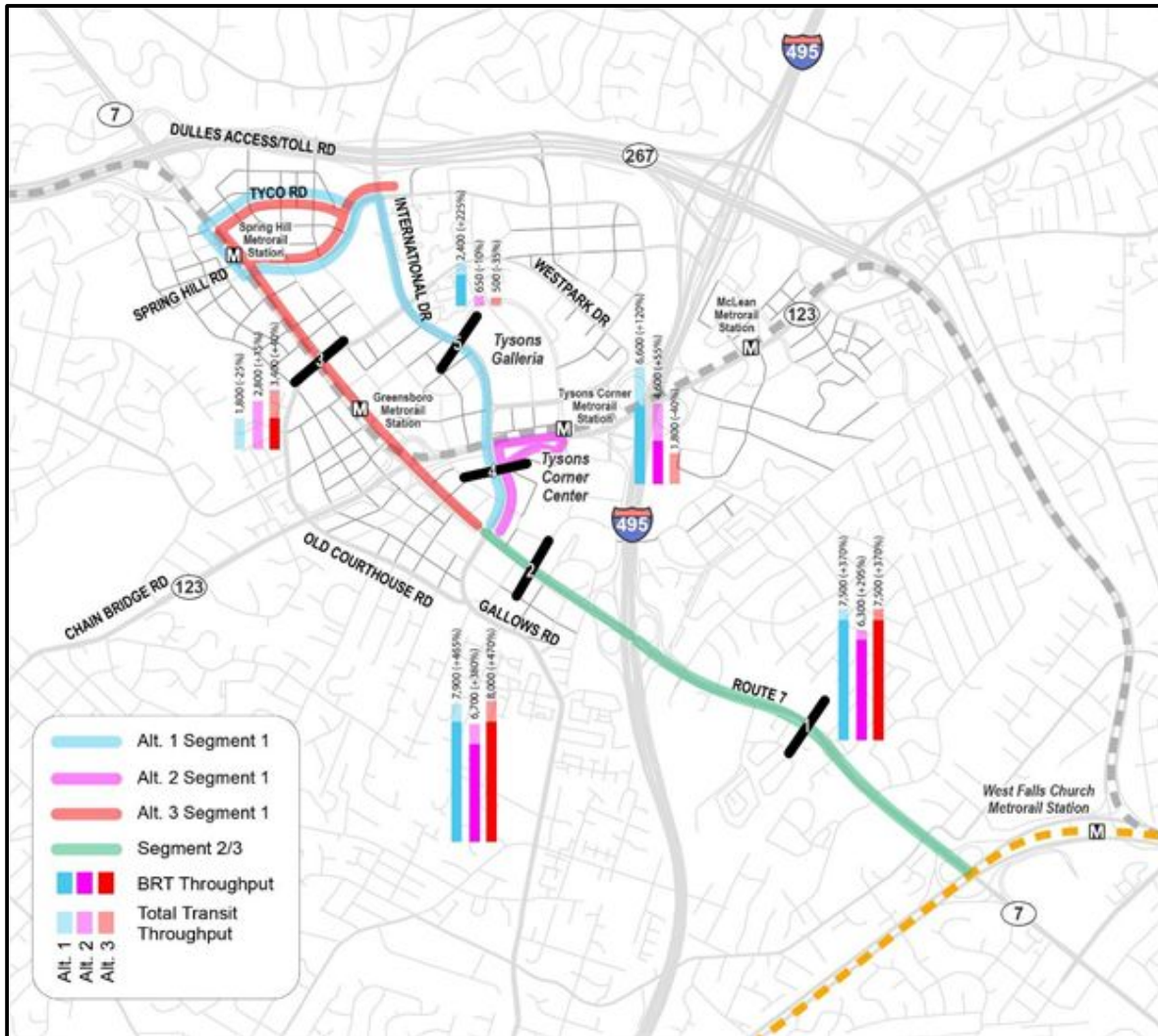
For the BRT alignments, total transit person throughput increases by 40% to 225% over the No Build. Alternative 1 experiences the greatest transit person throughput at the two locations (#4 and #5) of the three alternatives. Transit person throughput for Alternative 1 and Alternative 2 indicate that there is a strong demand for transit along International Drive, particularly at Tysons One Place. At all locations with a BRT alignment, BRT makes up the large majority of the total transit person throughput.

Table 9-15 | Transit and BRT Person Throughput at Select Locations

Location	No Build	Alt 1 International Dr to Spring Hill Metro	Alt 2 International Dr to Tysons Corner Metro	Alt 3 Route 7 to West*Park Transit Center
1) Route 7 at Dominion Drive	1,600	BRT: 6,900 Total: 7,500 (+370%)	BRT: 5,700 Total: 6,300 (+295%)	BRT: 6,900 Total: 7,500 (+370%)
2) Route 7 at Fashion Blvd	1,400	BRT: 6,900 Total: 7,900 (+465%)	BRT: 5,600 Total: 6,700 (+380%)	BRT: 6,900 Total: 8,000 (+470%)
3) Route 7 at Westpark Drive	2,400	Total: 1,800 (-25%)	Total: 2,800 (+15%)	BRT: 1,900 Total: 3,400 (+40%)
4) International Dr at Tysons One Pl	3,000	BRT: 4,500 Total: 6,600 (+120%)	BRT: 2,500 Total: 4,600 (+55%)	Total: 1,800 (-40%)
5) International Dr at Tysons Blvd	750	BRT: 1,900 Total: 2,400 (+225%)	Total: 650 (-10%)	Total: 500 (-35%)

Source: Tysons BRT Study Travel Demand Model

Figure 9-8 | Transit and BRT Person Throughput at Select Locations



Source: Tysons BRT Study Travel Demand Model

9.4.2 Travel Behavior Changes

A comparison of traffic volumes and a Select Link Analysis was conducted to better understand the changing travel patterns. The comparison of traffic volumes between the No Build and the three Alternatives present similar pattern of reduced traffic volumes on Route 7 and increased volumes on parallel facilities, including within the new urban street grid, Gallows Road, Chain Bridge Road, and the Dulles Toll Road. Alternative 1 shows a decrease of volumes on International Drive while Alternative 3 sees an increase of volumes. Alternative 2 shows decreased volumes on the southern portion of International Drive only. This pattern corresponds to where the BRT alignment is running. See **Figure 9-9** through **Figure 9-11** for the traffic volume changes for each BRT Alternative scenario.

Figure 9-9 | Traffic Volumes Changes - Alternative 1

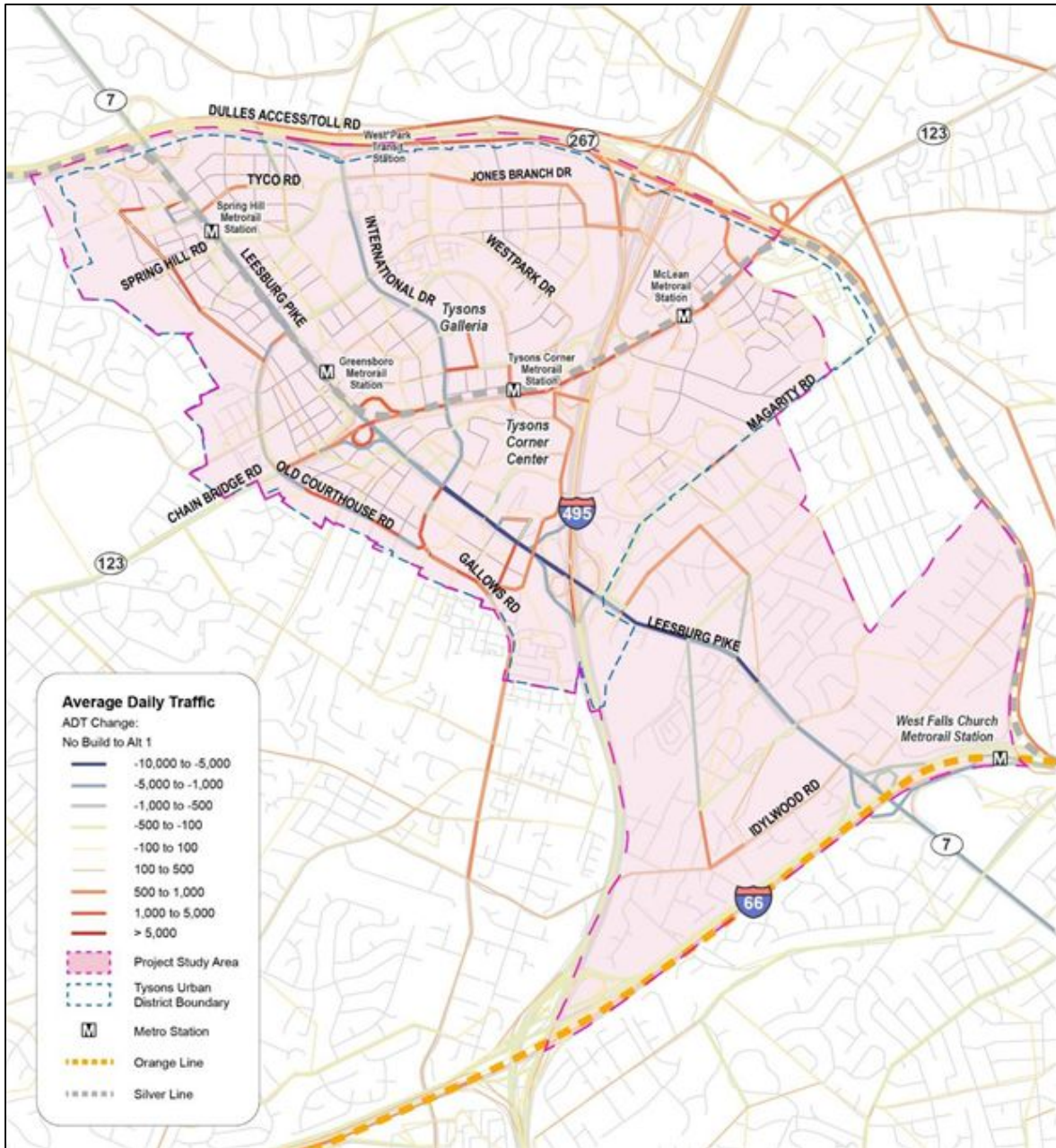


Figure 9-10 | Traffic Volumes Changes - Alternative 2

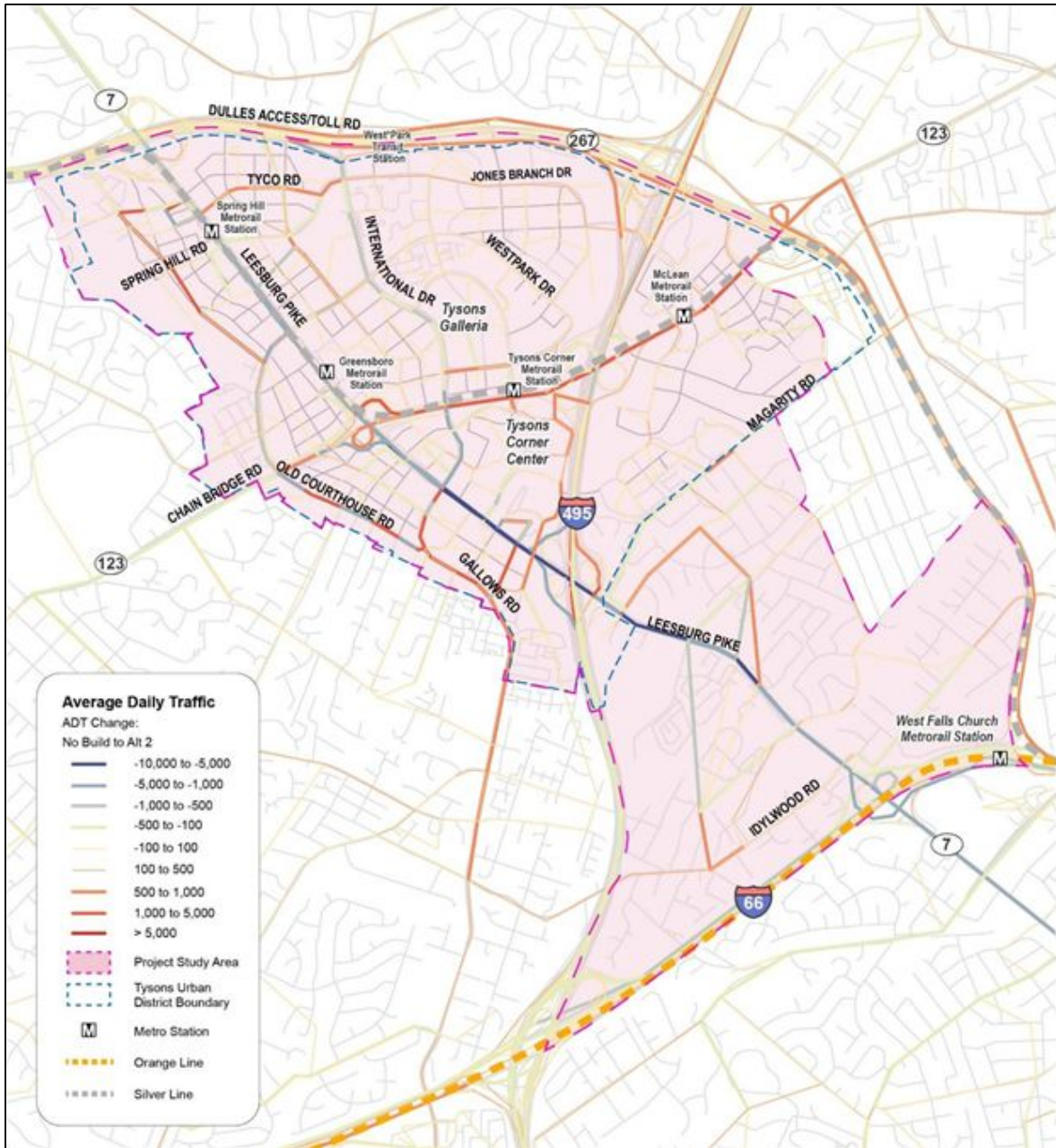
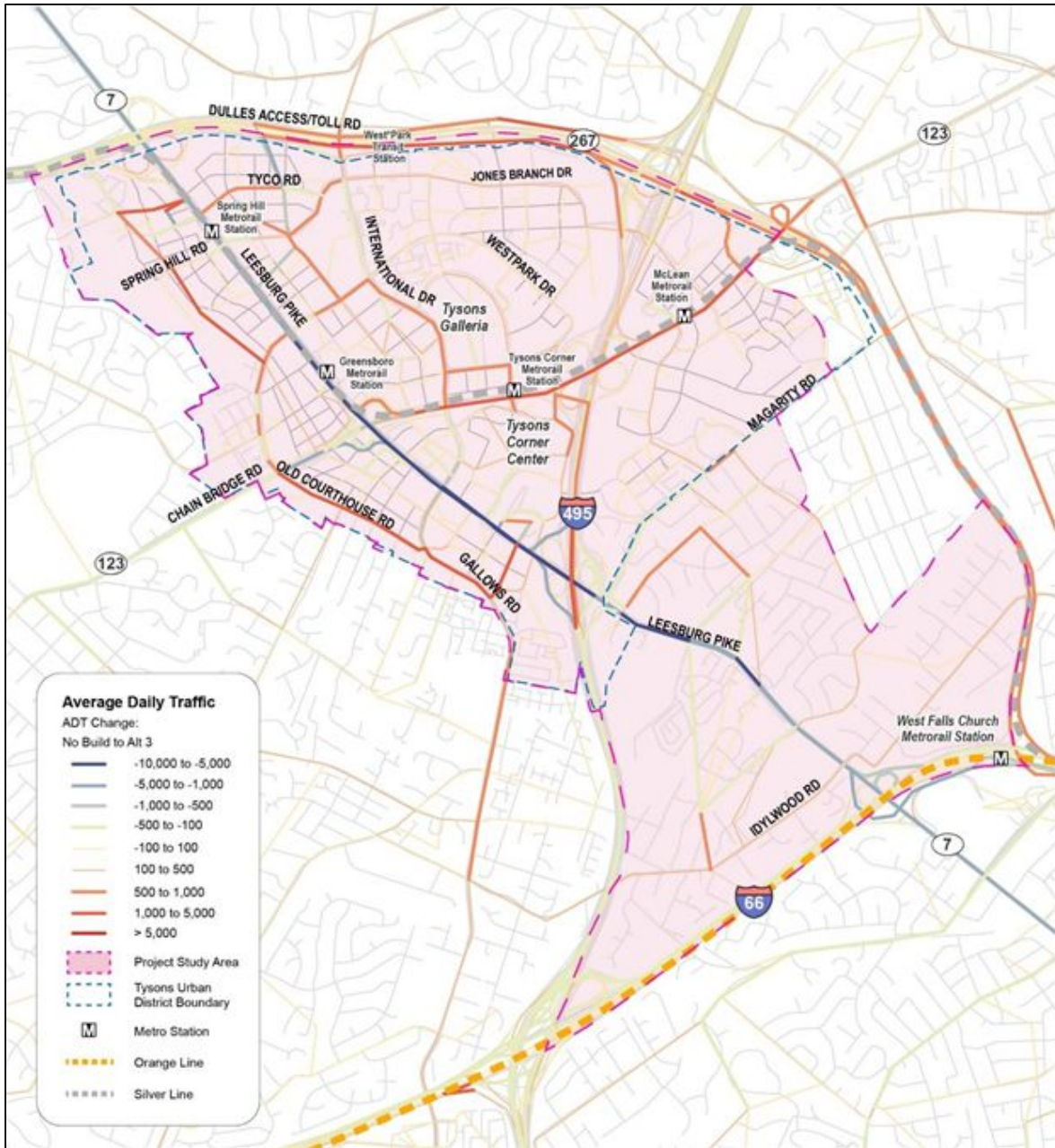


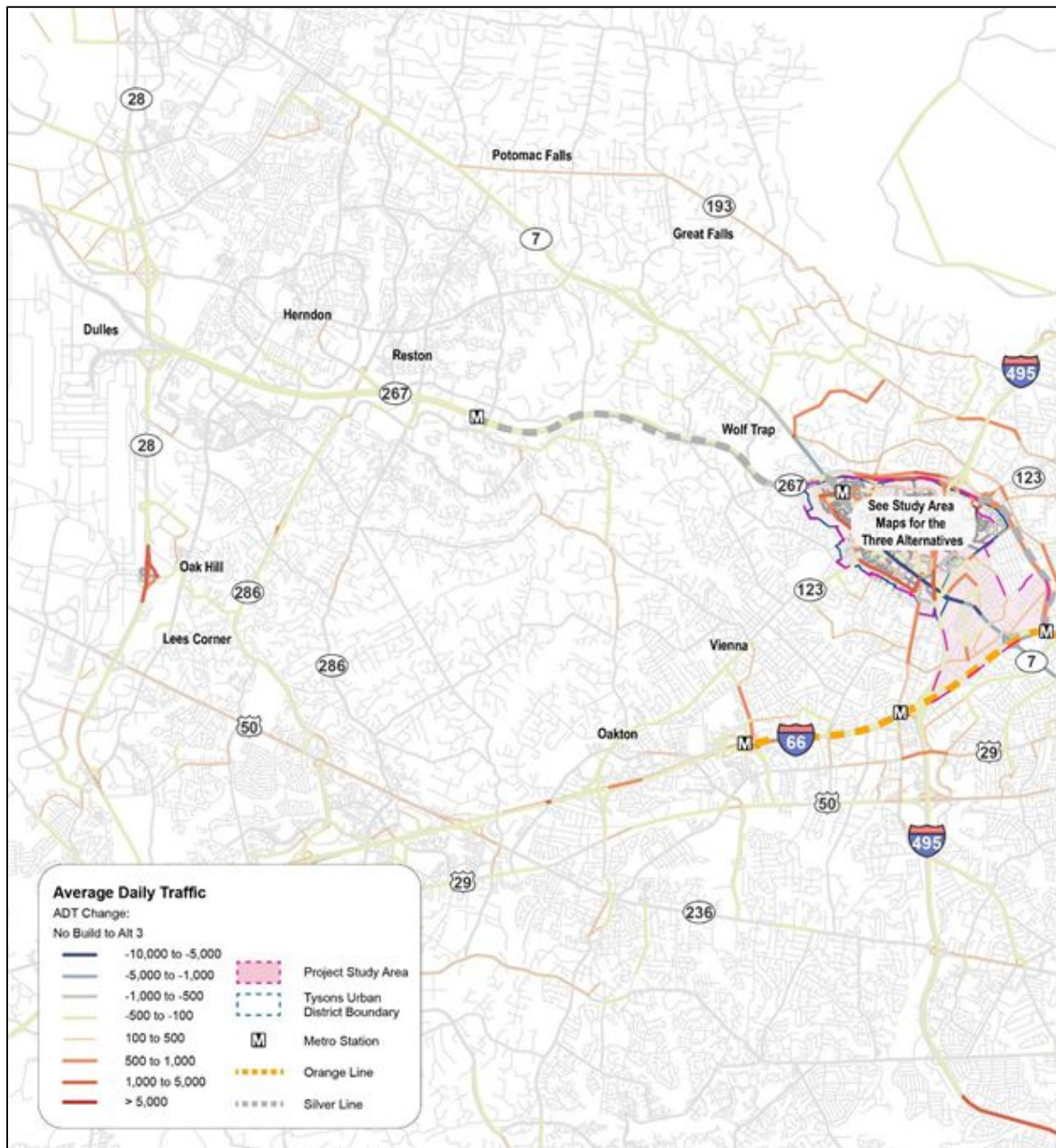
Figure 9-11 | Traffic Volumes Changes - Alternative 3



Looking at traffic volumes at a larger extent outside of the study area shows less variation between the BRT Alternatives, but some changes from the No Build. A Select Link Analysis for a central point in the study area showed that Dulles Toll Road and Route 7 on the north end of the study area, and Route 7, I-495 and I-66 in the south continue to act as the major collectors and distributors for the traffic. The reduction of a traffic lane in the study area to accommodate the BRT operations does not change the major function of Route 7 Corridor in the study area, in that travelers whose origin/destination are along Route 7 continue to use Route 7. However, some travelers that previously used Route 7 in the study

area as pass-through to other destinations have shifted their travel behaviors to use alternative routes (e.g. Route 50, Route 28, and Georgetown Pike) to avoid the congestion worsened by traffic lane reduction on Route 7. **Figure 9-12** shows the increases and decreases in average daily traffic volume in the greater western Fairfax County area for BRT Alternative 3 scenario as an example of the changed travel patterns.

Figure 9-12 | Wester Fairfax County Average Daily Traffic Changes from No Build - Alternative 3



9.5 Pedestrian Conditions

This section presents the pedestrian conditions evaluated for each of the BRT alternatives including pedestrian crossing times and station walkshed walkability.

9.5.1 Pedestrian Crossing Times

Table 9-16 summarizes the average pedestrian crossing times at critical intersections crossing Route 7 and crossing International Drive during both peak hours. The selected intersections have relatively higher pedestrian demand and experience longer vehicular delay. The pedestrian crossing time is calculated as the average time for pedestrians to cross the main streets (i.e., Route 7 and International Drive), including both pedestrian signal delay (the time from a pedestrian arrives until the Walk signal is displayed) and the time to cross an intersection.

Overall, the pedestrian crossing time at selected intersections show similar pattern across all scenarios. Crossing Route 7 typically requires longer crossing time (more than two minutes on average) due to the larger cross-sections along with the long red duration for pedestrians, increasing pedestrian delay. Crossing International Drive is slightly faster compared to crossing Route 7 as a result of relatively shorter crossings and shorter cycle lengths. For example, cycle length at the intersection of International Drive and Greensboro Drive is 140 seconds during the PM peak compared to the 210 seconds cycle length at Route 7 and Westpark Drive, leading to shorter pedestrian delays and crossing times.

Table 9-16 | Corridor Pedestrian Crossing Times (minutes) at Critical Locations

Corridor	Intersection	No Build		Alt 1		Alt 2		Alt 3	
		AM	PM	AM	PM	AM	PM	AM	PM
Route 7	Patterson Rd	2.4	2.2	2.3	2.1	2.4	2.1	2.4	2.2
	Fashion Blvd	2.3	2.4	2.4	2.4	2.3	2.4	2.4	2.4
	International Dr	2.3	2.4	2.3	2.3	2.2	2.3	2.3	2.3
	Westpark Dr	2.6	2.4	2.6	2.6	2.6	2.6	2.6	2.6
	Spring Hill Rd	2.7	2.7	2.7	2.5	2.7	2.5	2.7	2.9
International Dr	Fletcher St	2.3	2.1	2.3	2.3	2.3	2.3	2.3	2.2
	Greensboro Dr	1.6	2.1	1.7	1.5	1.6	1.5	1.8	1.5

Source: Tysons BRT Study – VISSIM Traffic Simulation Models

9.5.2 Walkshed Walkability

Station area walkshed walkability is measured by determining the percentage of the ½ mile walkable distance from a station is within the ½ mile radius. The higher the percentage, the more of the station radius is deemed to be walkable. Generally, smaller street blocks increase the number of street network connections that shorten the actual walking distance from a point to the station. **Table 9-17** below shows the combined station walkshed walkability percentage for each BRT Alternative. Overall, there is not much difference between Alternatives, but Alternative 1 does perform the best. Increasing the number of network connections, including interior walking paths between street blocks and street crossing opportunities across major thoroughfares, within each station area will improve the walkshed walkability.

Table 9-17 | Station Walkshed Walkability

Alternative	Walkshed Walkability
Alternative 1	55.5%
Alternative 2	55.4%
Alternative 3	55.3%

9.6 Build Alternatives Cost Estimates

This section provides estimates for both Capital and Operations and Maintenance (O&M) for the Tysons section of the Route 7 BRT project. Note this is for analysis and evaluation between the three Tysons BRT study alternatives only; a more detailed analysis for the entire alignment for the Envision Route 7 project is needed in future phases of study.

9.6.1 Capital Costs

Table 9-18 provides a breakdown of the capital costs for the three alternatives. Two scenarios are presented based on the type of vehicle propulsion ultimately chosen. The following assumptions were considered in preparation of this capital cost estimate:

- Signal priority at all intersections along alignment
- 25 articulated vehicles for all three alternatives
- Stations equipped with seating, signage, electronic signs, bike racks, power, emergency phone, ticket vending machine and validators
- Electric bus scenario includes two in-route fast charging stations
- Minimal ROW needed at station locations (120' x 10' per station platform)
- 33% Professional Services
- 10% Unallocated Contingency
- 5% to 25% Allocated Contingency
- Unit Prices based on Pittsburgh BRT 100% Design Estimate (2020)
- Inflation to Year of Expenditure (YOE) 2030

Table 9-18 | Capital Costs (2030)

	Alt 1 International Dr to Spring Hill Metro		Alt 2 International Dr to Tysons Metro		Alt 3 Route 7 to Westpark Transit Center	
	Diesel	Electric	Diesel	Electric	Diesel	Electric
Construction Costs	\$102.4	\$117.9	\$67.3	\$82.7	\$95.0	\$110.4
ROW	\$2.5	\$2.5	\$1.2	\$1.2	\$2.1	\$2.1
Professional Services	\$33.1	\$38.1	\$21.7	\$26.7	\$30.7	\$35.7
Unallocated Contingencies	\$14.6	\$16.9	\$9.6	\$11.9	\$13.5	\$15.8
Construction Subtotal	<u>\$152.6</u>	<u>\$175.4</u>	<u>\$99.8</u>	<u>\$122.5</u>	<u>\$141.3</u>	<u>\$164.0</u>
Vehicles	\$29.0	\$58.1	\$29.0	\$58.1	\$29.0	\$58.1
Total	\$181.6 M	\$233.5 M	\$128.8 M	\$180.6 M	\$170.3 M	\$222.1 M

9.6.2 Operations and Maintenance (O&M)

Table 9-19 provides a summary of the O&M costs associated with operating each BRT alternative as well as other financial performance measures are also presented. As seen in the table below, Alternative 1 performs the best in terms of the financial and operational performance with the most boardings per revenue hour and lowest operating cost per rider.

The following assumptions were considered in preparation of the O&M costs:

- Operating year: 2045
- Unit costs and growth rates based on Fairfax Connector historical data:
 - Operating Cost per Hour: \$149.59
 - Maintenance Cost Per Mile: \$4.09
 - G&A Cost per Peak Vehicle: \$158,629.38
- Headway: 10 peak; 15 off-peak
- Span:
 - Weekday: 5 AM – 1 AM
 - Weekend: 6 AM – 12 AM
- Layover Time: 15% of Travel Time

Table 9-19 | Operations and Maintenance Costs (2045)

	Alt 1 International Dr to Spring Hill Metro	Alt 2 International Dr to Tysons Metro	Alt 3 Route 7 to Westpark Transit Center
Annual Ridership	2,012,700	1,057,800	2,095,500
Annual Revenue Hours	18,293	13,067	21,952
Annual Revenue Miles	232,064	144,256	238,336
Peak Buses	4	3	5
Annual O&M Costs	\$4.32 M	\$3.02 M	\$5.05 M
Boardings per Revenue Hour	110	81	95
Boardings per Revenue Mile	8.7	7.3	8.8
Operating Cost per Rider	\$2.15	\$2.86	\$2.41

9.7 Summary

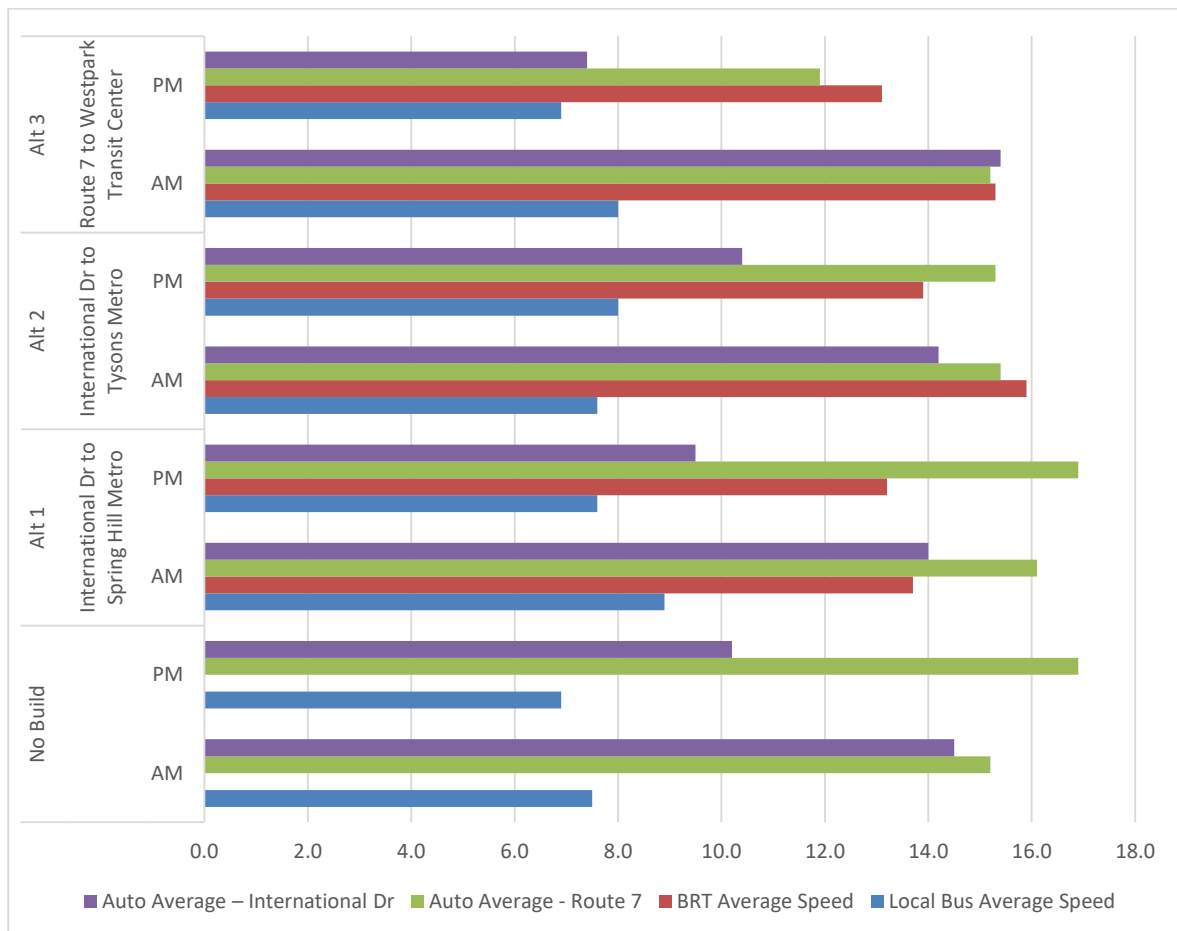
This section provides a summary of the key findings from the Alternatives Evaluation.

9.7.1 Travel Speed Comparison

Key findings from a comparison of the travel speeds for automobiles, local bus, and BRT are seen below:

- Average travel speeds are compared across modes for each alternative (**Figure 9-13**)
- Average BRT Travel speeds exceed Local Bus speeds for all Alternatives
- Alternative 1 - BRT travel speeds exceed average auto speeds on Route 7 and fall below average auto speeds on International Drive, particularly during the AM (both directions)
- Alternative 2 - Average BRT travel speeds exceed auto average travel speeds in all segments, except for on International Drive between Route 7 and Chain Bridge Road in the AM period in the Northbound direction (BAT Lane); likely due to right-turning vehicles slowing BRT travel speed down
- Alternative 3 - Average BRT travel speeds exceed or are similar to average auto travel speeds in all segments of the alignment both in the AM and PM

Figure 9-13 | Average Travel Speed Comparison



Source: Tysons BRT Study VISSIM Traffic Simulation Models

9.7.2 Summary Matrix

Measure of Effectiveness	Alternatives			
	No Build	Alternative 1 – International Drive Spring Hill Metro Terminus	Alternative 2 – International Drive Tysons Metro Terminus	Alternative 3 – Route 7 West*Park Transit Station Terminus
Goal: Access and Mobility – Provide choices through accessible transit service				
Objective: Serve population, employment, and activity centers with BRT				
Demographics (Pop, Emp, HH) within ½ mi walking distance	--	Pop: 16,700 Emp: 68,300 HH: 8,200	Pop: 11,500 Emp: 61,700 HH: 5,500	Pop: 15,000 Emp: 66,200 HH: 7,400
Transit Centers Served	--	1	1	3
Goal: Transportation Network Performance - Ensure efficient movement of people and goods				
Objective: Improve Transit Operations in Corridor				
Percent of Corridor with Dedicated BRT Lanes	--	79%	80%	50%
Percent of Corridor with BAT Lanes	--	13%	6%	44%
Percent of Corridor with Mixed Traffic	--	8%	14%	6%
Route Directness	--	85%	100%	85%
BRT Ridership	--	6,700	3,500	7,000
Total Transit Ridership	38,300	41,500	40,100	41,800
Transit Mode Share	8.6%	8.9%	8.8%	8.9%















Measure of Effectiveness	Alternatives			
	No Build	Alternative 1 – International Drive Spring Hill Metro Terminus	Alternative 2 – International Drive Tysons Metro Terminus	Alternative 3 – Route 7 West*Park Transit Station Terminus
Goal: Transportation Network Performance - Ensure efficient movement of people and goods				
Objective: Improve Transit Operations in Corridor				
Local Bus Travel Speed in Study Area (minimum / average) – mph	AM: 3.8 / 7.5 PM: 3.4 / 6.9	AM: 4.8 / 8.9 PM: 2.7 / 7.6	AM: 2.9 / 7.6 PM: 3.3 / 8.0	AM: 4.0 / 8.0 PM: 1.5 / 6.9
BRT travel speed in Study Area (minimum / average) – mph	--	AM: 7.0 / 13.7 PM: 5.5 / 13.2	AM: 11.1 / 15.9 PM: 7.0 / 13.9	AM: 9.5 / 15.3 PM: 8.5 / 13.1
Local Bus Reliability 95 th Percentile Travel Times (maximum / average) – minutes	AM: 9.4 / 4.6 PM: 6.8 / 4.2	AM: 9.5 / 3.9 PM: 9.8 / 4.7	AM: 8.6 / 4.1 PM: 10.0 / 5.3	AM: 9.5 / 4.1 PM: 21.6 / 8.9
BRT Reliability 95 th Percentile Travel Times (maximum / average) – minutes	--	AM: 4.2 / 2.6 PM: 6.7 / 3.1	AM: 3.6 / 2.0 PM: 3.9 / 2.8	AM: 6.9 / 3.1 PM: 6.9 / 3.5
Transit Person Throughput (max persons and location)	3,062 (near Westpark Dr)	BRT: 6,900 Total: 7,900 (near Fashion Blvd)	BRT: 5,600 Total: 6,700 (near Fashion Blvd)	BRT: 6,900 Total: 8,000 (near Fashion Blvd)


















Measure of Effectiveness	Alternatives			
	No Build	Alternative 1 – International Drive Spring Hill Metro Terminus	Alternative 2 – International Drive Tysons Metro Terminus	Alternative 3 – Route 7 West*Park Transit Station Terminus
Goal: Transportation Network Performance - Ensure efficient movement of people and goods				
Objective: Maintain acceptable transportation network performance for all modes				
Average Automobile Travel Speed (Route 7 / International Dr) - mph	AM: 15.2 / 14.5 PM: 16.9 / 10.2	AM: 16.1 / 14.0 PM: 16.9 / 9.5	AM: 15.4 / 14.2 PM: 15.3 / 10.4	AM: 15.2 / 15.4 PM: 11.9 / 7.4
Automobile Intersection Delay – Average	AM: 41.0 PM: 43.7	AM: 35.6 PM: 39.9	AM: 39.7 PM: 42.6	AM: 46.2 PM: 51.5
Automobile Intersection LOS – No. Failing Intersections	AM: 5 PM: 6	AM: 3 PM: 6	AM: 6 PM: 6	AM: 6 PM: 9
Total Corridor Person Throughput – max persons (location)	111,707 (near Fashion Blvd)	104,600 (near Westpark Dr)	105,200 (near Westpark Dr)	96,600 (near Fashion Blvd)



Measure of Effectiveness	Alternatives			
	No Build	Alternative 1 – International Drive Spring Hill Metro Terminus	Alternative 2 – International Drive Tysons Metro Terminus	Alternative 3 – Route 7 West*Park Transit Station Terminus
Goal: Improve safety for all roadway users				
Objective: Improve the pedestrian environment in the study corridor				
BRT- Mixed Traffic - Pedestrian Conflict Points (Route Turns, Alignment Transitions, Intersections, Driveways)	--	103 	42 	98 
Pedestrian Crossing Times (Avg Corridor Crossing – AM/PM) - minutes	Route 7: 2.5 / 2.4 Int Dr: 2.0 / 2.1	Route 7: 2.5 / 2.4 Int Dr: 2.0 / 1.9 	Route 7: 2.4 / 2.4 Int Dr: 2.0 / 1.9 	Route 7: 2.5 / 2.5 Int Dr: 2.1 / 1.9 
Station Walkshed Walkability Percentage (.5 mile walkshed/.5 mile radius)	--	55.5% 	55.4% 	55.3% 
Goal: Protect and improve environmental resources				
Objective: Minimize negative impacts to the natural environment				
Change in VMT/VHT in study area	VMT: 1,749,306 VHT: 65,541	VMT: 1,727,519 VHT: 65,000 	VMT: 1,729,042 VHT: 65,200 	VMT: 1,724,398 VHT: 64,834 



Measure of Effectiveness	Alternatives			
	No Build	Alternative 1 – International Drive Spring Hill Metro Terminus	Alternative 2 – International Drive Tysons Metro Terminus	Alternative 3 – Route 7 West*Park Transit Station Terminus
Goal: Make sustainable, cost effective investments in transit				
Objective: Prove financial feasibility of BRT				
Estimated Capital Costs (2030) – excluding vehicles	--	\$153 – \$175 M 	\$100 – \$123 M 	\$141 - \$164 M 
Estimated Annual O&M Costs (2045)	--	\$4.32 M 	\$3.02 M 	\$5.05 M 
Boardings per Revenue Hour	--	110 	81 	95 
Boardings per Revenue Mile	--	8.7 	7.3 	8.8 
Operating Cost per Rider	--	\$2.15 	\$2.86 	\$2.41 



10 Public Involvement

The purpose of this Public Involvement section is to document the actions, feedback, and findings of the public involvement efforts conducted for the Tysons BRT Study.

10.1 Public Meetings

Two rounds of public meetings were held to provide information about the Route 7 Bus Rapid Transit (BRT) Study and how a BRT system would function in Tysons from Spring Hill Metrorail Station to the I-66 interchange.

On March 11, 2020, FCDOT staff held a stakeholder meeting in the Marshall High School Cafeteria, located at 7731 Leesburg Pike, Falls Church. Eight people attended this meeting and provided valuable feedback to inform FCDOT staff as to the priorities and needs that must be considered when determining which of the six alternatives to further evaluate.

In March 2021, two virtual public meetings were held to present three alternatives for potential alignment along with station locations and to seek public feedback and comments. The two public meeting times listed below were selected to provide multiple options:

- Friday, March 19, 2021 at 12 noon
- Wednesday, March 24, 2021 at 7pm

The meeting recording is also available to view on the project website and was available immediately following the meeting for those who could not attend.

Thirty-one people attended and participated in the Friday lunchtime meeting and 27 people attended and participated in the Wednesday evening meeting.

Public comments were open, and a survey was circulated for three weeks following the meeting, until Friday, April 16.

Figure 10-1 | Public Notification Flier for March 2020 Public Meeting



Route 7 BRT Study Stakeholder Meeting

Wednesday March 11 at 7:30 p.m.
Marshall High School, 7731 Leesburg Pike in Falls Church

The Fairfax County Department of Transportation (FCDOT) invites you to a community information meeting on the [Route 7 BRT Study](#). The presentation will include an update on the status of the study, discuss three alternatives that the county has chosen to further test for traffic simulation and explain the process by which the alternatives were chosen.

RSVP to Sean Schweitzer at Sean.Schweitzer@fairfaxcounty.gov



Fairfax County Department of Transportation (FCDOT) ensures nondiscrimination in all programs and activities in accordance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA). If you need more information or reasonable accommodations for persons with disabilities or limited English proficiency, contact FCDOT at 703-877-5600, TTY 711. Requests for assistance must be received at least 7 business days in advance of the event.

10.2 Public meeting notification for March 2021

Notification for the public meeting was provided in multiple media -including:

- Social media flier image in both English and Spanish was posted on: FCDOT Facebook Page, Fairfax Alerts
- This was shared and target to local communities directly to media through FCDOT Media List, Over 300 Community Non Profits from the Equity Office, Employers in Tysons, Tysons Partnership, and all the Supervisors, some of whom shared it in their own newsletter.
- Media Coverage Included:
 - (2021, March 12). Rt. 7 Bus Rapid Transit Study Virtual Meetings. *Northern Virginia Transportation Authority*. <https://thenovaauthority.org/event/rt-7-bus-rapid-transit-study-virtual-meetings-march-19-and-24-2021-2/>.
 - Woolsey, A. (2021, March 15). Three routes under consideration for proposed Tysons bus rapid transit. *Tysons Reporter*. <https://www.tysonsreporter.com/2021/03/15/three-routes-under-consideration-for-proposed-tysons-bus-rapid-transit/>.
 - (2021, March 15). Forum coming on Route 7 BRT proposal. *Inside Nova*. https://www.insidenova.com/news/transportation/forum-coming-on-route-7-brt-proposal/article_c0673fd4-8588-11eb-8e16-c70658d79bf1.html.
 - (2021, March 24) Study moves forward for Bus Rapid Transit in Tysons along Route 7. *Eastern Union Blog*. <https://easternunionblog.com/study-moves-forward-for-bus-rapid-transit-in-tysons-along-route-7/>.

Figure 10-2 | Public Notification Flier for March 2021 Public Meeting

The flier features a blue header with the title "Route 7 Bus Rapid Transit (BRT) Study Online Public Meetings" and the Fairfax County logo. The main content is divided into sections: "Purpose of Meetings" with three bullet points, "Meeting Options" for Friday, March 19 and Wednesday, March 24, including registration links and dial-in numbers, a QR code with the instruction "Scan this QR Code to watch a video explaining BRT", and a map of the Tysons area showing proposed BRT routes (Al-1, Al-2, Al-3) and stations. A footer provides contact information for the Fairfax County Department of Transportation (FCDOT).

**Route 7 Bus Rapid Transit (BRT) Study
Online Public Meetings**

Purpose of Meetings:

- Hear about this BRT Study - why and how it was conducted
- Find out how this BRT project will connect Tysons to Mark Center (Alexandria)
- Learn about the 3 proposed alternative BRT routes in Tysons Corner
- Tell us about your transit use and preferences at Tysons Corner

Meeting Options:
Friday, March 19, 12:00 noon.
Register for the online meeting at <https://bit.ly/30zMYPG>
Dial In Option: 1-844-621-3956 Access Code: 129 633 4672

Wednesday, March 24, 7:00 pm.
Register for the online meeting at <https://bit.ly/3i90zXj>
Dial In Option: 1-844-621-3956 Access Code: 129 505 2135

New to Webex? Virtual Meeting Instructions at <https://bit.ly/3bAvWHm>
For information in Spanish, please call 703-877-5600.

Scan this QR Code to watch a video explaining BRT

For more information, visit: <https://www.fairfaxcounty.gov/transportation/study/route7-brt>

A Fairfax County, VA publication, March 2021
To request reasonable ADA accommodations, call the Fairfax County Department of Transportation (FCDOT) at 703-877-5600, TTY 711

Press coverage following the meeting included the survey links, prompting additional responses.

- DeVoe, J. (2021, March 26). Fairfax County selects preferred bus rapid transit route through Tysons. *Tysons Reporter*. <https://www.tysonsreporter.com/2021/03/26/fcdot-selects-preferred-route-for-bus-rapid-transit-through-tysons/>.
- Solomon, L. (2021, March 24). Study moves forward for Bus Rapid Transit in Tysons along Route 7. *Greater Greater Washington*. <https://ggwash.org/view/80811/study-moves-forward-for-bus-rapid-transit-in-tysons-along-route-7>.

The Public Information Presentation that was presented at this public meeting can be seen in **Appendix E**.

10.3 Survey

At the end of the March public meetings, a survey was presented to attain feedback from residents about the Tysons BRT alternatives, how residents currently use bus transit, and what needs they prioritize in their transit use.

The survey was circulated through social media, post-meeting press coverage and press releases, and through the local Fairfax Alerts. It was available for three weeks following the meeting, garnering a total of 46 responses. Most of the responses came in during the immediate three days following the March 24, 2021 meeting.

10.3.1 Main Survey Takeaways

In general, survey respondents prioritized bus frequency, speed and reliability, factors that are improved by BRT access.

Respondents also preferred the station locations found on Alternative 1/International Drive and preferred Alternative 1/International Drive.

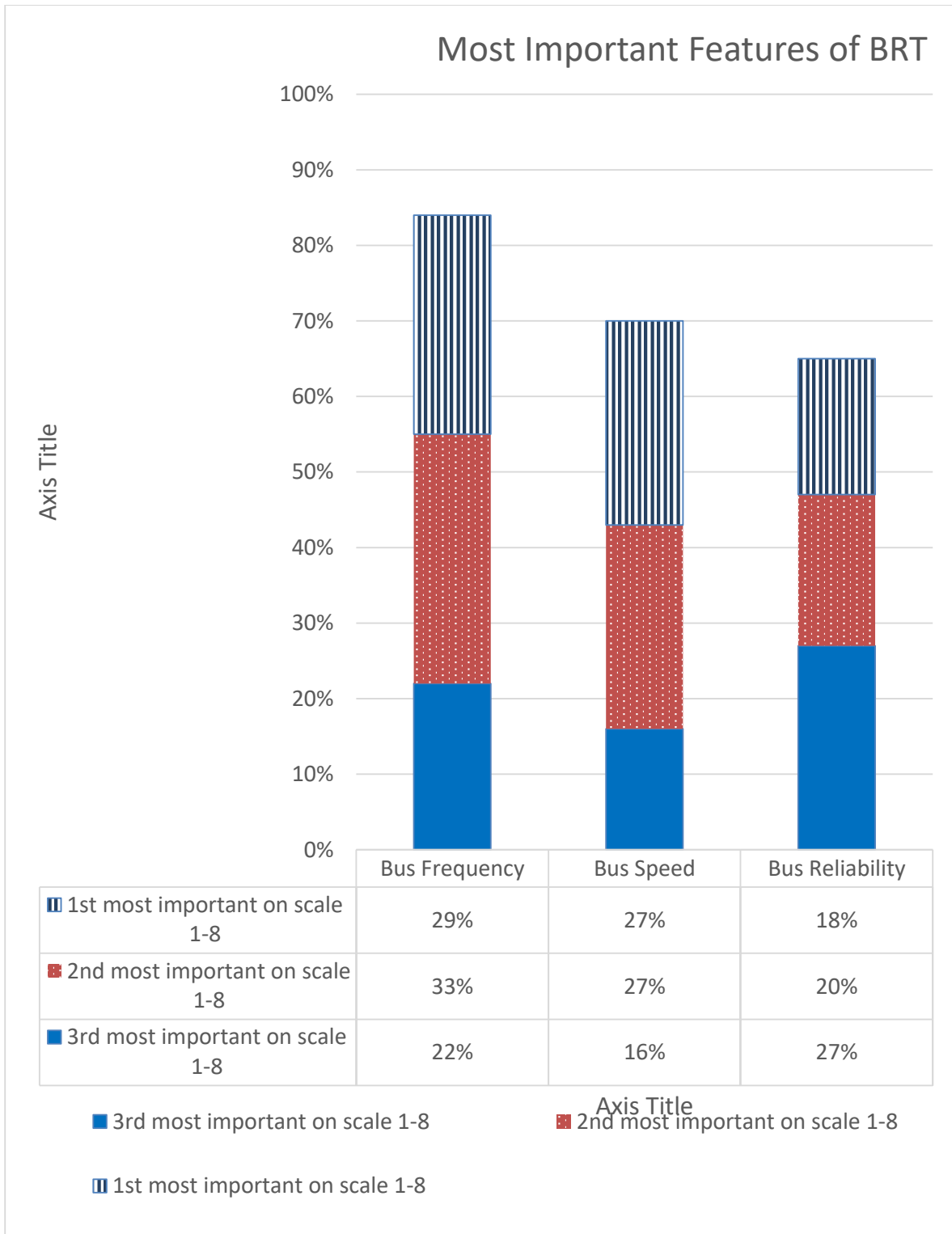
One-third of respondents were current frequent, and one-third were current occasional bus riders. About half were noted they were likely or somewhat likely to change their behavior to use Alternative 1/International Drive BRT.

10.3.2 Survey Responses for Each Question

10.3.2.1 Most Important Features of BRT

The most important features of BRT for respondents are: bus frequency, bus speed and bus reliability. Almost all the respondents ranked one of these as the first, second or third most important feature when provided with eight choices. Other features available to be chosen were: Coverage, Route Directness, Bicycle and Pedestrian Connections to BRT, Comfort, and Environmental Considerations.

Figure 10-3 | Most Important Features of BRT



10.3.2.2 Station Selection Preference

Alternative 1/International Drive has the highest number of stations that were selected as likely to be used by approximately half of respondents.

Along the Alternative 1/International Drive route, respondents selected multiple stations that they would likely use, including approximately half choosing each of the top four selected stations: Greensboro International BRT Station (57%), Spring Hill Road Metro (53%), Fashion Boulevard Station (50%), and Fletcher Street Station (48%).

Figure 10-4 | Respondents' Preferred Stations on Alternative 1/International Drive

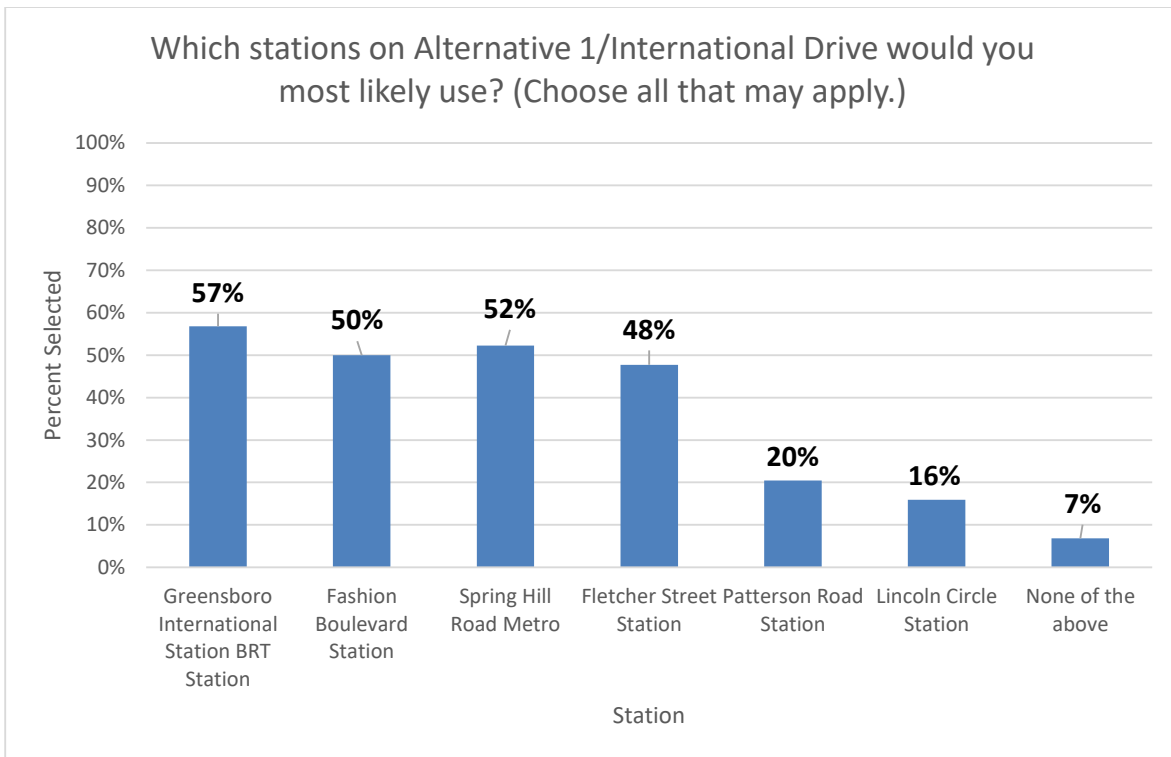


Table 10-1 | Respondents' Preferred Stations on Alternative 1/International Drive

Answer Choice	Responses %	Responses #
None of the above	6.82%	3
Spring Hill Road Metro	52.27%	23
Lincoln Circle Station	15.91%	7
Greensboro International BRT Station	56.82%	25
Fletcher Street Station	47.73%	21
Fashion Boulevard Station	50.00%	22
Patterson Road Station	20.45%	9

When determining which BRT stations riders would likely use on Alternative 2/Tysons Corner Metro, an overwhelming majority (86%) of respondents chose Tysons Corner Metro with 43% choosing International Drive Station, and 22% choosing Patterson Road Station. Only two respondents said they would not use any of the stations, but four respondents also skipped this question.

Figure 10-5 | Respondents' Preferred Stations on Alternative 2/Tysons Corner Metro

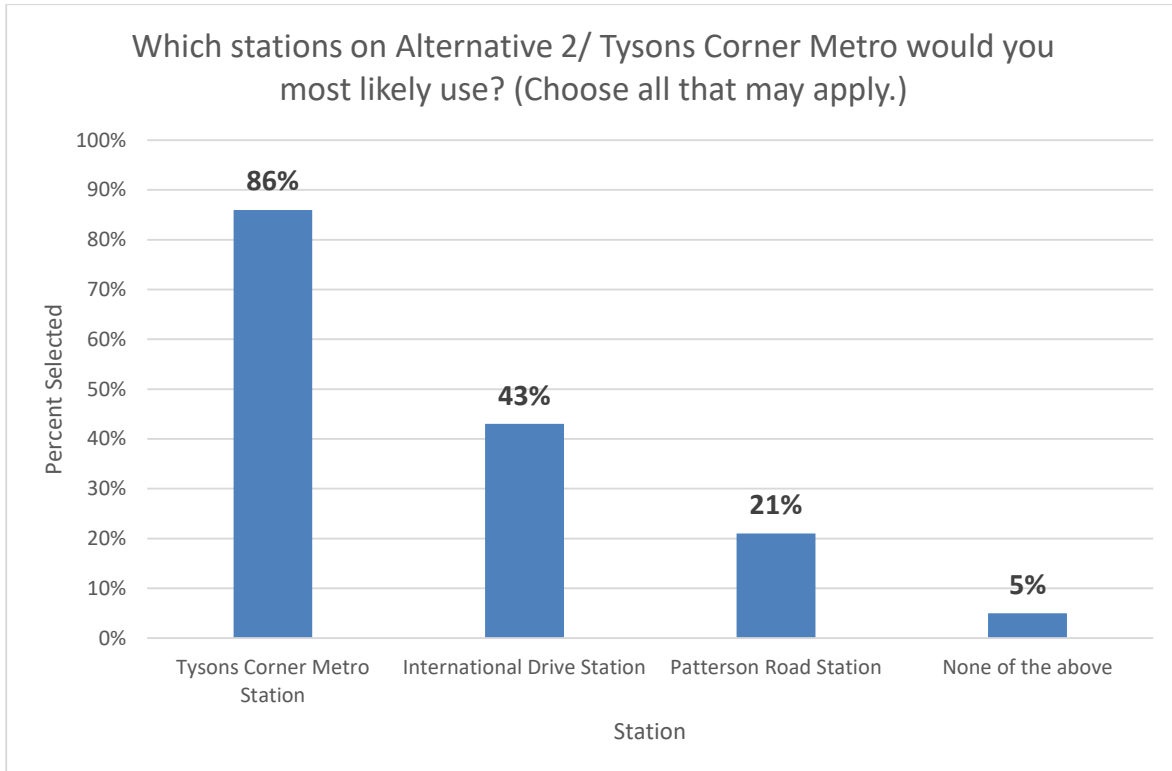


Table 10-2 | Respondents' Preferred Stations on Alternative 2/Tysons Corner Metro

Answer Choice	Responses %	Responses #
None of the above	4.76%	2
Tysons Corner Metro	85.71%	36
International Drive Station	42.86%	18
Patterson Road Station	21.43%	9

When determining which BRT stations riders would likely use on Alternative 3/Route 7 about half selected three as most likely to be used, and those are: Greensboro Metro (57%), International Drive Station (52%), and Spring Hill Road Metro (47%). The least desirable stations were Patterson Road Station (selected by 24% of respondents) and West*Park Transit Center (selected by 17% of respondents).

Four respondents said they would not use any of the stations, but four respondents also skipped this question. Interestingly, the stations respondents selected as most likely to use – Greensboro Metro and Spring Hill Road Metro are also found on Alternative 1. In terms of using Patterson Road Station (also found on Alternative 1 and 2) 10 people (24%) selected it when looking at Alternative 3 stations, and 9 people selected it when looking at Alternative 1 and 2 stations.

Figure 10-6 | Respondents' Preferred Stations on Alternative 3/Route 7

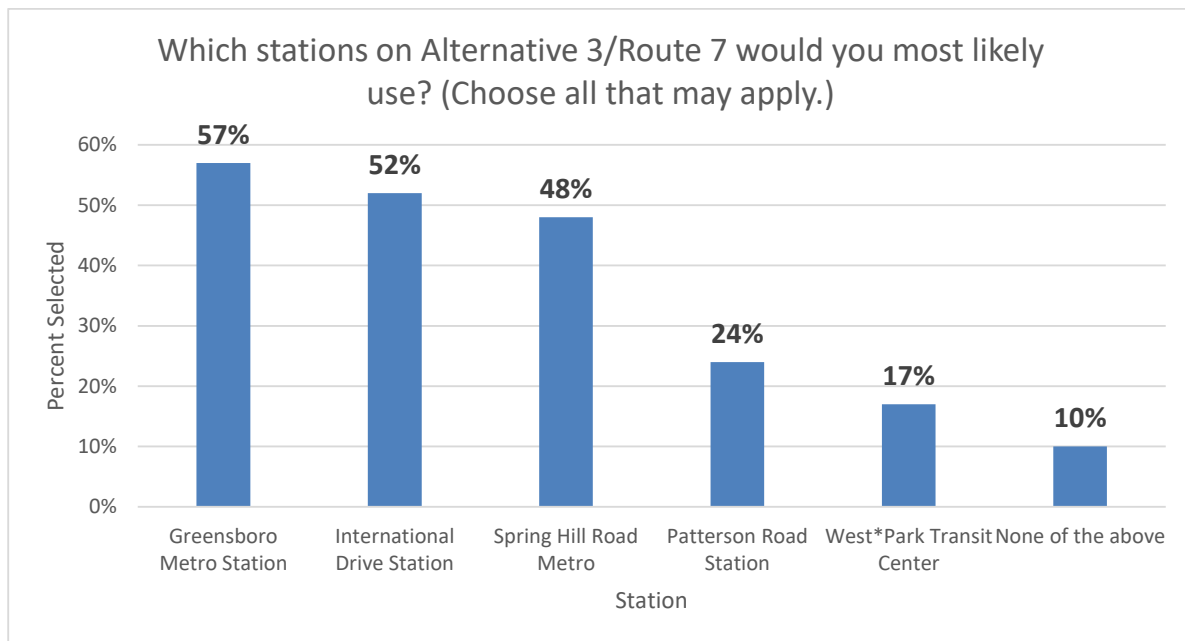


Table 10-3 | Respondents' Preferred Stations on Alternative 3/Route 7

Answer Choice	Responses %	Responses #
None of the above	9.52%	4
West*Park Transit Center	16.67%	7
Spring Hill Road Metro	47.62%	20
Greensboro Metro	57.14%	24
International Drive Station	52.38%	22
Patterson Road Station	23.81%	10

10.3.2.3 Preferred BRT Routing Alternative

Most of the respondents (67%) preferred Alternative 1/International Drive. The third of respondents that preferred the other alternatives were evenly split between Alternative 2/Tysons Corner Metro (16%, 7 people) and Alternative 3/Route 7 (18%, 8 people).

Figure 10-7 | Respondents' Preferred BRT Routing Alternative

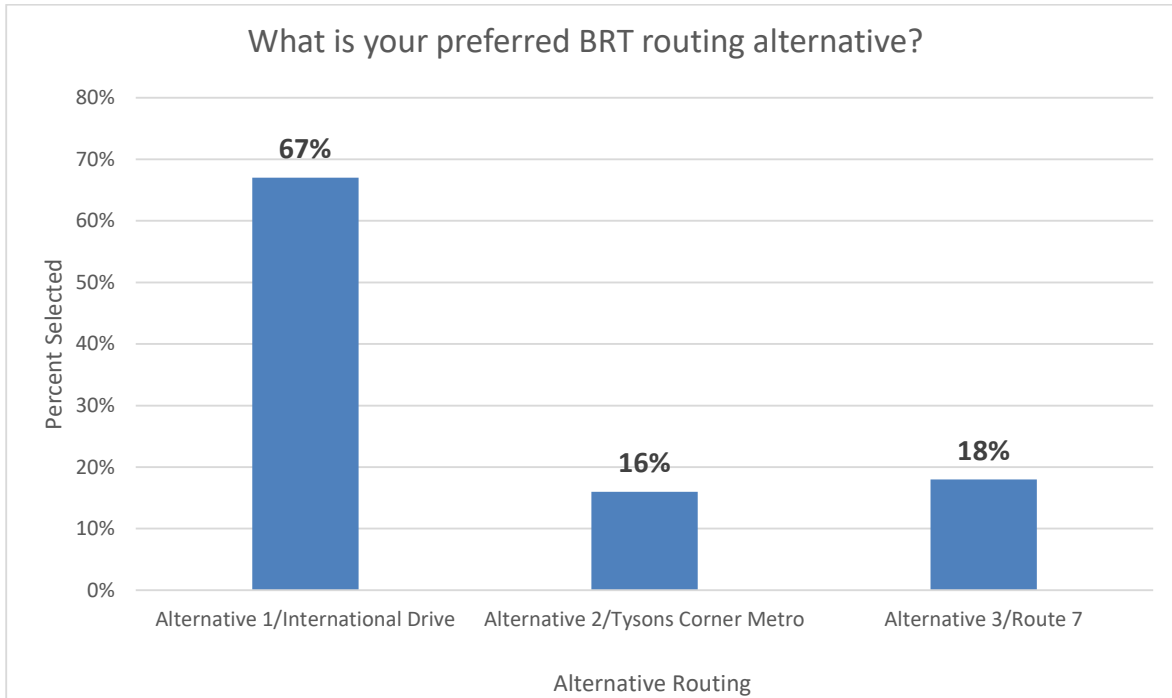


Table 10-4 | Respondents' Preferred BRT Routing Alternative

Answer Choice	Responses %	Responses #
Alternative 1/International Drive	66.67%	30
Alternative 2/Tysons Corner Metro	15.56%	7
Alternative 3/Route 7	17.78%	8

10.3.2.4 Likelihood of Behavior Change to Use BRT

In terms of behavior change, slightly more than half of respondents (56%) would be very likely (15%) or likely (41%) to change current travel behavior to use Alternative 1/International Drive.

Approximately one-third (35%) are neutral and would not be more or less likely to change travel behavior to use Alternative 1, while 9% are unlikely to change their current travel patterns to use Alternative 1/International Drive. No respondents said they would never use BRT.

Figure 10-8 | Respondents' Likelihood of using Preferred Alternative 1

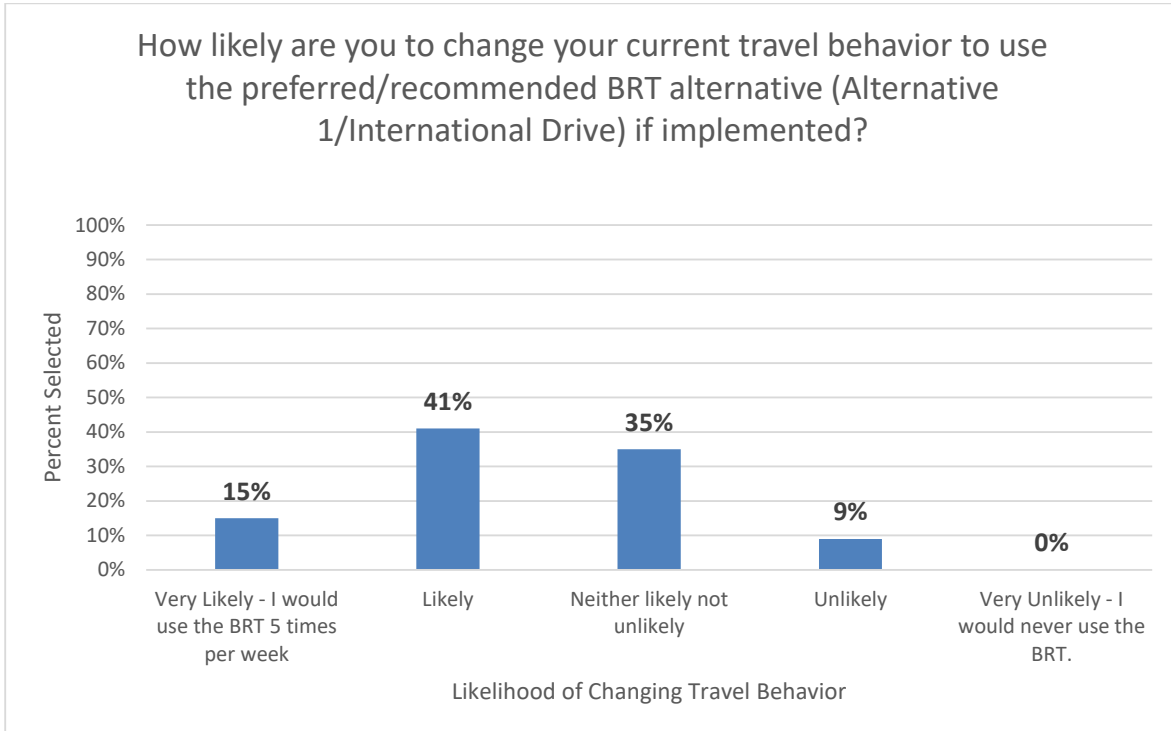


Table 10-5 | Respondents' Likelihood of using Preferred Alternative 1

Answer Choice	Responses %	Responses #
Very likely – I would use the BRT 5 times per week.	15.22%	7
Likely	41.30%	19
Neither likely not unlikely	34.78%	16
Unlikely	8.70%	4
Very unlikely – I would never use the BRT.	0.00%	0

10.3.3 Specific Detailed Comments

Slightly more than half of respondents (24 out of 46, or 52%) included detailed comments in their survey. Other methods of accepting comments included calling and emailing FCDOT directly. Comments included broad input regarding pedestrian access and BRT use, and specific recommendations, such as station locations.

The four common themes that came up in the comments were: dedicated BRT infrastructure, access to multimodal infrastructure, station location recommendations, and extending route connections and coverage. Some comments included multiple recommendations and points, so the total comments described below add up to more than the total 24 comments received.

Figure 10-9 | Word Cloud Reflecting Common Words in Open Comments



10.3.3.1 Dedicated BRT Infrastructure and Operations

Fifteen of 24 comments (63%) specifically mentioned BRT infrastructure or operations, including nine comments specifically requesting a dedicated bus lane, with two comments specifically requesting the center median lane. Comments related to operations included wanting high speed, frequency, reliability, off-board fare collection, Traffic Signal Priority, and operating hours throughout the day and on weekends.

“Prioritizing bus speed and reliability should always be prioritized over travel time and delay for SOVs [Single Occupancy Vehicles]/general purpose lanes.”

“It actually has to run! Throughout the day and on weekends.”

10.3.3.2 Multimodal Access

Four comments of 24 (17%) expressed interest in having bicycle and pedestrian access, connection, and infrastructure to the BRT stations. One comment requested a bicycle lane and one comment requested level platforms for BRT for easy bus access for all users.

“Improve and enhance pedestrian and bike connections to BRT stations and where BRT connects with Metro stations to make transfer as seamless as possible.”

“Why are three lanes required on International between Route 7 and International. Three lanes plus BRT is not pedestrian friendly.”

10.3.3.3 Station Location Recommendations

Six of the 24 (25%) comments mentioned station locations. Of these, four comments requested that West*Park Transit Center be included as a station, in particular because it includes connections to other transit options, such as a proposed express bus between Tysons, VA and Bethesda, MD. This reflects the broader desire throughout the survey comments to have better connectivity throughout the study area and region as a whole. Other comments about stations included adding a stop near Marshall High School, noting that Fletcher Road Station is inconvenient, and that stations should be prioritized around retail and commercial centers.

“A stop near Marshall High School should be included. It’s not just for students, but also for extracurricular activities and sporting events. There are many community uses there too.”

“Alignment of the proposed future Bethesda-Tysons express bus along new MD beltway HOT lanes. Will terminus of that bus be at Westpark Transit Center? Rt 7 BRT should coordinate alignment with that bus.”

10.3.3.4 Regional Transit Network Connectivity

Eight of 24 (33%) comments discussed a broader desire to have regional transit network connectivity. These comments included comments related to the bus coverage area and connects to other current or proposed transit networks. In terms of coverage, the areas people wanted connects and service to were: Alexandria (2), Great Falls, VA, Reston, VA (2), Loudon County, VA, Falls Church, Seven Corners, Bailey's Crossroads. In terms of connections with other transit systems, in addition to coordination with the proposed Tysons-Bethesda connections, there is also an interest in syncing up the Fairfax Connector service with the proposed BRT and better connections to the Metro and employment centers, such as the Capital One and MITRE/Lockheed Complex.

In taking these 8 comments and the 4 comments wanting West*Park Transit Center to be a station on the selected alignment, this demonstrates that one of the most important aspects of BRT and one of the most important desires for survey respondents is to have regional transit network connectivity. This means being able to make fewer or quicker transfers and use transit to connect to other areas in the region.

"I think the BRT would also be better served if it could run under the metro tracks to Capital One and up to the MITRE / Lockheed Complex. As-is those communities would be forced to do an inefficient transfer to Metrorail which for those users, makes this kind of not a thing."

"The project is not as beneficial if it doesn't connect through to the jobs center Alexandria by King Street. This would fill a huge gap in transit connectivity."

"Given the presented potential impact on traffic in these surrounding areas, if attention is paid to syncing up Fairfax Connector service with the BRT service, it could make more sense for families like mine to take the bus into Tysons, to take the bus to the Metro, to businesses along the Route 7 corridor, and even to Falls Church and Alexandria."

10.3.4 About the Survey Respondents

Most of the respondents were white (70%), male (81%), and between the ages of 31-50 (56%). Most respondents skipped answering about the language primarily spoken at home, but of the 21 that answered, almost all spoke English, apart from one respondent in each of the following languages: Urdu, Korean, and Cantonese.

The survey respondents were split between those that were frequent riders/a few times per week (30%), occasional riders/a few times per month (35%), and those who used the bus only when their primary mode was not available (28%).

Figure 10-10 | Respondents' Frequency of Bus Use Prior to the Pandemic

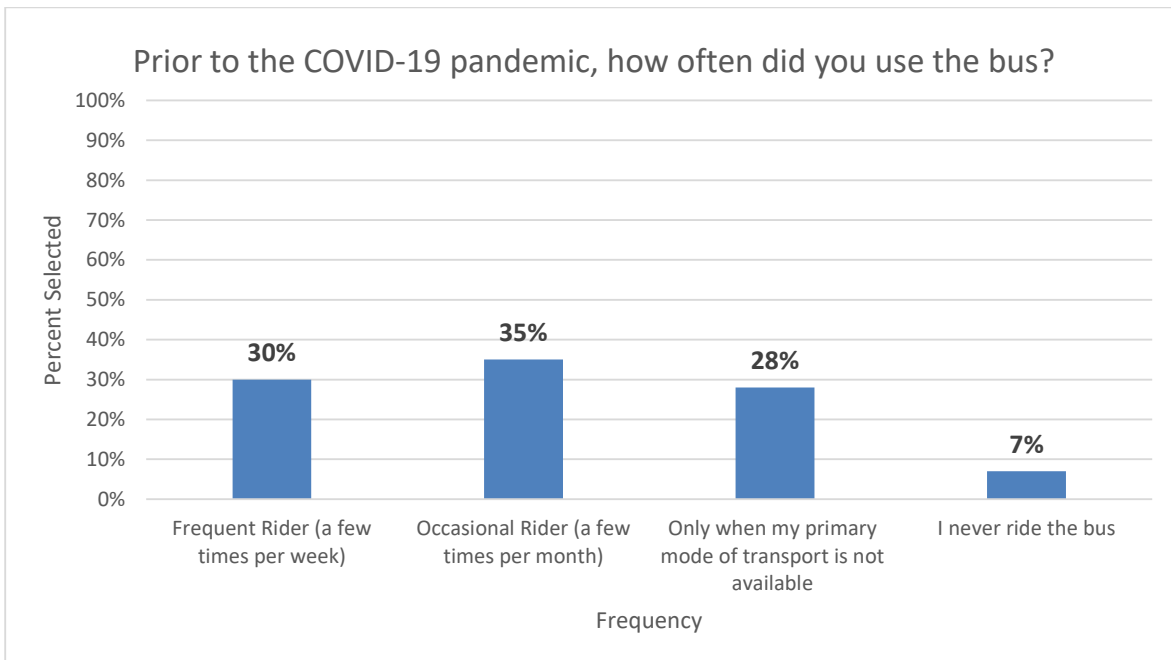


Table 10-6 | Respondents' Frequency of Bus Use Prior to the Pandemic

Answer Choice	Responses %	Responses #
Frequent rider (a few times per week)	30.43%	14
Occasional rider (a few times per month)	34.78%	16
Only when my primary mode or transport is not available	28.26%	13
I never ride the bus	6.52%	3

Most of the respondents traveled to and from Tysons for leisure activities (78%) and to conduct errands (62%). About half (46%) of the respondents traveled to and from Tysons to transfer to the Metrorail. Multiple choices could be selected.

Figure 10-11 | Respondents' Purpose for Traveling to Tysons

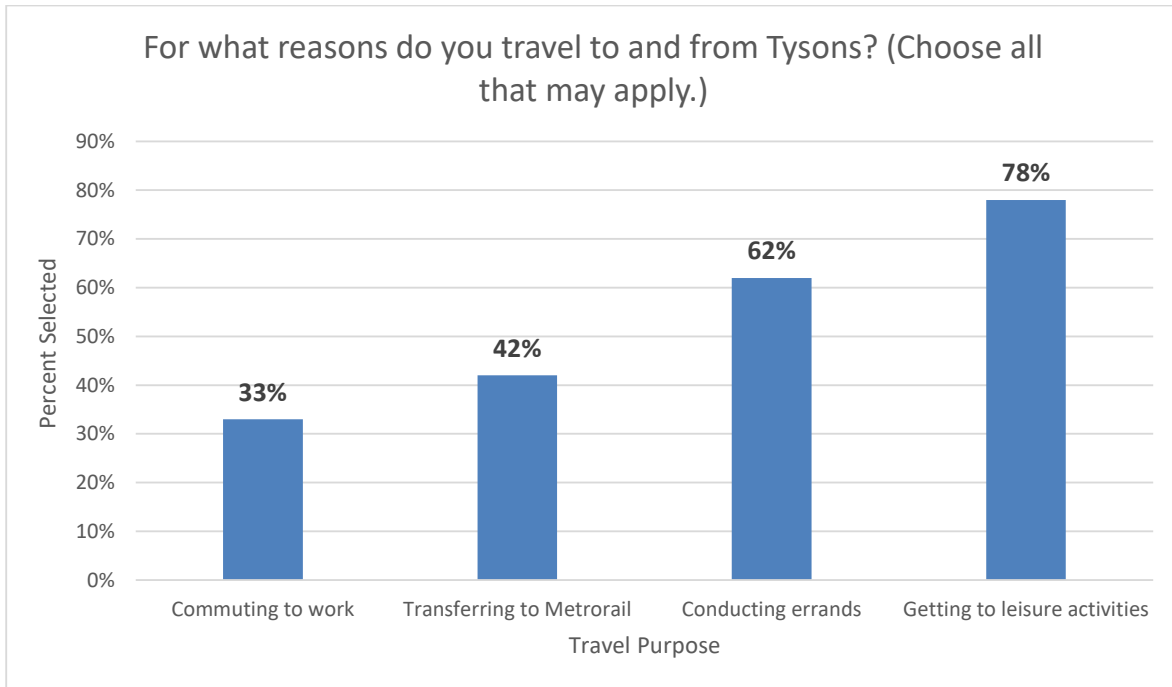


Table 10-7 | Respondents' Purpose for Traveling to Tysons

Answer Choice	Responses %	Responses #
Commuting to work	33.33%	15
Transferring to Metrorail	42.22%	19
Conducting errands (e.g. dry cleaning, grocery shopping, etc.)	62.22%	28
Getting to leisure activities (e.g. movies, dining, shopping, etc.)	77.78%	35

10.4 Stakeholder Comments

In addition to the survey gathering comments from the public, stakeholders had the option of submitting formal comments as well.

Tysons Partnership, a diverse collection of stakeholders including property owners, businesses/employers, and residential organizations in the Tysons area that are committed to growth and change in Tysons. Tysons Partnership submitted a letter supporting Alternative 1/International Drive due to its ability to create greater internal connectivity in Tysons and because it has the highest number of projected jobs within a half mile walkshed of the route (68,250).

Tysons Partnership also encouraged high speed BRT, building pedestrian refuges, and prioritizing pedestrian safety and convenience. The letter in support of the BRT project can be found in **Appendix F**.

10.4.1 Conclusion

Overall, the feedback from the public supports a strong desire for high quality BRT and better connectivity both within Tysons and to the region as whole. Alternative 1/International Drive was confirmed to match public preference through the selection of alternatives as well as the selection of stations respondents were most likely to use. In fact, slightly more than half of the survey respondents were likely or very likely to change their travel behavior to use Alternative 1/International Drive, if implemented. Survey respondents' confirmation of bus frequency, speed, and reliability as being the most important priorities further support the interest in high quality BRT.

Many individuals were invested and took the time to write detailed comments with thoughtful input. These open comments demonstrated that the top two priorities for survey respondents are to have effective dedicated bus lanes with high bus frequency, speed and reliability and broader regional transit connectivity in terms of service coverage and coordination with other transit options.

Board Agenda Item
July 27, 2021

ACTION - 8

Approval of the FY 2022 and FY 2023 Community Services Performance Contract Between the Fairfax-Falls Church Community Services Board and the Virginia Department of Behavioral Health and Developmental Services

ISSUE:

Board of Supervisors approval for the Fairfax-Falls Church Community Services Board's acceptance of FY 2022 funds and approval of the FY 2022 and FY 2023 Community Services Performance Contract with the Virginia Department of Behavioral Health and Developmental Services.

RECOMMENDATION:

The County Executive recommends that the Board approve the FY 2022 and FY 2023 Community Services Performance Contract between the Virginia Department of Behavioral Health and Developmental Services and the associated acceptance of FY 2022 funds.

TIMING:

Board action is requested on July 27, 2021.

BACKGROUND:

The Community Services Performance Contract delineates the responsibilities between the Virginia Department of Behavioral Health and Developmental Services (DBHDS) and the community services boards and behavioral health authority for the purpose of providing local public mental health, developmental and substance abuse services. It specifies the conditions to be met for a Community Services Board (CSB) to receive State-controlled funds, identifies the groups of consumers to be served with State-controlled funds and includes requirements to ensure accountability to the State.

As specified in the Code of Virginia, the CSB must make its proposed performance contract available for public review and comment prior to approving and submitting the biennial contract. The proposed FY 2022 and FY 2023 Community Services Performance Contract was available for thirty days for public review and comment. Notices of the comment period were posted, sent electronically through distribution lists, and posted on the CSB's web page. Comments were received until July 25, 2021.

Board Agenda Item
July 27, 2021

On July 21, 2021, the CSB Board approved the FY 2022 and FY 2023 Community Services Performance Contract, and the contract was presented to the Cities of Fairfax and Falls Church for review and approval.

The contract transfers \$51,669,806 in State-controlled funds to the CSB for FY 2022, which is the total estimate of \$31,302,589 in State funds, \$4,784,509 in Federal funds, \$8,582,708 in Medicaid State Plan Option funds and \$7,000,000 in Medicaid Waiver funds.

FISCAL IMPACT:

This is the contractual mechanism used by the State to transfer \$51,669,806 in State-controlled funds to the CSB. This is an increase of \$2,024,724 or 4.08 percent from the FY 2021 contract amount of State-controlled funds, largely attributable to the estimated revenues from State Funds.

ENCLOSED DOCUMENTS:

Attachment 1: FY 2022 and FY 2023 Community Services Performance Contract

STAFF:

Christopher A. Leonard, Deputy County Executive
Daryl Washington, Executive Director, Fairfax-Falls Church Community Services Board

FY 2022 AND FY 2023 COMMUNITY SERVICES PERFORMANCE CONTRACT

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Other Performance Contract Document Attachments

Exhibit A: Resources and Services
 Exhibit B: Continuous Quality Improvement (CQI) Process and CSB Performance Measures
 Exhibit C: Regional Discharge Assistance Program (RDAP) Requirements
 Exhibit D: Individual CSB Performance Measures
 Exhibit E: Performance Contract Schedule and Process
 Exhibit F: Federal Grant Requirements
 Exhibit F(B): Single Audit Exemption Form
 Exhibit G: Core Mandated Services
 Exhibit H: Regional Local Inpatient Purchase of Services (LIPOS) Requirements
 Exhibit I: Behavioral Health Wellness
 Exhibit J: Intentionally Left Blank for Future Use
 Exhibit K: State Hospital Census Management Admission and Discharge Requirements
 Exhibit M: Department of Justice Settlement Agreement
 Addendum I: Administrative Requirements and Processes and Procedures
 Addendum II: Partnership Agreement
 Addendum III: Core Services Taxonomy 7.3

FY 2022 AND FY 2023 COMMUNITY SERVICES PERFORMANCE CONTRACT

1. Purpose

The Department of Behavioral Health and Developmental Services (the “Department”) and the Community Service Boards (the “CSBs”) enter into this contract for the purpose of funding services provided directly or contractually by the CSB in a manner that ensures accountability to the Department and quality of care for individuals receiving services and implements the mission of supporting individuals by promoting recovery, self-determination, and wellness in all aspects of life.

Title 37.2 of the Code of Virginia, hereafter referred to as the Code, establishes the Virginia Department of Behavioral Health and Developmental Services, hereafter referred to as the Department, to support delivery of publicly funded community mental health (MH), developmental (DD), and substance use (SUD), services and supports and authorizes the Department to fund those services.

Sections 37.2-500 through 37.2-512 of the Code require cities and counties to establish community services boards for the purpose of providing local public mental health, developmental, and substance use disorder services; §§ 37.2-600 through 37.2-615 authorize certain cities or counties to establish behavioral health authorities that plan and provide those same local public services.

This contract refers to the community services board, local government department with a policy-advisory community services board, or behavioral health authority named in this contract as the CSB. Section 37.2-500 or 37.2-601 of the Code requires the CSB to function as the single point of entry into publicly funded mental health, developmental, and substance use disorder services. The CSB fulfills this function for any person who is located in the CSB’s service area and needs mental health, developmental, or substance use disorder services.

Sections 37.2-508 and 37.2-608 of the Code and State Board Policy 4018, establish this contract as the primary accountability and funding mechanism between the Department and the CSB, and the CSB is applying for the assistance provided under Chapter 5 or 6 of Title 37.2 by submitting this contract to the Department.

The CSB exhibits, addendums, appendices, Administrative Requirements and Processes and Procedures, CCS Extract, Core Services Taxonomy, and Partnership Agreement documents are incorporated into and made a part of this contract by reference. The documents may include or incorporate ongoing statutory, regulatory, policy, and other requirements that are not contained in this contract. The CSB shall comply with all provisions and requirements. If there is a conflict between provisions in that document and this contract, the language in this contract shall prevail.

2. Defined Terms

Appropriation Act is defined as an Act for the appropriation of the Budget submitted by the Governor of Virginia in accordance with the provisions of § 2.2-1509 of the Code of Virginia and to provide a portion of the revenues for a two year period.

Earmarked Funds are funds identified separately in letters of notification, performance contracts, and CARS reports to be used for specified purposes; but CSBs are not required to account for or report expenditures associated with these funds to the Department. Funds are earmarked in order to track their allocation to particular CSBs. While they are not restricted in terms of separate accounting and reporting by CSBs, earmarked funds are appropriated or allocated for specified purposes, and CSBs are expected to use earmarked funds for the purposes for which they were appropriated or allocated.

Federal Fiscal Year the Federal Fiscal Year begins on October 1 of the calendar and ends on September 31 of the subsequent calendar year.

Federal Funds the Federal Funds are funds that are allocated by the federal government and are provided to the Department of Behavioral Health and Developmental Services as the State of Virginia’s authority for the allocation, management, and oversight for the use of these specific funds. The funds are considered

FY 2022 AND FY 2023 COMMUNITY SERVICES PERFORMANCE CONTRACT

restricted and must be used or encumbered during the federal fiscal year or extensions. Any unused funds are required to be returned to the Department by the CSBs and from there to the federal government in a timely manner.

Fiscal Agent the Fiscal Agent has two specific purposes.

The specific local government that is selected by the local governments or government participating in the establishment of a specific CSB or BHA and identified in the local resolutions passed by each locality in its creation of the CSB or BHA. If the participating governments decide to select a different fiscal agent, it must be done through a local resolution passed by each participating local government that created the CSB or BHA.

The second purpose of Fiscal Agent is the specific CSB or BHA that has been selected by the CSB Region to receive state controlled funds from the Department and manage those funds in a way that has been identified in a memorandum of understanding (MOU) agreed to by each participating CSB in a regionally funded activity. If the CSB acting as Fiscal Agent changes by decision of the Regional CSBs, then that change must be noted in a revision to the existing MOU.

Memorandum of Understanding (MOU) – A memorandum of understanding is an agreed upon process for the management of services, funds, or any rules or regulations that govern the processes all participating parties agree to follow for the common good of the participating parties. In the case of the Community Services Performance Contract, or any activities funded through the Community Service Performance Contract, the MOU is agreed upon and signed for the delivery of services identified and funded through the Region the participating community services boards or behavioral health authority provide services in.

Populations Served-The CSB shall provide needed services to adults with serious mental illnesses, children with or at risk of serious emotional disturbance, individuals with developmental disabilities, or individuals with substance use disorders to the greatest extent possible within the resources available to it for this purpose. The current Core Services Taxonomy 7.3 defines these populations.

Restricted Funds are funds identified separately in letters of notification, performance contracts, Exhibits D and Community Automated Reporting System (CARS) reports to be used for specified purposes; CSBs must account for and report expenditures associated with these funds to the Department. This requirement is reflected in the CARS report forms with columns for expenditures and balances that are completed for any restricted funds received by a CSB .The uses of restricted funds usually are controlled and specified by a funding source, such as federal mental health and substance abuse block grants or the Appropriations Act passed by the General Assembly. The Department restricts funds that would otherwise be earmarked or un-earmarked. An example is Other Funds, which are restricted in order to calculate balances of unexpended funds.

State Fiscal Year the State Fiscal Year (FY) begins July 1 of the calendar year and ends June 30 of the subsequent calendar year.

State General Funds these are funds that are appropriated by the Virginia General Assembly and are identified in each current Appropriation Act. The act is not considered law until it is signed by the Governor of Virginia.

Unrestricted Funds are funds identified separately in letters of notification, performance contracts, and CARS reports but without specified purposes; CSBs do not have to account for or report expenditures associated with them separately to the Department. Examples of un-earmarked funds would be ongoing State General Funds and Local Matching Funds.

3. Relationship

The Department functions as the state authority for the public mental health, developmental, and substance use disorder services system, and the CSB functions as the local authority for that system. The relationship between and the roles and responsibilities of the Department, the state hospitals and the CSBs are described in

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the Partnership Agreement between the parties. This contract shall not be construed to establish any employer-employee or principal-agent relationship between employees of the CSB or its board of directors and the Department.

4. Term and Termination

Term: This contract shall be in effect for a term of two years, commencing on July 1, 2021 and ending on June 30, 2023 unless either party gives ninety 90 days or more advance written notice of intent not to renew.

Termination: The Department may terminate all or a portion of this contract immediately at any time during the contract period if funds for this activity are withdrawn or not appropriated by the General Assembly or are not provided by the federal government. In this situation, the obligations of the Department and the CSB under this contract shall cease immediately. The CSB and Department shall make all reasonable efforts to ameliorate any negative consequences or effects of contract termination on individuals receiving services and CSB staff.

The CSB may terminate all or a portion of this contract immediately at any time during the contract period if funds for this activity are withdrawn or not appropriated by its local government(s) or other funding sources. In this situation, the obligations of the CSB and the Department under this contract shall cease immediately. The CSB and Department shall make all reasonable efforts to ameliorate any negative consequences or effects of contract termination on individuals receiving services and CSB staff.

5. Contract Amendment

This contract, including all exhibits and incorporated documents, constitutes the entire agreement between the Department and the CSBs and may be amended only by mutual agreement of the parties, in writing and signed by the parties hereto, except for the services identified in Exhibit A, amendments to services under Exhibit A shall be in accordance with the performance contract revision instructions contained in Exhibit E.

6. Services

Exhibit A of this contract includes all mental health, developmental, and substance use disorder services provided or contracted by the CSBs that are supported by the resources described in this contract. Services and certain terms used in this contract are defined in the current Core Services Taxonomy 7.3.

7. Service Change Management

The CSBs shall notify the Department 30 days prior to seeking to provide a new category or subcategory or stops providing an existing category or subcategory of services if the service is funded with more than 30 percent of state or federal funds or both. The CSB shall provide sufficient information to the Office of Management Services (OMS) through the performancecontractsupport@dbhds.virginia.gov for its review and approval of the change, and the CSB shall receive the Department's approval before implementing the new service or stopping the existing service.

Pursuant to 12VAC35-105-60 of the *Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services*, the CSB shall not modify a licensed service without submitting a modification notice to the Office of Licensing in the Department at least 45 days in advance of the proposed modification.

The CSB operating a residential crisis stabilization unit (RCSU) shall not increase or decrease the licensed number of beds in the RCSU or close it temporarily or permanently without providing 30 days advance notice to the Office of Licensing and the OMS, and receiving the Department's approval prior to implementing the change.

8. Funding Requirements

A. Funding Resources

Exhibit A of this contract provides an example of the following resources: state funds and federal funds appropriated by the General Assembly and allocated by the Department to the CSB and any other funds associated with or generated by the services shown in Exhibit A. CSB must review their CARS application for the most recent version of Exhibit A.

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B. Funding Allocations

1. The Department shall inform the CSBs of its state and federal fund allocations in a letter of notification (LON). Allocations of state and federal funds shall be based on state and federal statutory and regulatory requirements, provisions of the Appropriation Act, State Board policies, and previous allocation amounts.
2. The Department may reduce restricted or earmarked state or federal funds during the contract term if the CSB reduces significantly or stops providing services supported by those funds as documented in CCS Extract or CARS reports. These reductions shall not be subject to provisions in sections 16.A. of this contract. The Commissioner or designee shall communicate all adjustments to the CSBs in writing.
3. Continued disbursement of semi-monthly payments of restricted or earmarked state or federal funds by the Department to the CSBs may be contingent on documentation in the CSB's CCS Extract and CARS reports that it is providing the services supported by these funds.

C. Expenses for Services

The CSBs shall provide those services funded within the funds and for the costs set forth in Exhibit A and documented in the CSB's financial management system. The CSB shall distribute its administrative and management expenses across the three program areas (mental health, developmental, and substance use disorder services), emergency services, and ancillary services on a basis that is auditable and satisfies Generally Accepted Accounting Principles. CSB administrative and management expenses shall be reasonable and subject to review by the Department.

D. Use of Funds

1. The Department can attach specific conditions or requirements for use of funds, separate from those established by other authorities, only to the state and federal funds that it allocates to the CSB and not more than the 10 percent local matching funds that are required to obtain the CSB's state fund allocations.
2. The CSB shall maximize billing and collecting Medicaid payments and other fees in all covered services to enable more efficient and effective use of the state and federal funds allocated to it.

E. Availability of Funds

The Department and the CSB shall be bound by the provisions of this contract only to the extent of the funds available or that may hereafter become available for the purposes of the contract.

F. Local Match

Pursuant to State Board Policy 6005 and based on the Appropriation Act prohibition against using state funds to supplant funds provided by local governments for existing services, there should be no reduction of local matching funds as a result of a CSB's retention of any balances of unspent state funds.

G. Local Contact for Disbursement of Funds

1. If the CSB is an operating CSB and has been authorized by the governing body of each city or county that established it to receive state and federal funds directly from the Department and act as its own fiscal agent pursuant to Subsection A.18 of § 37.2-504 of the Code, must send notification to include:
 - a) Name of the Fiscal Agent's City Manager or County Administrator or Executive
 - b) Name of the Fiscal Agent's County or City Treasurer or Director of Finance
 - c) Name, title, and address of the Fiscal Agent official or the name and address of the CSB if it acts as its own fiscal agent to whom checks should be electronically transmitted
2. The notification must be sent to:

Fiscal and Grants Management Office
Virginia Department of Behavioral Health and Developmental Services,
Eric.Billings@dbhds.virginia.gov

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H. Unanticipated Changes in the Use of Funds due to a Disaster

The Department reserves the right to re-purpose the currently allocated funds to a CSB. This action will not be done without clear deliberations between the Department and the CSBs/BHA. The decision can rest on the requirements outlined in an Executive Order Issued by the Governor, changes to the ability of the Department or the CSBs to provide contracted services to the preservation of health and safety of individuals receiving services or the health and safety of staff providing services, or to decisions made by local government forbidding the provision of services, the funding allocations, the specific services intended to be funded, and the types and numbers of individuals projected to be served.

9. CSB Responsibilities

A. Exhibit A

Shall be submitted electronically through the CARS application. The CSB shall provide the services funded and the costs associated with those service in Exhibit A of CARS. The CSB shall provide the projected array of services, the projected cost of those services, the projected service capacity to provide those services, and the projected cost for those services in Exhibit A.

B. Populations Served

The CSB shall provide needed services to adults with serious mental illnesses, children with or at risk of serious emotional disturbance, individuals with developmental disabilities, or individuals with substance use disorders to the greatest extent possible within the resources available to it for this purpose. The current Core Services Taxonomy 7.3 defines these populations.

C. Scope of Services

The scope of services a CSB may be responsible for providing and the specific core service categories and sub-categories are defined in the Core Services Taxonomy 7.3. See Exhibit G for the list of Code mandated services a CSB shall be responsible for providing.

1. **Same Day Access (SDA)** - SDA means an individual may walk into or contact a CSB to request mental health or substance use disorder services and receive a comprehensive clinical behavioral health assessment, not just a screening, from a licensed or license-eligible clinician the same day. Based on the results of the comprehensive assessment, if the individual is determined to need services, the goal of SDA is that he or she receives an appointment for face-to-face or other direct services in the program offered by the CSB that best meets his or her needs within 10 business days, sooner if indicated by clinical circumstances.
 - a. SDA emphasizes engagement of the individual, uses concurrent EHR documentation during the delivery of services, implements techniques to reduce appointment no shows, and uses centralized scheduling. If it has received state mental health funds to implement SDA, the CSB shall report SDA outcomes through the CCS Extract outcomes file. The CSB shall report the date of each SDA comprehensive assessment, whether the assessment determined that the individual needed services offered by the CSB, and the date of the first service offered at the CSB for all individuals seeking mental health or substance use disorder services from the CSB.
 - a. The Department shall measure SDA by comparing the date of the comprehensive assessment that determined the individual needed services and the date of the first CSB face-to-face or other direct service offered to the individual. SDA benchmarks can be found in Exhibit B.
2. **Primary Care Screening and Monitoring** -Any child diagnosed with a serious emotional disturbance and receiving ongoing CSB behavioral health service or any adult diagnosed with a serious mental illness and receiving ongoing CSB behavioral health service will be provided or referred for a primary care screening on a yearly basis.
 - a. For the implementation of “ongoing behavioral health service” is defined as “child with SED receiving Mental Health Targeted Case Management or adult with SMI receiving Mental Health Targeted Case Management”. These clients are required to be provided with a yearly primary care screening to include, at minimum, height, weight, blood pressure, and BMI. This screening may be done by the CSB or the individual may be referred to a primary care provider to have

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- this screening completed.
- b. If the screening is done by a primary care provider, the CSB is responsible for the screening results to be entered in the patient's CSB electronic health record. The CSB will actively support this connection and coordinate care with physical health care providers for all service recipients.
 - c. CSB shall screen and monitor any individual over age 3 being prescribed an antipsychotic medication by a CSB prescriber for metabolic syndrome following the American Diabetes Association guidelines.
 - d. Individuals with serious mental illness (SMI), a population primarily served by the CSBs, are known to be at higher risk for poor physical health outcomes largely due to unidentified chronic conditions. Therefore it is important for behavioral health staff to provide primary care screening to identify and provide related care coordination to ensure access to needed physical health care.
 - e. For the population includes all individuals over age 3 who receive psychiatric medical services by the CSB. CSBs must report the screen completion and monitoring completion in CCS monthly submission.
3. **Outpatient Services** - Outpatient services are considered to be foundational services for any behavioral health system. The Core Services Taxonomy 7.3 states that outpatient services may include diagnosis and evaluation, screening and intake, counseling, psychotherapy, behavior management, psychiatry, psychological testing and assessment, laboratory and ancillary services.
- a. The quality of outpatient behavioral health services is the key component of this step and CSBs shall provide an appointment to a high quality CSB outpatient provider or a referral to a non-CSB outpatient behavioral health service within 10 business days of the completed SDA intake assessment, if clinically indicated.
 - b. All CSBs will establish a quality management program and continuous quality improvement plan to assess the access, quality, efficiency of resources, behavioral healthcare provider training, and patient outcomes of those individuals receiving outpatient services through the CSBs.
 - c. This may include improvement or expansion of existing services, the development of new services, or enhanced coordination and referral process to outpatient services not directly provided by the CSB.
 - d. Expertise in the treatment of trauma related conditions are to be established.
 - e. CSBs should provide a minimum for outpatient behavioral healthcare providers of 8 hours of trauma focused training in treatment modalities to serve adults, children/adolescents and their families within the first year of employment and 4 hours in each subsequent years or until 40 hours of trauma-focused treatment can be demonstrated.
 - f. The CSB shall complete and submit to the Department quarterly DLA-20 composite scores through CCS as well as provide training data regarding required trauma training yearly in July when completing federal Block Grant reporting.
4. **Service Members, Veterans, and Families (SMVF)**- As one of the nine required services for System Transformation Excellence and Performance (STEP-VA), the purpose of the Service Members Veterans and Families (SMVF) step is to ensure SMVF receive needed mental health, substance abuse, and supportive services in the most efficient and effective manner available. Services shall be high quality, evidence-based, trauma-informed, culturally-competent, and accessible. Per the Code of Virginia, CSB core services, as of July 1, 2021 shall include mental health services for members of the armed forces located 50 miles or more from a military treatment facility and veterans located 40 miles or more from a Veterans Health Administration medical facility.
- a. All CSBs shall ensure they have clinician(s) who specialize in treatment for post-traumatic stress disorder and other forms of trauma including from military and/or combat service including military sexual trauma and substance use disorders.
 - b. CSBs shall ensure behavioral health services including but not limited to SMI, SUD, Co-Occurring and Youth/Adolescents. Clinical services for this population shall align with federal

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clinical guidelines from Veterans Affairs and Department of Defense can be found at <https://www.healthquality.va.gov>.

- c. CSBs shall identify and refer SMVF seeking services to internal providers that have been trained in military cultural competency (MCC); collaborate with Military Treatment Facilities (MTFs), Veterans Health Administration (VHA) facilities, Virginia Department of Veterans Services (DVS) programs and other external providers to determine SMVF eligibility for services, and assist SMVF with services navigation.
 - d. The CSB shall submit information on SMVF receiving services in CCS monthly submission.
5. **Case Management Services Training**-The CSB shall ensure that all direct and contract staff that provide case management services have completed the case management curriculum developed by the Department and that all new staff complete it within 30 days of employment. The CSB shall ensure that developmental disability case managers or support coordinators complete the ISP training modules developed by the Department within 60 days of their availability on the Department's web site or within 30 days of employment for new staff.
 6. **Developmental Case Management Services Organization**- The CSB shall structure its developmental case management or support coordination services so that a case manager or support coordinator does not provide a DD Waiver service other than services facilitation and a case management or support coordination service to the same individual. This will ensure the independence of services from case management or service coordination and avoid perceptions of undue case management or support coordination influence on service choices by an individual.
 7. **Access to Substance Abuse Treatment for Opioid Abuse** -The CSB shall ensure that individuals requesting treatment for opioid drug abuse, including prescription pain medications, regardless of the route of administration, receive rapid access to appropriate treatment services within 14 days of making the request for treatment or 120 days after making the request if the CSB has no capacity to admit the individual on the date of the request and within 48 hours of the request it makes interim services, as defined in 45 CFR § 96.126, available until the individual is admitted.
 8. **Crisis Intervention Team (CIT) Services** – If the CSB receives CIT funding it shall:
 - f. Work with community stakeholders, agencies, and partners across systems to coordinate the implementation and operation of the CIT Assessment Site and provide related access to appropriate services in accordance with its RFP response approved by the Department.
 - g. Submit narrative semi-annual progress reports on these services through the Department's sFTP server and upload them to the Jail Diversion Folder within 45 calendar days of the end of the second quarter and within 60 days of the end of the fiscal year.
 - h. Reports shall include a brief narrative of program activities for all CIT aspects of the services, implementation progress against milestones identified in the approved RFP response, and specific site-related challenges and successes for the reporting period.
 - i. Instructions for naming the files are in the Data Reporting Manual provided by the Department to CSBs that received CIT funds.
 - j. Include all funds, expenditures, and costs associated with these services provided to individuals residing in the CSB's service area in its Community Automated Reporting System (CARS) reports and applicable data about individuals receiving these services and service units received in its monthly CCS extracts submitted to the Department.
 - k. Submit quarterly data files as instructed by the Department using the Excel Data Template provided by the Department to CSBs that received CIT funds. Submit quarterly data reports within 45 calendar days of the end of the first three quarters and within 60 days of the end of the fiscal year. Submit the data files through the Department's sFTP server and upload them to

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the Jail Diversion Folder. Instructions for naming the files are in the Data Reporting Manual provided by the Department.

- l. Cooperate with the Department in annual site visits and agree to participate in scheduled assessment site meetings.
9. **Forensic Services** - Upon receipt of a court order pursuant to § 19.2-169.2 of the Code of Virginia, the CSB shall provide or arrange for the provision of services to restore the individual to competency to stand trial. These services shall be delivered in the local or regional jail, juvenile detention center (when a juvenile is being tried as an adult), other location in the community where the individual is currently located, or in another location suitable for the delivery of the restoration services when determined to be appropriate. These services shall include treatment and restoration services, emergency services, assessment services, the provision of medications and medication management services, and other services that may be needed by the individual in order to restore him to competency and to prevent his admission to a state hospital for these services.
- a. Upon written notification from a state facility that an individual hospitalized for restoration to competency pursuant to § 19.2-169.2 of the Code of Virginia has been restored to competency and is being discharged back to the community, the CSB shall to the greatest extent possible provide or arrange for the provision of services in the local or regional jail, juvenile detention center (when a juvenile is being tried as an adult), other location in the community where the individual is located, or in another location suitable for the delivery of these services to that individual to ensure the maintenance of his psychiatric stability and competency to stand trial. Services shall include treatment and restoration services, emergency services, assessment services, the provision of medications and medication management services, and other services which may be needed by the individual in order prevent his readmission to a state hospital for these services. Upon receipt of a court order pursuant to § 16.1-356 of the Code of Virginia, the CSB shall provide or arrange for the provision of a juvenile competency evaluation.
 - b. Upon receipt of a court order pursuant to § 16.1-357, the CSB shall provide or arrange for the provision of services to restore a juvenile to competency to stand trial through the Department's statewide contract.
 - c. Upon receipt of a court order, the CSB shall provide or arrange for the provision of forensic evaluations required by local courts in the community in accordance with State Board Policy 1041.
 - d. Forensic evaluations and treatment shall be performed on an outpatient basis unless the results of an outpatient evaluation indicate that hospitalization is necessary. The CSB shall consult with local courts in placement decisions for hospitalization of individuals with a forensic status based upon evaluation of the individual's clinical condition, need for a secure environment, and other relevant factors. The CSB's staff shall conduct an assessment of risk to provide information to the Commissioner for the determination of whether an individual with a forensic status in need of hospitalization requires placement in a civil facility or a secure facility. The CSB's staff will contact and collaborate with the Forensic Coordinator of the state hospital that serves the CSB or outside of regular business hours any other personnel designated by the state hospital to manage emergency admissions in making this determination. The CSB's assessment shall include those items required prior to admission to a state hospital.
 - e. The CSB shall designate a Forensic Admissions Coordinator, a Forensic Evaluation Coordinator, and an NGRI Coordinator to collaborate with the local courts, the forensic staff of state facilities, and the Department. The CSB shall notify the Department's Director of Forensic Services of the name, title, and contact information of these designees and shall inform the Director of any changes in these designations. The CSB shall ensure that designated staff completes the forensic training designated by the Commissioner of the

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Department as meeting the requirements for completion of forensic evaluations authorized under § 19.2-169.1, § 19.2-169.5, § 19.2-182.2, and § 19.2-182.5 of the Code of Virginia.

- f. The CSB shall provide discharge planning for persons found not guilty by reason of insanity. Pursuant to § 19.2-182.2 through § 19.2-182.7, and § 19.2-182.11 of the Code of Virginia, the CSB shall provide discharge planning, collaborate with the state facility staff in preparing conditional release plans, implement the court's conditional release orders, and submit written reports to the court on the person's progress and adjustment in the community no less frequently than every six months for acquittees who have been conditionally released to a locality served by the CSB. The CSB should provide to the Department's Director of Forensic Services written monthly reports on the person's progress and adjustment in the community for their first 12 continuous months in the community for acquittees who have been conditionally released to a locality served by the CSB and copies of court orders regarding acquittees on conditional release.
 - g. If an individual with a forensic status does not meet the criteria for admission to a state hospital, his psychiatric needs should be addressed in the local jail, prison, detention center, or other correctional facility in collaboration with local treatment providers.
10. **Permanent Supportive Housing (PSH)** - If the CSB receives state mental health funds for PSH for adults with serious mental illness, it shall fulfill these requirements:
- a. Comply with requirements in the PSH Initiative Operating Guidelines and any subsequent additions or revisions to the requirements agreed to by the participating parties. If the implementation of the program is not meeting its projected implementation schedule, the CSB shall provide a written explanation to and seek technical assistance from the Office of Adult Community Behavioral Health Services in the Department.
 - b. Ensure that individuals receiving PSH have access to an array of clinical and rehabilitative services and supports based on the individual's choice, needs, and preferences and that these services and supports are closely coordinated with the housing-related resources and services funded through the PSH initiative.
 - c. Assist Department staff as requested with any case-level utilization review activities, making records of individuals receiving PSH available and providing access to individuals receiving PSH for interviews.
 - d. Track and report the expenditure of restricted state mental health PSH funds separately in the implementation status reports required in subsection f below. Based on these reports, the Department may adjust the amount of state funds on a quarterly basis up to the amount of the total allocation to the CSB. The CSB shall include applicable information about individuals receiving PSH services and the services they receive in its information system and CCS Extract monthly extracts.
 - e. Reserve any current restricted state mental health funds for PSH that remain unspent at the end of the fiscal year to be used only for PSH activities in subsequent fiscal years as authorized by the Department.
 - f. Submit implementation status reports for PSH within 45 days after the end of the quarter for the first three quarters and within 60 days of the end of the fiscal year to the Department. Submit data about individuals following guidance provided by the Office of Adult Community Behavioral Health and using the tools, platforms, and data transmission requirements provided by the Department. Establish mechanisms to ensure the timely and accurate collection and transmission of data. The Department shall provide the data collection and reporting database, submission due dates, and reporting protocols to the CSB in sufficient time to allow it to comply with them.
 - g. Participate in PSH training and technical assistance in coordination with the Office of Adult

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Community Behavioral Health Services and any designated training and technical assistance providers.

11. **Residential Crisis Stabilization Units (RCSU)** - The CSB operating a RCSU shall staff and operate
 - a. the unit so that it can admit individuals 24 hours per day and seven days per week.
 - b. the unit shall accept any appropriate individuals under temporary detention orders (TDOs) and establish clinical criteria specifying the types of individuals under TDOs that it will accept.
 - c. the CSB shall provide a copy of the criteria to the Department upon request for its review and approval. The unit shall implement a written schedule of clinical programming that covers at least eight hours of services per day and seven days per week that is appropriate for the individuals receiving crisis services and whenever possible incorporates evidence-based and best practices.
 - d. the RCSU shall provide a mix of individual, group, or family counseling or therapy, case management, psycho-educational, psychosocial, relaxation, physical health, and peer-run group services; access to support groups such as Alcoholics Anonymous or Narcotics Anonymous; access to a clinical assessment that includes ASAM Level of Care and medically monitored highly intensive residential services that have the capacity for medication assisted treatment when a substance use disorder is indicated; and other activities that are appropriate to the needs of each individual receiving services and focuses on his or her recovery.
 - e. the CSB shall comply with the requirements provided by the Department in its current Residential Crisis Stabilization Unit Expectations document.
12. **Regional Programs** -The CSB shall manage or participate in the management of, account for, and report on regional programs in accordance with the Regional Program Operating Principles and the Regional Program Procedures in the Core Services Taxonomy 7.3. The CSB agrees to participate in any utilization review or management activities conducted by the Department involving services provided through a regional program.
13. **Response to Complaints:** Pursuant to § 37.2-504 or § 37.2-605 of the Code, the CSB shall implement procedures to satisfy the requirements for a local dispute resolution mechanism for individuals receiving services and to respond to complaints from individuals receiving services, family members, advocates, or other stakeholders as expeditiously as possible in a manner that seeks to achieve a satisfactory resolution and advises the complainant of any decision and the reason for it. The CSB shall acknowledge complaints that the Department refers to it within five business days of receipt and provide follow up commentary on them to the Department within 10 business days of receipt. The CSB shall post copies of its procedures in its public spaces and on its web site, provide copies to all individuals when they are admitted for services, and provide a copy to the Department upon request.

D. Quality of Care

1. **Department CSB Performance Measures:** CSB staff shall monitor the CSB's outcome and performance measures in Exhibit B, identify and implement actions to improve its ranking on any measure on which it is below the benchmark, and present reports on the measures and actions at least quarterly during scheduled meetings of the CSB board of directors.
2. **Quality Improvement and Risk Management:** The CSB shall develop, implement, and maintain a quality improvement plan, itself or in affiliation with other CSBs, to improve services, ensure that services are provided in accordance with current acceptable professional practices, and address areas of risk and perceived risks. The quality improvement plan shall be reviewed annually and updated at least every four years.
 - b. The CSB shall develop, implement, and maintain, itself or in affiliation with other CSBs, a risk management plan or participate in a local government's risk management plan. The

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CSB shall work with the Department to identify how the CSB will address quality improvement activities.

- c. The CSB shall implement, in collaboration with other CSBs in its region, the state hospital(s) and training centers serving its region, and private providers involved with the public mental health, developmental, and substance use disorder services system, regional utilization management procedures and practices.
3. **Critical Incidents:** The CSB shall implement procedures to insure that the executive director is informed of any deaths, serious injuries, or allegations of abuse or neglect as defined in the Department's Licensing (12VAC35-105-20) and Human Rights (12VAC35-115-30) Regulations when they are reported to the Department. The CSB shall provide a copy of its procedures to the Department upon request.
- e. If any CSB employees are being paid totally with Federal Mental Health or SABG funds at a direct annual salary (not including fringe benefits and operating costs) in excess of Level II of the federal Executive Schedule. They must provide written notification to the Department to include names and titles of those employees.
- f. The CSB assures that it is and will continue to be in full compliance with the applicable provisions of 45 CFR Part 54, Charitable Choice Regulations, and 45 CFR Part 87, Equal Treatment for Faith- Based Organizations Regulations, in its receipt and use of federal Mental Health Services and SABG funds and federal funds for Projects for Assistance in Transitions from Homelessness programs. Both regulations prohibit discrimination against religious organizations, provide for the ability of religious organizations to maintain their religious character, and prohibit religious organizations from using federal funds to finance inherently religious activities.

E. Reporting Requirements and Data Quality

1. Individual Outcome and CSB Provider Performance Measures

- a.) **Measures:** Pursuant to § 37.2-508 or § 37.2-608 of the Code, the CSB shall report the data for individual outcome and CSB provider performance measures in Exhibit B of this contract to the Department.
- b.) **Individual CSB Performance Measures:** The Department may negotiate specific, time-limited measures with the CSB to address identified performance concerns or issues. The measures shall be included as Exhibit D of this contract.
- c.) **Individual Satisfaction Survey:** Pursuant to § 37.2-508 or § 37.2-608 of the Code, the CSB shall participate in the Annual Survey of Individuals Receiving MH and SUD Outpatient Services, the Annual Youth Services Survey for Families (i.e., Child MH survey), and the annual QSRs and the NCI Survey for individuals covered by the DOJ Settlement Agreement.

2. Electronic Health Record

The CSBs shall implement and maintain an electronic health record (EHR) that has been fully certified and is listed by the Office of the National Coordinator for Health Information Technology-Authorized Testing and Certification Body to improve the quality and accessibility of services, streamline and reduce duplicate reporting and documentation requirements, obtain reimbursement for services, and exchange data with the Department and its state hospitals and training centers and other CSBs.

3. Reporting Requirements

For purposes of reporting to the Department, the CSB shall comply with State Board Policy 1030 and shall:

- a.) provide monthly Community Consumer Submission (CCS) extracts that report individual characteristic and service data to the Department, as required by § 37.2- 508 or § 37.2-608 of the Code, the federal Substance Abuse and Mental Health Services Administration, and Part C of Title XIX of the Public Health Services Act - Block Grants, § 1943 (a) (3) and § 1971 and §

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1949, as amended by Public Law 106- 310, and as permitted under 45 CFR §§ 164.506 (c) (1) and (3) and 164.512 (a) (1) and (d) of the HIPAA regulations and §32.1-127.1:03.D (6) of the Code, and as defined in the current CCS Extract Specifications, including the current Business Rules.

- b.) follow the current Core Services Taxonomy 7.3 and CCS Extract Specifications, when responding to reporting requirements established by the Department;
 - c.) complete the National Survey of Substance Abuse Treatment Services (N-SSATS) annually that is used to compile and update the National Directory of Drug and Alcohol Abuse Treatment Programs and the on-line Substance Abuse Treatment Facility Locator;
 - d.) follow the user acceptance testing process described in Appendix D of the CSB Administrative Requirements for new CCS Extract releases and participate in the user acceptance testing process when requested to do so by the Department;
 - e.) report service data on substance abuse prevention and mental health promotion services provided by the CSB that are supported wholly or in part by the SABG set aside for prevention services through the prevention data system planned and implemented by the Department in collaboration with the VACSB DMC, but report funding, expenditure, and cost data on these services through CARS); and report service, funding, expenditure, and cost data on any other mental health promotion services through CCS Extract and CARS;
 - f.) supply information to the Department's Forensics Information Management System for individuals adjudicated not guilty by reason of insanity (NGRI), as required under § 37.2-508 or § 37.2-608 of the Code and as permitted under 45 CFR §§ 164.506 (c) (1) and (3), 164.512 (d), and 164.512 (k) (6) (ii);
 - g.) report data and information required by the current Appropriation Act; and
 - h.) report data identified collaboratively by the Department and the CSB working
 - i.) through the VACSB DMC
4. **Routine Reporting Requirements**

The CSB shall account for all services, funds, expenses, and costs accurately and submit reports to the Department in a timely manner using current CARS, CCS, or other software provided by the Department. All reports shall be provided in the form and format prescribed by the Department. The CSB shall provide the following information and meet the following reporting requirements:

- a.) types and service capacities of services provided, costs for services provided, and funds received by source and amount and expenses paid by program area and for emergency and ancillary services semi-annually in CARS, and state and federal block grant funds expended by service category with the end-of-the-fiscal year CARS report;
 - b.) demographic characteristics of individuals receiving services and types and amounts of services provided to each individual monthly through the current CCS;
 - c.) Federal Balance Report;
 - d.) PATH reports (mid-year and at the end of the fiscal year);
 - e.) amounts of state, local, federal, Medicaid, other fees, other funds used to pay for services by service category in each program area and emergency and ancillary services in the end of the fiscal year CARS report; and
 - f.) other reporting requirements in the current CCS Extract Specifications.
5. **Subsequent Reporting Requirements:** In accordance with State Board Policy 1030, the CSB shall work with the Department through the VACSB DMC to ensure that current data and reporting requirements are consistent with each other and the current Core Services Taxonomy

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7.3, the current CCS Extract, and the federal substance abuse Treatment Episode Data Set (TEDS) and other federal reporting requirements. The CSB also shall work with the Department through the VACSB DMC in planning and developing any additional reporting or documentation requirements beyond those identified in this contract to ensure that the requirements are consistent with the current taxonomy, the current CCS Extract, and the TEDS and other federal reporting requirements.

6. **Data Elements:** The CSB shall work with the Department through the DMC to standardize data definitions, periodically review existing required data elements to eliminate elements that are no longer needed, minimize the addition of new data elements to minimum necessary ones, review CSB business processes so that information is collected in a systematic manner, and support efficient extraction of required data from CSB electronic health record systems whenever this is possible.
7. **Streamlining Reporting Requirements:** The CSB shall work with the Department through the VACSB DMC to review existing reporting requirements including the current CCS Extract to determine if they are still necessary and, if they are, to streamline and reduce the number of portals through which those reporting requirements are submitted as much as possible; to ensure reporting requirements are consistent with the current CCS Extract Specifications and Core Services Taxonomy 7.3; and to maximize the interoperability between Department and CSB data bases to support the electronic exchange of information and comprehensive data analysis.
8. **Data Quality:** The CSB shall review data quality reports from the Department on the completeness and validity of its CCS Extract data to improve data quality and integrity. When requested by the Department, the CSB executive director shall develop and submit a plan of correction to remedy persistent deficiencies in the CSB's CCS Extract submissions and, upon approval of the Department, shall implement the plan of correction.
9. **Providing Information:** The CSB shall provide any information requested by the Department that is related to the services, funds, or expenditures in this contract or the performance of or compliance with this contract in a timely manner, considering the type, amount, and availability of information requested. Provision of information shall comply with applicable laws and regulations governing confidentiality, privacy, and security of information regarding individuals receiving services from the CSB.
10. **Reviews:** The CSB shall participate in the periodic, comprehensive administrative and financial review of the CSB conducted by the Department to evaluate the CSB's compliance with requirements in the contract and CSB Administrative Requirements and the CSB's performance. The CSB shall address recommendations in the review report by the dates specified in the report or those recommendations may be incorporated in an Exhibit D.
11. **Constitution of the CSB:** The resolutions or ordinances currently in effect that were enacted by the governing body or bodies of the local government or governments to establish the CSB are consistent with applicable statutory requirements in §§ 37.2-500, 37.2- 501, and 37.2-502 or §§ 37.2-601, 37.2-602, and 37.2-603 of the Code and accurately reflect the current purpose, roles and responsibilities, local government membership, number and type of CSB board member appointments from each locality, the CSB's relationship with its local government or governments, and the name of the CSB.

10. Subcontracting

A subcontract means a written agreement between the CSB and another party under which the other party performs any of the CSB's obligations. Subcontracts, unless the context or situation supports a different interpretation or meaning, also may include agreements, memoranda of understanding, purchase orders, contracts, or other similar documents for the purchase of services or goods by the CSB from another organization or agency or a person on behalf of an individual.

If the CSB hires an individual not as an employee but as a contractor (e.g., a part-time psychiatrist) to work in

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its programs, this does not constitute subcontracting under this section. CSB payments for rent or room and board in a non-licensed facility (e.g., rent subsidies or a hotel room) do not constitute subcontracting under this section, and the provisions of this section, except for compliance with the Human Rights regulations, do not apply to the purchase of a service for one individual.

The CSB may subcontract any requirements in this contract. The CSB shall remain fully and solely responsible and accountable for meeting all of its obligations and duties under this contract, including all services, terms, and conditions, without regard to its subcontracting arrangements.

Subcontracting shall comply with applicable statutes, regulations, and guidelines, including the Virginia Public Procurement Act, § 2.1-4300 et seq. of the Code. All subcontracted activities shall be formalized in written contracts between the CSB and subcontractors. The CSB agrees to provide copies of contracts or other documents to the Department on request.

A. Subcontracts

The written subcontract shall, as applicable and at a minimum, state the activities to be performed, the time schedule and duration, the policies and requirements, including data reporting, applicable to the subcontractor, the maximum amount of money for which the CSB may become obligated, and the manner in which the subcontractor will be compensated, including payment time frames. Subcontracts shall not contain provisions that require a subcontractor to make payments or contributions to the CSB as a condition of doing business with the CSB.

B. Subcontractor Compliance

The CSB shall require that its subcontractors comply with the requirements of all applicable federal and state statutes, regulations, policies, and reporting requirements that affect or are applicable to the services included in this contract. The CSB shall require that its subcontractors submit to the CSB all required CCS Extract data on individuals they served and services they delivered in the applicable format so that the CSB can include this data in its CCS Extract submissions to the Department.

1. The CSB shall require that any agency, organization, or person with which it intends to subcontract services that are included in this contract is fully qualified and possesses and maintains current all necessary licenses or certifications from the Department and other applicable regulatory entities before it enters into the subcontract and places individuals in the subcontracted service.
2. The CSB shall require all subcontractors that provide services to individuals and are licensed by the Department to maintain compliance with the Human Rights Regulations adopted by the State Board.
3. The CSB shall, to the greatest extent practicable, require all other subcontractors that provide services purchased by the CSB for individuals and are not licensed by the Department to develop and implement policies and procedures that comply with the CSB's human rights policies and procedures or to allow the CSB to handle allegations of human rights violations on behalf of individuals served by the CSB who are receiving services from such subcontractors. When it funds providers such as family members, neighbors, individuals receiving services, or others to serve individuals, the CSB may comply with these requirements on behalf of those providers, if both parties agree.

C. Subcontractor Dispute Resolution

The CSB shall include contract dispute resolution procedures in its contracts with subcontractors.

D. Quality Improvement Activities

The CSB shall, to the extent practicable, incorporate specific language in its subcontracts regarding the quality improvement activities of subcontractors. Each vendor that subcontracts with the CSB should have its own quality improvement system in place or participate in the CSB's quality improvement program.

11. Compliance with Laws

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CSB shall comply with all applicable federal, state, and local laws and regulations. If any laws or regulations that become effective after the execution date of this contract substantially change the nature and conditions of this contract, they shall be binding upon the parties, but the parties retain the right to exercise any remedies available to them by law or other provisions of this contract.

A. HIPAA

1. The CSB shall comply with the HIPAA and the regulations promulgated thereunder by their compliance dates, except where the HIPAA requirements and applicable state law or regulations are contrary and state statutes or regulations are more stringent, as defined in 45 CFR § 160.202, than the related HIPAA requirements.
2. The CSB shall execute a Business Associate Agreement (BAA) initiated by the Department for any HIPAA- or 42 CFR Part 2- protected health information (PHI), personally identifiable information (PII), and other confidential data that it exchanges with the Department and its state facilities that is not covered by section 6.c.1.) a.) and f.) or 2.)c.) to ensure the privacy and security of sensitive data.
3. The CSB shall ensure sensitive data, including HIPAA-PHI, PII, and other confidential data, exchanged electronically with the Department, its state hospitals and training centers, other CSBs, other providers, regional or persons meets the requirements in the FIPS 140-2 standard and is encrypted using a method supported by the Department.
4. The Department and its state hospitals and training centers shall comply with HIPAA and the regulations promulgated thereunder by their compliance dates, except where the HIPAA requirements and applicable state law or regulations are contrary and state statutes or regulations are more stringent, as defined in 45 CFR § 160.202, than the related HIPAA requirements.
5. The Department shall initiate a BAA with the CSB for any HIPAA- or 42 CFR Part 2-PHI, PII, and other confidential data that it and its state facilities exchange with the CSB that is not covered by section 6.c.1.) a.) and f.) or 2.)c.) to ensure the privacy and security of sensitive data.
6. The Department shall execute a BAA with FEI, its WaMS contractor, for the exchange of PHI, PII, and other confidential data that it or the CSB exchanges with FEI to ensure the privacy and security of sensitive data.
7. The Department and its state hospitals and training centers shall ensure that any sensitive data, including HIPAA-PHI, PII, and other confidential data, exchanged electronically with CSBs, other providers, or persons meets the requirements in the FIPS 140-2 standard and is encrypted using a method supported by the Department and CSB.

B. Employment Anti-Discrimination

1. The CSB shall conform to the applicable provisions of Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, Sections 503 and 504 of the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Act of 1974, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, the Virginians With Disabilities Act, the Virginia Fair Employment Contracting Act, the Civil Rights Act of 1991, regulations issued by Federal Granting Agencies, and other applicable statutes and regulations, including § 2.2-4310 of the Code. The CSB agrees as follows:
2. The CSB 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 federal or state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the CSB. The CSB agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
3. The CSB, in all solicitations or advertisements for employees placed by or on behalf of the CSB, will state that it is an equal opportunity employer.
4. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting these requirements.

C. Service Delivery Anti-Discrimination

1. The CSB shall conform to the applicable provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act of 1990, the Virginians

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with Disabilities Act, the Civil Rights Act of 1991, regulations issued by the U.S. Department of Health and Human Services pursuant thereto, other applicable statutes and regulations, and as further stated below.

2. Services operated or funded by the CSB have been and will continue to be operated in such a manner that no person will be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under such services on the grounds of race, religion, color, national origin, age, gender, or disability.
3. The CSB and its direct and contractual services will include these assurances in their services policies and practices and will post suitable notices of these assurances at each of their facilities in areas accessible to individuals receiving services.
4. The CSB will periodically review its operating procedures and practices to insure continued conformance with applicable statutes, regulations, and orders related to non-discrimination in service delivery.

D. General State Requirements

The CSB shall comply with applicable state statutes and regulations, State Board regulations and policies, and Department procedures, including the following requirements.

E. Conflict of Interests

Pursuant to § 2.2-3100.1 of the Code, the CSB shall ensure that new board members are furnished with receive a copy of the State and Local Government Conflict of Interests Act by the executive director or his or her designee within two weeks following a member's appointment, and new members shall read and become familiar with provisions of the act.

The CSB shall ensure board members and applicable CSB staff receive training on the act. If required by § 2.2-3115 of the Code, CSB board members and staff shall file annual disclosure forms of their personal interests and such other information as is specified on the form set forth in § 2.2-3118 of the Code. Board members and staff shall comply with the Conflict of Interests Act and related policies adopted by the CSB board of directors.

F. Freedom of Information

Pursuant to § 2.2-3702 of the Code, the CSB shall ensure that new board members are furnished with a copy of the Virginia Freedom of Information Act by the executive director or his or her designee within two weeks following a member's appointment, and new members shall read and become familiar with provisions of the act.

The CSB shall ensure board members and applicable staff receive training on the act. Board members and staff shall comply with the Freedom of Information Act and related policies adopted by the CSB by the CSB board of directors.

G. Protection of Individuals Receiving Services

1. **Human Rights:** The CSB shall comply with the current *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services*. In the event of a conflict between any of the provisions in this contract and provisions in these regulations, the applicable provisions in the regulations shall apply.

The CSB shall cooperate with any Department investigation of allegations or complaints of human rights violations, including providing any information needed for the investigation as required under state law and as permitted under 45 CFR § 164.512 (d) in as expeditious a manner as possible.

2. **Disputes:** The filing of a complaint as outlined in the Human Rights Regulations by an individual or his or her family member or authorized representative shall not adversely affect the quantity, quality, or timeliness of services provided to that individual unless an action that produces such an effect is based on clinical or safety considerations and is documented in the individual's individualized services plan.

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H. Licensing

The CSB shall comply with the *Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services*. The CSB shall establish a system to ensure ongoing compliance with applicable licensing regulations. CSB staff shall provide copies of the results of licensing reviews, including scheduled reviews, unannounced visits, and complaint investigations, to all members of the CSB board of directors in a timely manner and shall discuss the results at a regularly scheduled board meeting. The CSB shall adhere to any licensing guidance documents published by the Department.

I. Program and Service Reviews

The Department may conduct or contract for reviews of programs or services provided or contracted by the CSB under this contract to examine their quality or performance at any time as part of its monitoring and review responsibilities or in response to concerns or issues that come to its attention, as permitted under 45 CFR § 164.512 (a), (d), and (k) (6) (ii) and as part of its health oversight functions under § 32.1-127.1:03 (D) (6) and § 37.2-508 or § 37.2-608 of the Code or with a valid authorization by the individual receiving services or his authorized representative that complies with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services*, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule. The CSB shall provide ready access to any records or other information necessary for the Department to conduct program or service reviews or investigations of critical incidents.

J. Consideration of Department Comments or Recommendations

The executive director and CSB board members shall consider significant issues or concerns raised by the Commissioner of the Department at any time about the operations or performance of the CSB and shall respond formally to the Department, collaborating with it as appropriate, about these issues or concerns.

K. State Facility Services

1. **Availability:** The Department shall make state facility services available, if appropriate, through its state hospitals and training centers when individuals located in the CSB's service area meet the admission criteria for these services.
2. **Bed Utilization:** The Department shall track, monitor, and report on the CSB's utilization of state hospital and training center beds and provide data to the CSB about individuals receiving services from its service area who are served in state hospitals and training centers as permitted under 45 CFR §§ 164.506 (c) (1), (2), and (4) and 164.512(k) (6) (ii). The Department shall distribute reports to CSBs on state hospital and training center bed utilization by the CSB for all types of beds (adult, geriatric, child and adolescent, and forensic) and for TDO admissions and bed day utilization.
3. **Continuity of Care:** The Department shall manage its state hospitals and training centers in accordance with State Board Policy 1035, to support service linkages with the CSB, including adherence to the applicable continuity of care procedures, and the current Exhibit K and other applicable document provided by the Department. The Department shall assure state hospitals and training centers use teleconferencing technology to the greatest extent practicable to facilitate the CSB's participation in treatment planning activities and fulfillment of its discharge planning responsibilities for individuals in state hospitals and training centers for whom it is the case management CSB.
4. **Medical Screening and Medical Assessment:** When working with CSBs and other facilities to arrange for treatment of individuals in the state hospital, the state hospital shall assure that its staff follows the current Medical Screening and Medical Assessment Guidance Materials. The state hospital staff shall coordinate care with emergency rooms, emergency room physicians, and other health and behavioral health providers to ensure the provision of timely and effective medical screening and medical assessment to promote the health and safety of and continuity of care for individuals receiving services.
5. **Planning:** The Department shall involve the CSB, as applicable and to the greatest extent

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possible, in collaborative planning activities regarding the future role and structure of state hospitals and training centers.

L. Quality of Care

The Department in collaboration with the VACSB Data Management and Quality Leadership Committees and the VACSB/DBHDS Quality and Outcomes Committee shall identify individual outcome, CSB provider performance, individual satisfaction, individual and family member participation and involvement measures, and quality improvement measures, pursuant to § 37.2-508 or § 37.2-608 of the Code, and shall collect information about these measures and work with the CSB to use them as part of the Continuous Quality Improvement Process described in Appendix E of the CSB Administrative Requirements to improve services.

M. Department CSB Performance Measures Data Dashboard

The Department shall develop a data dashboard to display the CSB Performance Measures in Exhibit B, developed in collaboration with the CSB, and disseminate it to CSBs. The Department shall work with the CSB to identify and implement actions to improve the CSB's ranking on any outcome or performance measure on which it is below the benchmark.

N. Utilization Management

The Department shall work with the CSBs, state hospitals and training centers serving it, and private providers involved with the public mental health, developmental, and substance use disorder services system to implement regional utilization management procedures and practices.

O. Human Rights

The Department shall operate the statewide human rights system described in the current *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services*, by monitoring compliance with the human rights requirements in those regulations.

P. Licensing

The Department shall license programs and services that meet the requirements in the current *Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services*, and conduct licensing reviews in accordance with the provisions of those regulations. The Department shall respond in a timely manner to issues raised by the CSB regarding its efforts to coordinate and monitor services provided by independent providers licensed by the Department.

Q. Peer Review Process

The Department shall implement a process in collaboration with volunteer CSBs to ensure that at least five percent of community mental health and substance abuse programs receive independent peer reviews annually, per federal requirements and guidelines, to review the quality and appropriateness of services. The Department shall manage this process to ensure that peer reviewers do not monitor their own programs.

R. Electronic Health Record (EHR)

The Department shall implement and maintain an EHR in its central office and state hospitals and training centers that has been fully certified and is listed by the Office of the National Coordinator for Health Information Technology- Authorized Testing and Certification Body to improve the quality and accessibility of services, streamline and reduce duplicate reporting and documentation requirements, obtain reimbursement for services, and exchange data with CSBs.

S. Reviews

The Department shall review and take appropriate action on audits submitted by the CSB in accordance with the provisions of this contract and the CSB Administrative Requirements. The Department may conduct a periodic, comprehensive administrative and financial review of the CSB to evaluate the CSB's compliance with requirements in the contract and CSB Administrative Requirements and the CSB's performance. The Department shall present a report of the review to the CSB and monitor the CSB's implementation of any recommendations in the report.

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12. Reporting and Data Quality Requirements

- A. In accordance with State Board Policy 1030, the Department shall work with CSBs through the VACSB DMC to ensure that current data and reporting requirements are consistent with each other and the current Core Services Taxonomy 7.3, the current CCS Extract, and the Treatment Episode Data Set (TEDS) and other federal reporting requirements.
- B. The Department also shall work with CSBs through the DMC in planning and developing any additional reporting or documentation requirements beyond those identified in this contract to ensure that the requirements are consistent with the current taxonomy, current CCS Extract, and TEDS and other federal reporting requirements.
- C. The Department shall work with the CSB through the DMC to develop and implement any changes in data platforms used, data elements collected, or due dates for existing reporting mechanisms, including CCS Extract, CARS, WaMS, FIMS, and the current prevention data system and stand-alone spreadsheet or other program- specific reporting processes.
- D. **Community Consumer Submission:** The Department shall collaborate with CSBs through the DMC in the implementation and modification of the current CCS Extract, which reports individual characteristic and service data that is required under § 37.2-508 or § 37.2-608 of the Code, the federal Substance Abuse and Mental Health Services Administration, and Part C of Title XIX of the Public Health Services Act - Block Grants, §1943 (a) (3) and § 1971 and § 1949, as amended by Public Law 106-310, to the Department and is defined in the current CCS Extract Specifications, including the current Business Rules. The Department will receive and use individual characteristic and service data disclosed by the CSBs through CCS Extract as permitted under 45 CFR §§ 164.506 (c) (1) and (3) and 164.512 (a) (1) of the HIPAA regulations and § 32.1- 127.1:03.D (6) of the Code and shall implement procedures to protect the confidentiality of this information pursuant to § 37.2-504 or § 37.2-605 of the Code and HIPAA.

The Department shall follow the user acceptance testing process described in Addendum I Administrative Requirements and Processes and Procedures for new CCS Extract releases.

- E. **Data Elements:** The Department shall work with CSBs through the DMC to standardize data definitions, periodically review existing required data elements to eliminate elements that are no longer needed, minimize the addition of new data elements to minimum necessary ones, review CSB business processes so that information is collected in a systematic manner, and support efficient extraction of required data from CSB electronic health record systems whenever this is possible. The Department shall work with the CSB through the DMC to develop, implement, maintain, and revise or update a mutually agreed upon electronic exchange mechanism that will import all information related to the support coordination or case management parts of the ISP (parts I-IV) and VIDES about individuals who are receiving DD Waiver services from CSB EHRs into WaMS. If the CSB does not use or is unable to use the data exchange, it shall enter this data directly into WaMS.
- F. **Streamlining Reporting Requirements:** The Department shall work with CSBs through the DMC to review existing reporting requirements including the current CCS Extract to determine if they are still necessary and, if they are, to streamline and reduce the number of portals through which those reporting requirements are submitted as much as possible; to ensure reporting requirements are consistent with the current CCS Extract Specifications and Core Services Taxonomy 7.3; and to maximize the interoperability between Department and CSB data bases to support the electronic exchange of information and comprehensive data analysis.
- G. **Data Quality:** The Department shall provide data quality reports to the CSB on the completeness and validity of its CCS Extract data to improve data quality and integrity. The Department may require the CSB executive director to develop and implement a plan of correction to remedy persistent deficiencies in the CSB's CCS Extract submissions. Once approved, the Department shall monitor the plan of correction and the CSB's ongoing data quality. The Department may address persistent deficiencies that are not resolved through this process with an Individual CSB Performance Measure in Exhibit D.

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- H. Surveys:** The Department shall ensure that all surveys and requests for data have been reviewed for cost effectiveness and developed through a joint Department and CSB process. The Department shall comply with the Procedures for Approving CSB Surveys, Questionnaires, and Data Collection Instruments and Establishing Reporting Requirements, reissued by the Commissioner.

13. Communication

- A.** The Department shall provide technical assistance and written notification to the CSB regarding changes in funding source requirements, such as regulations, policies, procedures, and interpretations, to the extent that those changes are known to the Department.
- B.** The Department shall resolve, to the extent practicable, inconsistencies in state agency requirements that affect requirements in this contract.
- C.** The Department shall provide any information requested by the CSB that is related to performance of or compliance with this contract in a timely manner, considering the type, amount, and availability of the information requested.
- D.** The Department shall issue new or revised policy, procedure, and guidance documents affecting CSBs via letters, memoranda or emails from the Commissioner, Deputy Commissioner, or applicable Assistant Commissioner to CSB executive directors and other applicable CSB staff and post these documents in an easily accessible place on its web site within 10 business days of the date on which the documents are issued via letters, memoranda, or emails.

14. Department Comments or Recommendations on CSB Operations or Performance

The Commissioner of the Department may communicate significant issues or concerns about the operations or performance of the CSB to the executive director and CSB board members for their consideration, and the Department agrees to collaborate as appropriate with the executive director and CSB board members as they respond formally to the Department about these issues or concerns.

15. Compliance and Dispute Resolution

The Department may utilize a variety of remedies, including requiring a corrective action plan, delaying payments, reducing allocations or payments, and terminating the contract, to assure CSB compliance with this contract. Specific remedies, described in Exhibit E of this contract, may be taken if the CSB fails to satisfy the reporting requirements in this contract.

In accordance with subsection E of § 37.2-508 or § 37.2-608 of the Code, the Department may terminate all or a portion of this contract, after unsuccessful use of the remediation process described in this section and after affording the CSB an adequate opportunity to use the dispute resolution process described in this of this contract. The Department shall deliver a written notice specifying the cause to the CSB's board chairperson and executive director at least 75 days prior to the date of actual termination of the contract. In the event of contract termination under these circumstances, only payment for allowable services rendered by the CSB shall be made by the Department.

- A. Disputes:** Resolution of disputes arising from Department contract compliance review and performance management efforts or from actions by the CSB related to this contract may be pursued through the dispute resolution process in this section, which may be used to appeal only the following conditions:
- 1.) reduction or withdrawal of state general or federal funds, unless funds for this activity are withdrawn by action of the General Assembly or federal government or by adjustment of allocations or payments pursuant to section 5 of this contract;
 - 2.) termination or suspension of the contract, unless funding is no longer available;
 - 3.) refusal to negotiate or execute a contract modification;
 - 3.) disputes arising over interpretation or precedence of terms, conditions, or scope of the contract; or
 - 4.) determination that an expenditure is not allowable under this contract.
- B. Remediation Process:** The Department and the CSB shall use the remediation process mentioned in

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subsection E of § 37.2-508 or § 37.2-608 of the Code to address a particular situation or condition identified by the Department or the CSB that may, if unresolved, result in termination of all or a portion of the contract in accordance with the provisions of this section. The parties shall develop the details of this remediation process and add them as an Exhibit D of this contract. This exhibit shall:

- 1.) describe the situation or condition, such as a pattern of failing to achieve a satisfactory level of performance on a significant number of major outcome or performance measures in the contract, that if unresolved could result in termination of all or a portion of the contract;
- 2.) require implementation of a plan of correction with specific actions and timeframes approved by the Department to address the situation or condition; and
- 3.) include the performance measures that will document a satisfactory resolution of the situation or condition.
- 4.) If the CSB does not implement the plan of correction successfully within the approved timeframes, the Department, as a condition of continuing to fund the CSB, may request changes in the management and operation of the CSB's services linked to those actions and measures in order to obtain acceptable performance. These changes may include realignment or re-distribution of state-controlled resources or restructuring the staffing or operations of those services. The Department shall review and approve any changes before their implementation. Any changes shall include mechanisms to monitor and evaluate their execution and effectiveness.

C. Dispute Resolution Process: Disputes arising from any of the conditions in this section of this contract shall be resolved using the following process:

- 1.) Within 15 calendar days of the CSB's identification or receipt of a disputable action taken by the Department or of the Department's identification or receipt of a disputable action taken by the CSB, the party seeking resolution of the dispute shall submit a written notice to the Department's OMS Director, stating its desire to use the dispute resolution process. The written notice must describe the condition, nature, and details of the dispute and the relief sought by the party.
- 2.) The OMS Director shall review the written notice and determine if the dispute falls within the conditions listed in section 16.A. If it does not, the OMS Director shall notify the party in writing within seven days of receipt of the written notice that the dispute is not subject to this dispute resolution process. The party may appeal this determination to the Commissioner in writing within seven days of its receipt of the Director's written notification.
- 3.) If the dispute falls within the conditions listed in this section, the OMS Director shall notify the party within seven days of receipt of the written notice that a panel will be appointed within 15 days to conduct an administrative hearing.
- 4.) Within 15 days of notification to the party, a panel of three or five disinterested persons shall be appointed to hear the dispute.
 - i. The CSB shall appoint one or two members; the Commissioner shall appoint one or two members; and the appointed members shall appoint the third or fifth member.
 - ii. Each panel member will be informed of the nature of the dispute and be required to sign a statement indicating that he has no interest in the dispute.
 - iii. Any person with an interest in the dispute shall be relieved of panel responsibilities and another person shall be selected as a panel member.
- 5.) The OMS Director shall contact the parties by telephone and arrange for a panel hearing at a mutually convenient time, date, and place. The panel hearing shall be scheduled not more than 15 days after the appointment of panel members. Confirmation of the time, date, and place of the hearing will be communicated to all parties at least seven days in advance of the hearing.
- 6.) The panel members shall elect a chairman and the chairman shall convene the panel. The party requesting the panel hearing shall present evidence first, followed by the presentation of the other party. The burden shall be on the party requesting the panel hearing to establish that the disputed decision or action was incorrect and to present the basis in law, regulation, or policy for its assertion. The panel may hear rebuttal evidence after the initial presentations by the CSB and the Department. The panel may question either party in order to obtain a clear understanding of the facts.

FY 2022 AND FY 2023 COMMUNITY SERVICES PERFORMANCE CONTRACT

- 7.) Subject to provisions of the Freedom of Information Act, the panel shall convene in closed session at the end of the hearing and shall issue written recommended findings of fact within seven days of the hearing. The recommended findings of fact shall be submitted to the Commissioner for a final decision.
- 8.) The findings of fact shall be final and conclusive and shall not be set aside by the Commissioner unless they are (a.) fraudulent, arbitrary, or capricious; (b.) so grossly erroneous as to imply bad faith; (c.) in the case of termination of the contract due to failure to perform, the criteria for performance measurement are found to be erroneous, arbitrary, or capricious; or (d.) not within the CSB's purview.
- 9.) The final decision shall be sent by certified mail to both parties no later than 60 days after receipt of the written notice from the party invoking the dispute resolution process.
- 10.) Multiple appeal notices shall be handled independently and sequentially so that an initial appeal will not be delayed by a second appeal.
- 11.) The CSB or the Department may seek judicial review of the final decision to terminate the contract in the Circuit Court for the City of Richmond within 30 days of receipt of the final decision.

16. Liability

The CSB shall defend or compromise, as appropriate, all claims, suits, actions, or proceedings arising from its performance of this contract. The CSB shall obtain and maintain sufficient liability insurance to cover claims for bodily injury and property damage and suitable administrative or directors and officers liability insurance. The CSB may discharge these responsibilities by means of a proper and sufficient self-insurance program operated by the state or a city or county government. The CSB shall provide a copy of any policy or program to the Department upon request. This contract is not intended to and does not create by implication or otherwise any basis for any claim or cause of action by a person or entity not a party to this contract arising out of any claimed violation of any provision of this contract, nor does it create any claim or right on behalf of any person to services or benefits from the CSB or the Department.

17. Severability

Each paragraph and provision of this contract is severable from the entire contract, and the remaining provisions shall nevertheless remain in full force and effect if any provision is declared invalid or unenforceable.

Counterparts and Electronic Signatures: Except as may be prohibited by applicable law or regulation, this Agreement and any amendment may be signed in counterparts, by facsimile, PDF, or other electronic means, each of which will be deemed an original and all of which when taken together will constitute one agreement. Facsimile and electronic signatures will be binding for all purposes.

Signatures

In witness thereof, the Department and the CSB have caused this performance contract to be executed by the following duly authorized officials.

FY 2022 AND FY 2023 COMMUNITY SERVICES PERFORMANCE CONTRACT

**VIRGINIA DEPARTMENT OF BEHAVIORAL
HEALTH AND DEVELOPMENTAL SERVICES**

By: _____

Name: Alison G. Land, FACHE

Title: Commissioner

Date: _____

COMMUNITY SERVICES BOARD NAME

By: _____

Name: [CHAIRPERSON NAME]

Title: Chairperson

Date: _____

By: _____

Name: [EXECUTIVE DIRECTOR NAME]

Title: Executive Director

Date: _____

FY 2022 AND FY 2023 COMMUNITY SERVICES PERFORMANCE CONTRACT

Exhibit L: List of Acronyms			
Acronym	Name	Acronym	Name
ACE	Adverse Childhood Experiences	NCI	National Core Indicators
ACT	Assertive Community Treatment (ACT) – Effective 7.1.2021		
BAA	Business Associate Agreement (for HIPAA compliance)	NGRI	Not Guilty by Reason of Insanity
CARS	Community Automated Reporting System	OMS	Office of Management Services
CCS	Community Consumer Submission	PACT	Program of Assertive Community Treatment– Retired as of 7.1.2021, See Assertive Community Treatment (ACT)
CFR	Code of Federal Regulations	PATH	Projects for Assistance in Transition from Homelessness
CIT	Crisis Intervention Team	PHI	Protected Health Information
CPMT	Community Policy and Management Team (CSA)	PII	Personally Identifiable Information
CQI	Continuous Quality Improvement	PSH	Permanent Supportive Housing
CRC	Community Resource Consultant (DD Waivers)	QSR	Quality Service Reviews
CSA	Children’s Services Act (§ 2.2-5200 et seq. of the Code)	RCSU	Residential Crisis Stabilization Unit
CSB	Community Services Board	RDAP	Regional Discharge Assistance Program
DAP	Discharge Assistance Program	REACH	Regional Education Assessment Crisis Services Habilitation
DBHDS	Department	RFP	Request for Proposal
DD	Developmental Disabilities	RMG	Regional Management Group
Department	Department of Behavioral Health and Developmental Services	RST	Regional Support Team (DD Waivers)
DMAS	Department of Medical Assistance Services (Medicaid)	RUMCT	Regional Utilization Management and Consultation Team
DOJ	Department of Justice (U.S.)	SABG	Federal Substance Abuse Block Grant
EBL	Extraordinary Barriers to Discharge List	SDA	Same Day Access
EHR	Electronic Health Record	sFTP	Secure File Transfer Protocol
FTE	Full Time Equivalent	SPF	Strategic Prevention Framework
HIPAA	Health Insurance Portability and Accountability Act of 1996	TDO	Temporary Detention Order
ICC	Intensive Care Coordination (CSA)	VACSB	Virginia Association of Community Services Boards
ICF	Intermediate Care Facility	VIDES	Virginia Individual DD Eligibility Survey
IDAPP	Individualized Discharge Assistance Program Plan	WaMS	Waiver Management System (DD Waivers)
LIPOS	Local Inpatient Purchase of Services	SPQM	Service Process Quality Management

FY2022 And FY2023 Community Services Performance Contract

FY 2022 Exhibit A: Resources and Services

Fairfax-Falls Church Community Services Board

Consolidated Budget (Pages AF-3 through AF-12)

Funding Sources	Mental Health (MH) Services	Developmental (DV) Services	Substance Use Disorder (SUD) Services	TOTAL
State Funds	19,633,141	6,730,303	4,939,145	31,302,589
Local Matching Funds	71,076,910	54,819,710	25,715,380	151,612,000
Total Fees	10,126,903	8,570,037	2,197,069	20,894,009
Transfer Fees In/(Out)	0	0	0	0
Federal Funds	1,713,924	0	3,070,585	4,784,509
Other Funds	0	0	0	0
State Retained Earnings	0	0	0	0
Federal Retained Earnings	0		0	0
Other Retained Earnings	0	0	0	0
Subtotal Ongoing Funds	102,550,878	70,120,050	35,922,179	208,593,107
State Funds One-Time	0	0	0	0
Federal Funds One-Time	0		0	0
Subtotal One -Time Funds	0	0	0	0
TOTAL ALL FUNDS	102,550,878	70,120,050	35,922,179	208,593,107
Cost for MH/DV/SUD Services	78,715,619	60,711,241	28,479,037	167,905,897
Cost for Emergency Services (AP-4)				13,462,921
Cost for Ancillary Services (AP-4)				27,224,289
Total Cost for Services				208,593,107

Local Match Computation	
Total State Funds	31,302,589
Total Local Matching Funds	151,612,000
Total State and Local Funds	182,914,589
Total Local Match % (Local / Total State + Local)	82.89%

CSB Administrative Percentage	
Administrative Expenses	29,281,062
Total Cost for Services	208,593,107
Admin / Total Expenses	14.04%

***FY2022 And FY2023 Community Services Performance Contract
FY 2022 Exhibit A: Resources and Services
Fairfax-Falls Church Community Services Board
Financial Comments***

<i>Comment1</i>	MH Fee Other: \$1,522,655 Program/Client Fees, \$890,000 CSA,
<i>Comment2</i>	\$225,000 Svcs Bed Fee, \$142,300 Gift & Misc
<i>Comment3</i>	MH Regional Transfer In/Out is detailed on the Regional Funds Worksheet
<i>Comment4</i>	MH COLA Regional Adjustment: \$166,182 MH Other Merged
<i>Comment5</i>	MH COLA Regional Adjustment has been reduced from MH State Funds
<i>Comment6</i>	MH STEP-VA Outpatient (Fiscal Agent) on AF-4 includes Reg and Fairfax funding
<i>Comment7</i>	MH STEP-VA Peer Support (Fiscal Agent) on AF-4 includes Regional
<i>Comment8</i>	and Fairfax funding
<i>Comment9</i>	MH STEP-VA Veteran's Services (Fiscal Agent) on AF-4 includes Regional
<i>Comment10</i>	and Fairfax funding
<i>Comment11</i>	MH Regional DAP transfer out includes \$46,000 to NVMHI
<i>Comment12</i>	DV Fee Other: \$617,230 Program/Client Fees
<i>Comment13</i>	DV COLA Regional Adjustment: \$22,133 DV Crisis Stab,
<i>Comment14</i>	\$22,134 DV Children's Cris Stab
<i>Comment15</i>	DV Regional Adjustment has been reduced from DV State Funds
<i>Comment16</i>	SUD Regional Transfer In/Out is detailed on the Regional Funds Worksheet
<i>Comment17</i>	
<i>Comment18</i>	
<i>Comment19</i>	
<i>Comment20</i>	
<i>Comment21</i>	
<i>Comment22</i>	
<i>Comment23</i>	
<i>Comment24</i>	
<i>Comment25</i>	

FY2022 Exhibit A: Resources and Services

Mental Health (MH) Services

Fairfax-Falls Church Community Services Board

<u>Funding Sources</u>	<u>Funds</u>
<u>FEES</u>	
MH Medicaid Fees	7,346,948
MH Fees: Other	2,779,955
Total MH Fees	10,126,903
MH Transfer Fees In/(Out)	0
MH Net Fees	10,126,903
<u>FEDERAL FUNDS</u>	
MH FBG SED Child & Adolescent (93.958)	268,084
MH FBG Young Adult SMI (93.958)	397,203
MH FBG Crisis Services (93.958)	0
MH FBG SMI (93.958)	989,357
MH FBG SMI PACT (93.958)	25,000
MH FBG SMI SWVBH Board (93.958)	0
Total MH FBG SMI Funds	1,014,357
MH FBG Geriatrics (93.958)	0
MH FBG Peer Services (93.958)	0
Total MH FBG Adult Funds	1,014,357
MH Federal PATH (93.150)	34,280
MH Federal COVID Emergency Grant (93.665)	
MH Other Federal - DBHDS	0
MH Other Federal - COVID Support	
MH Other Federal - CSB	0
Total MH Federal Funds	1,713,924
<u>STATE FUNDS</u>	
<u>Regional Funds</u>	
MH Acute Care (Fiscal Agent)	0
MH Acute Care Transfer In/(Out)	0
Total Net MH Acute Care - Restricted	0
MH Regional DAP (Fiscal Agent)	6,626,626
MH Regional DAP Transfer In/(Out)	-2,164,590
Total Net MH Regional DAP - Restricted	4,462,036
MH Regional Residential DAP - Restricted	0
MH Crisis Stabilization (Fiscal Agent)	847,933
MH Crisis Stabilization - Transfer In/(Out)	-169,590
Total Net MH Crisis Stabilization - Restricted	678,343
MH Transfers from DBHDS Facilities (Fiscal Agent)	0
MH Transfers from DBHDS Facilities - Transfer In/(Out)	0
Total Net MH Transfers from DBHDS Facilities	0
MH Expanded Community Capacity (Fiscal Agent)	0
MH Expanded Community Capacity Transfer In/(Out)	0
Total Net MH Expanded Community Capacity	0

FY2022 Exhibit A: Resources and Services

Mental Health (MH) Services

Fairfax-Falls Church Community Services Board

<u>Funding Sources</u>	<u>Funds</u>
MH First Aid and Suicide Prevention (Fiscal Agent)	125,000
MH First Aid and Suicide Prevention Transfer In/(Out)	-24,000
Total Net MH First Aid and Suicide Prevention	<u>101,000</u>
MH STEP-VA Outpatient (Fiscal Agent)	1,104,261
MH STEP-VA Outpatient Transfer In/(Out)	-29,000
Total Net MH STEP-VA Outpatient	<u>1,075,261</u>
MH STEP-VA Crisis (Fiscal Agent)	3,208,006
MH STEP-VA Crisis Transfer In/(Out)	-1,308,450
Total Net MH STEP-VA Crisis	<u>1,899,556</u>
MH STEP-VA Clinician's Crisis Dispatch (Fiscal Agent)	1,294,600
MH STEP-VA Clinician's Crisis Dispatch Transfer In/(Out)	0
Total Net MH STEP-VA Clinician's Crisis Dispatch	<u>1,294,600</u>
MH STEP-VA Peer Support (Fiscal Agent)	321,185
MH STEP-VA Peer Support Transfer In/(Out)	0
Total Net MH STEP-VA Peer Support	<u>321,185</u>
MH STEP-VA Veteran's Services (Fiscal Agent)	273,363
MH STEP-VA Veteran's Services Transfer In/(Out)	0
MH STEP-VA Veteran's Services	<u>273,363</u>
MH Forensic Discharge Planning (Fiscal Agent)	0
MH Forensic Discharge Planning Transfer In/(Out)	0
Total Net MH Forensic Discharge Planning	<u>0</u>
MH Permanent Supportive Housing (Fiscal Agent)	0
MH Permanent Supportive Housing Transfer In/(Out)	0
Total Net MH Permanent Supportive Housing	<u>0</u>
MH Recovery (Fiscal Agent)	543,192
MH Other Merged Regional Funds (Fiscal Agent)	943,707
MH State Regional Deaf Services (Fiscal Agent)	23,750
MH Total Regional Transfer In/(Out)	-11,958
Total Net MH Unrestricted Regional State Funds	<u>1,498,691</u>
Total Net MH Regional State Funds	<u>11,604,035</u>
<u>Children State Funds</u>	
MH Child & Adolescent Services Initiative	515,529
MH Children's Outpatient Services	75,000
MH Juvenile Detention	111,724
Total MH Restricted Children's Funds	<u>702,253</u>
MH State Children's Services	0
MH Demo Proj-System of Care (Child)	0
Total MH Unrestricted Children's Funds	<u>0</u>
MH Crisis Response & Child Psychiatry (Fiscal Agent)	0
MH Crisis Response & Child Psychiatry Transfer In/(Out)	0
Total Net MH Restricted Crisis Response & Child Psychiatry	<u>0</u>
Total State MH Children's Funds (Restricted for Children)	<u>702,253</u>

FY2022 Exhibit A: Resources and Services

Mental Health (MH) Services

Fairfax-Falls Church Community Services Board

<u>Funding Sources</u>	<u>Funds</u>
<u>Other State Funds</u>	
MH Law Reform	530,387
MH Pharmacy - Medication Supports	1,455,990
MH Jail Diversion Services	321,050
MH Rural Jail Diversion	0
MH Docket Pilot JMHCP Match	0
MH Adult Outpatient Competency Restoration Services	0
MH CIT-Assessment Sites	570,709
MH Expand Telepsychiatry Capacity	3,249
MH PACT	900,000
MH PACT - Forensic Enhancement	0
MH Gero-Psychiatric Services	0
MH STEP-VA - SDA, Primary Care Screening and Ancillary Services	676,072
MH Young Adult SMI	572,428
Total MH Restricted Other State Funds	<u>5,029,885</u>
MH State Funds	2,296,968
MH State NGRI Funds	0
MH Geriatrics Services	0
Total MH Unrestricted Other State Funds	<u>2,296,968</u>
Total MH Other State Funds	<u>7,326,853</u>
Total MH State Funds	<u>19,633,141</u>
<u>OTHER FUNDS</u>	
MH Other Funds	0
MH Federal Retained Earnings	0
MH State Retained Earnings	0
MH State Retained Earnings - Regional Programs	0
MH Other Retained Earnings	0
Total MH Other Funds	<u>0</u>
<u>LOCAL MATCHING FUNDS</u>	
MH Local Government Appropriations	71,076,910
MH Philanthropic Cash Contributions	0
MH In-Kind Contributions	0
MH Local Interest Revenue	0
Total MH Local Matching Funds	<u>71,076,910</u>
Total MH Funds	<u>102,550,878</u>
<u>MH ONE-TIME FUNDS</u>	
MH FBG SMI (93.958)	0
MH FBG SED Child & Adolescent (93.958)	0
MH FBG Peer Services (93.958)	0
MH One-Time State Funds	0
MH One-Time Restricted State Funds	0
Total One-Time MH Funds	<u>0</u>
Total MH All Funds	<u>102,550,878</u>

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FY2022 Exhibit A: Resources and Services

Developmental Services (DV)

Fairfax-Falls Church Community Services Board

<u>Funding Sources</u>	<u>Funds</u>
<u>FEES</u>	
DV Medicaid DD Waiver Fees	7,000,000
DV Other Medicaid Fees	952,807
DV Medicaid ICF/IDD Fees	0
DV Fees: Other	617,230
Total DV Fees	8,570,037
DV Transfer Fees In/(Out)	0
DV Net Fees	8,570,037
<u>FEDERAL FUNDS</u>	
DV Other Federal - DBHDS	0
DV Other Federal - COVID Support	0
DV Other Federal - CSB	0
Total DV Federal Funds	0
<u>STATE FUNDS</u>	
DV State Funds	246,704
DV OBRA Funds	0
Total DV Unrestricted State Funds	246,704
DV Trust Fund (Restricted)	0
DV Rental Subsidies	0
DV Guardianship Funding	0
DV Crisis Stabilization (Fiscal Agent)	3,471,876
DV Crisis Stabilization Transfer In/(Out)	0
Total Net DV Crisis Stabilization	3,471,876
DV Crisis Stabilization-Children (Fiscal Agent)	3,011,723
DV Crisis Stabilization-Children Transfer In/(Out)	0
Total Net DV Crisis Stabilization -Children	3,011,723
DV Transfers from DBHDS Facilities (Fiscal Agent)	0
DV Transfers from DBHDS Facilities - Transfer In/(Out)	0
Total Net DV Transfers from DBHDS Facilities	0
Total DV Restricted State Funds	6,483,599
Total DV State Funds	6,730,303

FY2022 Exhibit A: Resources and Services

Developmental Services (DV)

Fairfax-Falls Church Community Services Board

<u>Funding Sources</u>	<u>Funds</u>
<u>OTHER FUNDS</u>	
DV Workshop Sales	0
DV Other Funds	0
DV State Retained Earnings	0
DV State Retained Earnings-Regional Programs	0
DV Other Retained Earnings	0
Total DV Other Funds	0
<u>LOCAL MATCHING FUNDS</u>	
DV Local Government Appropriations	54,819,710
DV Philanthropic Cash Contributions	0
DV In-Kind Contributions	0
DV Local Interest Revenue	0
Total DV Local Matching Funds	54,819,710
Total DV Funds	70,120,050
<u>DV ONE-TIME FUNDS</u>	
DV One-Time State Funds	0
DV One-Time Restricted State Funds	0
Total One-Time DV Funds	0
Total DV All Funds	70,120,050

FY2022 And FY2023 Community Services Performance Contract

FY2022 Exhibit A: Resources and Services

Substance Use Disorder (SUD) Services

Fairfax-Falls Church Community Services Board

Funding Sources	Funds
<u>FEES</u>	
SUD Medicaid Fees	2,050,454
SUD Fees: Other	146,615
Total SUD Fees	2,197,069
SUD Transfer Fees In/(Out)	0
Sud Net Fees	2,197,069
<u>FEDERAL FUNDS</u>	
SUD FBG Alcohol/Drug Treatment (93.959)	1,659,779
SUD FBG SARPOS (93.959)	207,611
SUD FBG Jail Services (93.959)	159,802
SUD FBG Co-Occurring (93.959)	115,716
SUD FBG New Directions (93.959)	0
SUD FBG Recovery (93.959)	0
SUD FBG MAT - Medically Assisted Treatment (93.959)	0
Total SUD FBG Alcohol/Drug Treatment Funds	2,142,908
SUD FBG Women (includes LINK at 6 CSBs) (93.959)	443,444
Total SUD FBG Women Funds	443,444
SUD FBG Prevention (93.959)	484,233
SUD FBG Prev-Family Wellness (93.959)	0
Total SUD FBG Prevention Funds	484,233
SUD Federal COVID Emergency Grant (93.665)	0
SUD Federal YSAT – Implementation (93.243)	0
SUD Federal Opioid Response – Recovery (93.788)	0
SUD Federal Opioid Response – Treatment (93.788)	0
SUD Federal Opioid Response – Prevention (93.788)	0
Total SUD Federal Opioid Response Funds (93.788)	0
SUD Other Federal - DBHDS	0
SUD Other Federal - COVID Support	0
SUD Other Federal - CSB	0
Total SUD Federal Funds	3,070,585

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FY2022 And FY2023 Community Services Performance Contract

FY2022 Exhibit A: Resources and Services

Substance Use Disorder (SUD) Services

Fairfax-Falls Church Community Services Board

Funding Sources	Funds
<u>STATE FUNDS</u>	
<u>Regional Funds</u>	
SUD Facility Reinvestment (Fiscal Agent)	0
SUD Facility Reinvestment Transfer In/(Out)	0
Total Net SUD Facility Reinvestment	<u>0</u>
SUD Transfers from DBHDS Facilities (Fiscal Agent)	0
SUD Transfers from DBHDS Facilities - Transfer In/(Out)	0
Total Net SUD Transfers from DBHDS Facilities	<u>0</u>
SUD Community Detoxification (Fiscal Agent)	115,000
SUD Community Detoxification – Transfer In/(Out)	-57,903
Total Net SUD Community Detoxification	<u>57,097</u>
SUD STEP-VA (Fiscal Agent)	886,861
SUD STEP-VA - Transfer In/(Out)	0
Total Net SUD STEP-VA - Restricted	<u>886,861</u>
Total Net SUD Regional State Funds	943,958
<u>Other State Funds</u>	
SUD Women (includes LINK at 4 CSBs) (Restricted)	4,200
SUD MAT - Medically Assisted Treatment	130,000
SUD Permanent Supportive Housing Women	0
SUD SARPOS	148,528
SUD Recovery	0
Total SUD Restricted Other State Funds	<u>282,728</u>
SUD State Funds	3,423,397
SUD Region V Residential	0
SUD Jail Services/Juvenile Detention	243,526
SUD HIV/AIDS	45,536
Total SUD Unrestricted Other State Funds	<u>3,712,459</u>
Total SUD Other State Funds	3,995,187
Total SUD State Funds	4,939,145
<u>OTHER FUNDS</u>	
SUD Other Funds	0
SUD Federal Retained Earnings	0
SUD State Retained Earnings	0
SUD State Retained Earnings-Regional Programs	0
SUD Other Retained Earnings	0
Total SUD Other Funds	<u>0</u>
<u>LOCAL MATCHING FUNDS</u>	
SUD Local Government Appropriations	25,715,380
SUD Philanthropic Cash Contributions	0

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FY2022 And FY2023 Community Services Performance Contract

FY2022 Exhibit A: Resources and Services

Substance Use Disorder (SUD) Services

Fairfax-Falls Church Community Services Board

<u>Funding Sources</u>	<u>Funds</u>
SUD In-Kind Contributions	0
SUD Local Interest Revenue	0
Total SUD Local Matching Funds	<u>25,715,380</u>
Total SUD Funds	35,922,179
<u>SUD ONE-TIME FUNDS</u>	
SUD FBG Alcohol/Drug Treatment (93.959)	0
SUD FBG Women (includes LINK-6 CSBs) (93.959)	0
SUD FBG Prevention (93.959)	0
SUD FBG Recovery (93.959)	0
SUD One-Time State Funds	0
SUD One-Time Restricted State Funds	<u>0</u>
Total SUD One-Time Funds	0
Total All SUD Funds	35,922,179

FY2022 And FY2023 Community Services Performance Contract**FY 2022 Exhibit A: Resources and Services****Local Government Tax Appropriations****Fairfax-Falls Church Community Services Board**

City/County	Tax Appropriation
Fairfax County	148,388,532
Fairfax City	2,218,100
Falls Church City	1,005,368
Total Local Government Tax Funds:	151,612,000

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FY2022 And FY2023 Community Services Performance Contract

FY2022 Exhibit A: Resources and Services

Supplemental Information

Reconciliation of Projected Resources and Core Services Costs by Program Area

Fairfax-Falls Church Community Services Board

	MH Services	DV Services	SUD Services	Emergency Services	Ancillary Services	Total
Total All Funds (Page AF-1)	102,550,878	70,120,050	35,922,179			208,593,107
Cost for MH, DV, SUD, Emergency, and Ancillary Services	78,715,619	60,711,241	28,479,037	13,462,921	27,224,289	208,593,107
Difference	23,835,259	9,408,809	7,443,142	-13,462,921	-27,224,289	0

Difference results from

Other: 0

Explanation of Other in Table Above:

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FY2022 And FY2023 Community Services Performance Contract

FY2022 Exhibit A: Resources and Services

CSB 100 Mental Health Services

Fairfax-Falls Church Community Services Board

Report for Form 11

Core Services	Projected Service Capacity		Projected Numbers of Individuals Receiving Services	Projected Total Service Costs
250 Acute Psychiatric Inpatient Services	2.8	Beds	110	\$2,036,932
310 Outpatient Services	41.26	FTEs	2000	\$7,867,704
312 Medical Services	45.6	FTEs	4500	\$15,830,452
350 Assertive Community Treatment	11.78	FTEs	100	\$2,484,392
320 Case Management Services	100.69	FTEs	3600	\$18,894,751
410 Day Treatment or Partial Hospitalization	20	Slots	150	\$1,370,234
425 Mental Health Rehabilitation	128	Slots	260	\$3,340,529
465 Group Supported Employment	3	Slots	3	\$58,815
460 Individual Supported Employment	11.44	FTEs	600	\$1,512,261
501 Highly Intensive Residential Services	24	Beds	40	\$2,308,500
510 Residential Crisis Stabilization Services	7	Beds	250	\$5,047,336
521 Intensive Residential Services	16	Beds	16	\$1,988,649
551 Supervised Residential Services	161	Beds	161	\$10,956,038
581 Supportive Residential Services	13.43	FTEs	300	\$4,014,806
610 Prevention Services	1.6	FTEs		\$1,004,220
Totals			12,090	\$78,715,619

Form 11A: Pharmacy Medication Supports	Number of Consumers
803 Total Pharmacy Medication Supports Consumers	2000

FY2022 And FY2023 Community Services Performance Contract

FY2022 Exhibit A: Resources and Services

CSB 200 Developmental Services

Fairfax-Falls Church Community Services Board

Report for Form 21

Core Services	Projected Service Capacity		Projected Numbers of Individuals Receiving Services	Projected Total Service Costs
320 Case Management Services	69.79	FTEs	1400	\$11,135,705
425 Developmental Habilitation	211	Slots	250	\$22,277,553
430 Sheltered Employment	24	Slots	24	\$1,286,479
465 Group Supported Employment	163	Slots	163	\$6,295,846
460 Individual Supported Employment	0	FTEs	180	\$470,035
510 Residential Crisis Stabilization Services	12	Beds	75	\$2,129,413
521 Intensive Residential Services	46	Beds	46	\$12,180,527
551 Supervised Residential Services	54	Beds	54	\$4,565,363
581 Supportive Residential Services	0	FTEs	180	\$370,320
Totals			2,372	\$60,711,241

FY2022 And FY2023 Community Services Performance Contract

FY2022 Exhibit A: Resources and Services

CSB 300 Substance Use Disorder Services

Fairfax-Falls Church Community Services Board

Report for Form 31

Core Services	Projected Service Capacity		Projected Numbers of Individuals Receiving Services	Projected Total Service Costs
250 Acute Substance Use Disorder Inpatient Services	0.65	Beds	30	\$324,667
260 Community-Based Substance Use Disorder Medical Detoxification Inpatient Services	10	Beds	200	\$2,917,292
310 Outpatient Services	1.11	FTEs	120	\$255,814
312 Medical Services	0.47	FTEs	150	\$222,352
313 Intensive Outpatient Services	9.22	FTEs	350	\$1,479,826
335 Medication Assisted Treatment Services	12.24	FTEs	260	\$4,701,833
320 Case Management Services	0.02	FTEs	15	\$2,108
501 Highly Intensive Residential Services (Medically Managed Withdrawal Services)	4	Beds	150	\$1,979,558
510 Residential Crisis Stabilization Services	9	Beds	100	\$1,031,682
521 Intensive Residential Services	67.7	Beds	200	\$11,583,088
551 Supervised Residential Services	33	Beds	70	\$1,964,590
610 Prevention Services	8.96	FTEs		\$2,016,227
Totals			1,645	\$28,479,037

FY2022 And FY2023 Community Services Performance Contract

FY2022 Exhibit A: Resources and Services

CSB 400 Emergency and Ancillary Services

Fairfax-Falls Church Community Services Board

Report for Form 01

Core Services	Projected Service Capacity	Projected Numbers of Individuals Receiving Services	Projected Total Service Costs
100 Emergency Services	52.1 FTEs	5900	\$13,462,921
318 Motivational Treatment Services	6.6 FTEs	500	\$1,096,815
390 Consumer Monitoring Services	53.2 FTEs	5500	\$9,082,848
720 Assessment and Evaluation Services	70.2 FTEs	9000	\$14,445,490
730 Consumer Run Services (No. Individuals Served)			\$2,599,136
Totals		20,900	\$40,687,210

Attachment 1

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES

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FY2022 And FY2023 Community Services Performance Contract

Table 2: Board Management Salary Costs

Name of CSB:	Fairfax-Falls Church Community Services Board		FY2022	
Table 2a:	FY 2022	Salary Range	Budgeted Tot.	Tenure
Management Position Title	Beginning	Ending	Salary Cost	(yrs)
Executive Director	\$201,555.17	\$201,555.17	\$201,555.17	3.20

Table 2: Integrated Behavioral and Primary Health Care Questions

1. Is the CSB participating in a partnership with a federally qualified health center, free clinic, or local health department to integrate the provision of behavioral health and primary health care?

Yes

2. If yes, who is the partner?

a federally qualified health center

Name: Neighborhood Health & HealthWorks of Northern Virginia

a free clinic

Name:

a local health department, or

Name:

another organization

Name:

3. Where is primary health (medical) care provided?

on-site in a CSB program,

on-site at the primary health care provider, or

another site --specify:

4. Where is behavioral health care provided?

on-site in a CSB program,

on-site at the primary health care provider, or

another site --specify:

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES

Introduction

Meaningful performance expectations are part of a CQI process developed and supported by the Department and CSBs that will monitor CSB progress in achieving those expectations to improve the quality, accessibility, integration and welcoming, person-centeredness, and responsiveness of services locally and to provide a platform for system-wide improvement efforts. Generally, performance expectations reflect requirements based in statute, regulation, or policy. The capacity to measure progress in achieving performance expectations and goals, provide feedback, and plan and implement CQI strategies shall exist at local, regional, and state levels.

Implementing the CQI process will be a multi-year, iterative, and collaborative effort to assess and enhance CSB and system-wide performance over time through a partnership among CSBs and the Department in which they are working to achieve a shared vision of a transformed services system. In this process, CSBs and the Department engage with stakeholders to perform meaningful self-assessments of current operations, determine relevant CQI performance expectations and goals, and establish benchmarks for goals, determined by baseline performance, to convert those goals to expectations.

The Department and the CSB may negotiate CSB performance measures in Exhibit D of the performance contract reflecting actions or requirements to meet expectations and goals in the CSB's CQI plan. As this joint CQI process evolves and expands, the Department and the Virginia Association of Community Services Boards will utilize data and reports submitted by CSBs to conduct a broader scale evaluation of service system performance and identify opportunities for CQI activities across all program areas.

CSB Administrative Requirements provides further clarification for those implementation activities, so that each CSB can be successful in designing a performance improvement process at the local level. The CSB will comply with the performance expectations and goals. Additionally, supplementary information about STEP-VA quality and accountability process development and expectations can be found in the documentation provided by the Department. If the CSB cannot meet certain performance expectations and goals, it shall provide a written explanation and submit to the performancecontractsupport@dbhds.virginia.gov mailbox. The CSB shall have a plan for complying with the identified expectation or goal, including specific actions and target dates. The Department will review this plan and negotiate any changes with the CSB.

The CSB and Department agree to implement, monitor, and take appropriate action on the following performance measures.

I. Exhibit B Performance Measures

A. Continuity of Care for State Hospital Discharges

1. **Measure:** Percent of individuals for whom the CSB is the identified case management CSB who keep a face-to-face (non-emergency) mental health outpatient service appointment within seven calendar days after discharge from a state hospital.
2. **Benchmark: At least 80 percent** of these individuals shall receive a face-to-face (non-emergency) mental health outpatient service from the CSB within seven calendar days after discharge.
3. **Monitoring:** The Department shall monitor this measure through comparing AVATAR data on individuals discharged from state hospitals to the CSB with CCS data about their dates of mental health outpatient services after discharge from the state hospital and work with the CSB to achieve this benchmark utilizing the process document provided by the Department if it did not meet it.

B. Residential Crisis Stabilization Unit (RCSU) Utilization

1. **Measure:** Percent of all available RCSU bed days for adults and children utilized annually.
2. **Benchmark:** The CSB that operates an RCSU shall ensure that the RCSU, once it is fully operational, achieves an annual average utilization rate of **at least 75 percent** of available bed days.
3. **Monitoring:** The Department shall monitor this measure using data from CCS service records and CARS service capacity reports and work with the CSB to achieve this benchmark if it did not meet it.

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES

C. Regional Discharge Assistance Program (RDAP) Service Provision

1. **Measure:** Percentage of the total annual state RDAP fund allocations to a region obligated and expended by the end of the fiscal year.
2. **Benchmark:** CSBs in a region shall **obligate at least 95 percent and expend at least 90 percent** of the total annual ongoing state RDAP fund allocations on a regional basis by the end of the fiscal year. The benchmark does not include one-time state RDAP allocations provided to support ongoing DAP plans for multiple years.
3. **Monitoring:** The Department shall monitor this measure using reports from regional managers and CARS reports. If CSBs in a region cannot accomplish this measure, the Department may work with the regional management group (RMG) and participating CSBs to transfer state RDAP funds to other regions to reduce extraordinary barriers to discharge lists (EBLs) to the greatest extent possible, unless the CSBs through the regional manager provide acceptable explanations for greater amounts of unexpended or unobligated state RDAP funds. See Exhibit C for additional information.

D. Assertive Community Treatment (ACT) Program Provision

After the implementation phase of ACT in their Exhibit D, CSBs shall comply with this CQI process for ACT performance measures.

1. **Measure:** The ACT team is of a sufficient size to consistently provide for necessary staffing diversity and coverage.
2. **Benchmark:** Team staffing is dependent on the program size and the maximum individual to team member ratio (psychiatric care providers and program assistants excluded from ratio calculation). Three program sizes may be implemented: small, mid-size, and large ACT teams:
 - a. **Small teams:** serve a maximum of 50 individuals with at least six staff (excluding psychiatric care provider & program assistant) for a ratio of 1 team member per 8 or fewer individuals;
 - b. **Mid-size teams:** serve 51-74 individuals with at least eight staff (excluding psychiatric care provider & program assistant) for a ratio of 1 team member per 9 or fewer individuals; and
 - c. **Large teams** serve 75-120 individuals with at least 10 staff (excluding psychiatric care provider & program assistant) for a ratio of 1 team member per 9 or fewer individuals.
 - d. Movement onto (admissions) and off of (discharges) the team may temporarily result in breaches of the maximum caseload. Therefore, teams shall be expected to maintain an annual average not to exceed 50, 74, and 120 individuals, respectively.
 - e. To maintain appropriate ACT team development, each new ACT team is recommended to titrate ACT intakes (e.g., 4–6 individuals per month) to gradually build up capacity to serve no more than 100–20 individuals (with a 1:9 ratio) and no more than 42–50 individuals (a 1:8 ratio) for smaller teams.
3. **Outcomes:** Given the provision of High-Fidelity ACT team services, it is expected that individuals will reduce the amount of time spent in institutional settings and become more integrated within their own community.
4. **Monitoring:** The Department shall monitor this measure using data from the CCS consumer and service files, the ACT data system, and through ACT fidelity monitoring using the Tool for Measurement of Assertive community Treatment (TMACT).

E. Provision of Developmental Enhanced Case Management Services

1. **Measures:** Percentage of individuals receiving DD Waiver services who meet the criteria for receiving enhanced case management (ECM) services who:
 - a. Receive at least one face-to-face case management service monthly with no more than 40 days between visits
 - b. receive at least one face-to-face case management service visit every other month in the
 - c. individual's place of residence.
2. **Benchmark:** The CSB shall provide the case management service visits in measures 1.a and b to **at least 90 percent** of the individuals receiving DD Wavier services who meet the criteria for ECM.

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES

3. **Monitoring:** The Department shall use data from CCS consumer, type of care, and service files to monitor these measures and work with the CSB to achieve this benchmark if it did not meet it.
 - a. The CSB agrees to monitor the percentage of adults (age 18 or older) receiving developmental case management services from the CSB whose case managers discussed integrated, community-based employment with them during their annual case management individual supports plan (ISP) meetings. The Department agrees to monitor this measure through using CCS data and work with the CSB to increase this percentage. Refer to State Board Policy (SYS) 1044 Employment First for additional information and guidance. Integrated, community based employment does not include sheltered employment.
 - b. The CSB agrees to monitor the percentage of adults (age 18 or older) receiving developmental case management services from the CSB whose ISPs, developed or updated at the annual ISP meeting, contained employment outcomes, including outcomes that address barriers to employment. The Department agrees to monitor this measure through using CCS data and work with the CSB to increase this percentage. Employment outcomes do not include sheltered employment or prevocational services.
 - c. The CSB agrees to monitor and report data through CCS about individuals who are receiving case management services from the CSB and are receiving DD Waiver services whose case managers discussed community engagement or community coaching opportunities with them during their most recent annual case management individual support plan (ISP) meeting. Community engagement or community coaching supports and fosters the ability of an individual to acquire, retain, or improve skills necessary to build positive social behavior, interpersonal competence, greater independence, employability, and personal choice necessary to access typical activities and functions of community life such as those chosen by the general population; it does not include community opportunities with more than three individuals with disabilities.
 - d. The CSB agrees to monitor and report data through CCS about individuals who are receiving case management services from the CSB and are receiving DD Waiver services whose individual support plans (ISPs), developed or updated at the annual ISP meeting, contained community engagement or community coaching goals.
 4. **CSB Performance Measures:** The CSB and Department agree to use the CSB Performance Measures, developed by the Department in collaboration with the VACSB Data Management, Quality Leadership, and VACSB/DBHDS Quality and Outcomes Committees to monitor outcome and performance measures for CSBs and improve the CSB's performance on measures where the CSB falls below the benchmark. These performance measures include:
 - a. intensity of engagement of adults receiving mental health case management services,
 - b. Individuals, including children (ages 6-17) and adults (ages 18 or over) who received a suicide risk assessment in the last 12 months
 - c. adults with SMI who are receiving mental health case management services who received a complete physical examination in the last 12 months,
 - d. Initiation and engagement, in substance use disorder services for adults and children who are 13 years old or older with a new episode of substance use disorder services.
 - e. Individuals receiving targeted case management services who received a primary care screen at the CSB in the last 12 months,
 - f. Individuals over the age of 3 prescribed an antipsychotic by a CSB prescriber who receives regular metabolic screening, and
 - g. 6-month change in DLA-20 scores for youth (ages 6-17) and adults (age 18 or over).
- F. Same Day Access**
1. **Measures:** Percentage of individuals who received a SDA assessment and were determined to need a follow-up service who:
 - a. Are offered an appointment at an appropriate service within 10 business days; an
 - b. Attend a scheduled follow-up appointment within 30 calendar days.

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES

2. **Benchmarks:** The CSB shall offer an appropriate follow-up appointment to **at least 86 percent** of the individuals who are determined to need an appointment.
 - a. At least 70 percent of the individuals seen in SDA who are determined to need a follow-up service will return to attend that service within 30 calendar days of the SDA assessment.
 3. **Monitoring:** The Department shall monitor through the use of data from CCS monthly submission and other established data collection tools agreed upon by the Department and CSB.
- G. Substance Use Disorder Treatment Engagement**
1. **Measures:** Percentage of individuals 13 years or older with a new episode of substance use disorder services who initiate services within 14 days of diagnosis and attend follow up services within 34 days.
 2. **Benchmarks:** The CSB shall aim to have **at least 50 percent** of SUD clients engage in treatment per this definition of engagement.
 3. **Monitoring:** The Department shall monitor through the use of data from CCS monthly submission and other established data collection tools agreed upon by the Department and CSB.
- H. Outpatient Primary Care Screening and Monitoring**
1. Primary Care Screening -**Measures**
 - a. **Objective 1:** Any child diagnosed with a serious emotional disturbance and receiving ongoing CSB behavioral health service or any adult diagnosed with a serious mental illness and receiving ongoing CSB behavioral health service will be provided or referred for a primary care screening on a yearly basis.
 - b. For the implementation of Objective 1, “ongoing behavioral health service” is defined as “child with SED receiving Mental Health Targeted Case Management or adult with SMI receiving Mental Health Targeted Case Management”. These clients are required to be provided with a yearly primary care screening to include, at minimum, height, weight, blood pressure, and BMI.
 - c. This screening may be done by the CSB or the individual may be referred to a primary care provider to have this screening completed. If the screening is done by a primary care provider, the CSB is responsible for the screening results to be entered in the patient’s CSB electronic health record. The CSB will actively support this connection and coordinate care with physical health care providers for all service recipients.
 2. **Objective 2:** Screen and monitor any individual over age 3 being prescribed an antipsychotic medication by CSB prescriber for metabolic syndrome following the American Diabetes Association guidelines. The population includes all individuals over age 3 who receive psychiatric medical services by the CSB.
 3. **Benchmark:** CSB and DBHDS will work together to established.
 4. **Outcomes:** To provide yearly primary care screening to identify and provide related care coordination to ensure access to needed physical health care to reduce the number of individuals with serious mental illness (SMI), known to be at higher risk for poor physical health outcomes largely due to unidentified chronic conditions.
 5. **Monitoring:** CSBs must report the screen completion and monitoring completion in CCS monthly submission to reviewed by the Department.
- I. Outpatient Services -** Outpatient services are considered to be foundational services for any behavioral health system. The DBHDS Services Taxonomy states that outpatient services may include diagnosis and evaluation, screening and intake, counseling, psychotherapy, behavior management, psychiatry, psychological testing and assessment, laboratory and ancillary services.
1. **Measures:** CSBs shall provide an appointment to a high quality CSB outpatient provider or a referral to a non-CSB outpatient behavioral health service within 10 business days of the completed SDA intake assessment, if clinically indicated.

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES

- a. All CSBs will establish a quality management program and continuous quality improvement plan to assess the access, quality, efficiency of resources, behavioral healthcare provider training, and patient outcomes of those individuals receiving outpatient services through the CSBs. This may include improvement or expansion of existing services, the development of new services, or enhanced coordination and referral process to outpatient services not directly provided by the CSB.
 - b. Expertise in the treatment of trauma related conditions are to be established
 2. **Benchmark:** CSBs should provide a minimum for outpatient behavioral healthcare providers of 8 hours of trauma focused training in treatment modalities to serve adults, children/adolescents and their families within the first year of employment and 4 hours in each subsequent years or until 40 hours of trauma-focused treatment can be demonstrated.
 3. **Monitoring:** The CSB shall complete and submit to the Department quarterly DLA-20 composite scores through CCS as well as provide training data regarding required trauma training yearly in July when completing federal Block Grant reporting.
- J. Service Members, Veterans, and Families (Rev.7.1.2021)**
1. **Training**
 - a. **Measures:** Percentage of CSB direct services staff who receive military cultural competency training
 - b. **Benchmark:** Is provided to 100% of CSB staff delivering direct services to the SMVF population. Direct services include, but are not limited to, those staff providing crisis, behavioral health outpatient and case management services.
 2. **Presenting for Services**
 - a. **Measures:** Percentage of clients with SMVF status presenting for services
 - b. **Benchmark:** Is tracked for 90% of individuals presenting for services
 3. **Referral Destination**
 - a. **Measures:** Percentage served referred to SMVF referral destination
 - b. **Benchmark:** Of those served by the CSB who are SMVF, at least 70% will be referred to Dept. of Veterans Services (DVS), Veterans Health Administration facilities and services (VHA), and/or Military Treatment Facilities and services (MTF) referral destination
 4. **Columbia Suicide Severity Rating Scale**
 - a. **Measure:** Percentage of SMVF for whom suicide risk screening using the Columbia Suicide Severity Rating Scale brief screen is conducted
 - b. **Benchmark:** Is conducted for 60% of SMVF for Year 1 (July 1, 2021 through June 30, 2022)
 5. **Monitoring:** CSBs must report all data through its CCS monthly submission.
- K. Peer and Family Support Services**
1. **Certification and Registration**
 - a. **Measure:** Peer Supporters will obtain certification and registration (Board of Counseling) within 18 months of hire.
 - b. **Benchmark:** 80% of Peer Supporters will become a Peer Recovery Specialist within one year of hire.
 2. **Unduplicated individuals receiving Peer Services**
 - a. **Measure:** Total number of unduplicated individuals receiving Peer Services will continue to increase.
 - b. **Benchmark:** Total number of unduplicated individuals receiving Peer Services will continue to increase 5% annually. Year 1 will allow for a benchmark and this percentage will be review going into year two.
 3. **Individual contacts (repeat/duplicated) receiving Peer or Family Support Services**
 - a. **Measure:** Total number of individual contacts (repeat/duplicated) receiving Peer or Family Support Services will increase annually for individual and group.
 - b. **Benchmark:** Total number of individual contacts for Peer or Family Support Services will increase 5% annually (only applies to service codes and locations where Peer and/or Family Support Services are delivered). Year 1 will allow for a benchmark and this percentage will be review going into year two for individual and group.
 4. **Peer Support Service units (15-minute increments)**

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES

- a. **Measure:** Total number of Peer Support Service units (15-minute increments) provided will increase annually for individual and group.
 - b. **Benchmark:** Total number of Peer Support Service units (15-minute increments) provided will increase 5% annually (only applies to service codes and locations where Peer and/or Family Support Services are delivered). Year 1 will allow for a benchmark and this percentage will be review going into year two for individual and group.
5. **Closing Programs**
- a. **Measure:** CSBs will inform DBHDS when Recovery oriented peer services programs are closing,
 - b. **Benchmark:** SCB will inform Office of Recovery Services (ORS) Director within 30 days prior to Recovery oriented peer services programs are set to close.
6. **Monitoring:** CSBs must report data through its CCS monthly submission.
- 7.

II. CQI Performance Expectations and Goals

A. General Performance Goal and Expectation

1. For individuals currently receiving services, the CSB has a protocol in effect 24 hours per day, seven days per week (a) for service providers to alert emergency services staff about individuals deemed to be at risk of needing an emergency intervention, (b) for service providers to provide essential clinical information, which should include advance directives, wellness recovery action plans, or safety and support plans to the extent they are available, that would assist in facilitating the disposition of the emergency intervention, and (c) for emergency services staff to inform the case manager of the disposition of the emergency intervention. Individuals with co-occurring mental health and substance use disorders are welcomed and engaged promptly in an integrated screening and assessment process to determine the best response or disposition for continuing care. The CSB shall provide this protocol to the Department upon request. During its inspections, the Department's Licensing Office may examine this protocol to verify this affirmation as it reviews the CSB's policies and procedures.
2. For individuals hospitalized through the civil involuntary admission process in a state hospital, private psychiatric hospital, or psychiatric unit in a public or private hospital, including those who were under a temporary detention or an involuntary commitment order or were admitted voluntarily from a commitment hearing, and referred to the CSB, the CSB that will provide services upon the individual's discharge has in place a protocol to assure the timely discharge of and engage those individuals in appropriate CSB services and supports upon their return to the community. The CSB monitors and strives to increase the rate at which these individuals keep scheduled face-to-face (non-emergency) service visits within seven business days after discharge from the hospital or unit. Since these individuals frequently experience co-occurring mental health and substance use disorders, CSB services are planned as co-occurring capable and promote successful engagement of these individuals in continuing integrated care. The CSB shall provide this protocol to the Department upon request. During its inspections, the Department's Licensing Office may examine this protocol to verify this affirmation as it reviews the CSB's policies and procedures.

B. Emergency Services Performance Goal and Expectation

1. When an immediate face-to-face intervention by a certified preadmission screening evaluator is appropriate to determine the possible need for involuntary hospitalization, the intervention is completed by a certified preadmission screening evaluator who is available within one hour of initial contact for urban CSBs and within two hours of initial contact for rural CSBs. Urban and rural CSBs are listed in the current Overview of Community Services in Virginia at www.dbhds.virginia.gov/OCC-default.htm.
2. Every preadmission screening evaluator is hired with knowledge, skills, and abilities to establish a welcoming environment for individuals with co-occurring disorders and performing hopeful engagement and integrated screening and assessment.
3. Pursuant to subsection B of § 37.2-817 of the Code of Virginia, a preadmission screening evaluator, or through a mutual arrangement an evaluator from another CSB, attends each commitment hearing, initial (up to 30 days)

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES

or recommitment (up to 180 days), for an adult held in the CSB's service area or for an adult receiving services from the CSB held outside of its service area in person, or, if that is not possible, the preadmission screening evaluator participates in the hearing through two-way electronic video and audio or telephonic communication systems, as authorized by subsection B of § 37.2-804.1 of the Code of Virginia, for the purposes of presenting preadmission screening reports and recommended treatment plans and facilitating least restrictive dispositions.

4. In preparing preadmission screening reports, the preadmission screening evaluator considers all available relevant clinical information, including a review of clinical records, wellness recovery action plans, advance directives, and information or recommendations provided by other current service providers or appropriate significant other persons (e.g., family members or partners). Reports reference the relevant clinical information used by the preadmission screening evaluator. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews services records, including records selected from a sample identified by the CSB for individuals who received preadmission screening evaluations.
5. If the emergency services intervention occurs when an individual has been admitted to a hospital or hospital emergency room, the preadmission screening evaluator informs the charge nurse or requesting medical doctor of the disposition, including leaving a written clinical note describing the assessment and recommended disposition or a copy of the preadmission screening form containing this information, and this action is documented in the individual's service record at the CSB with a progress note or with a notation on the preadmission screening form that is included in the individual's service record. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews services records, including records selected from a sample identified by the CSB for individuals who received preadmission screening evaluations, for a progress note or a copy of the preadmission screening form.

C. Mental Health and Substance Abuse Case Management Services Performance Expectation

1. Case managers are hired with the goal of becoming welcoming, recovery-oriented, and co-occurring competent to engage all individuals receiving services in empathetic, hopeful, integrated relationships to help them address multiple issues successfully.
2. Reviews of the individualized services plan (ISP), including necessary assessment updates, are conducted with the individual quarterly or every 90 days and include significant changes in the individual's status, engagement, participation in recovery planning, and preferences for services; and the ISP is revised accordingly to include an individual-directed wellness plan that addresses crisis self-management strategies and implements advance directives, as desired by the individual. For those individuals who express a choice to discontinue case management services because of their dissatisfaction with care, the provider reviews the ISP to consider reasonable solutions to address the individual's concerns. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews ISPs, including those from a sample identified by the CSB of individuals who discontinued case management services.
3. The CSB has policies and procedures in effect to ensure that, during normal business hours, case management services are available to respond in person, electronically, or by telephone to preadmission screening evaluators of individuals with open cases at the CSB to provide relevant clinical information in order to help facilitate appropriate dispositions related to the civil involuntary admissions process established in Chapter 8 of Title 37.2 of the Code of Virginia. During its inspections, the Department's Licensing Office may verify this affirmation as it examines the CSB's policies and procedures.
4. For an individual who has been discharged from a state hospital, private psychiatric hospital, or psychiatric unit in a public or private hospital or released from a commitment hearing and has been referred to the CSB and determined by it to be appropriate for its case management services program, a preliminary assessment is initiated at first contact and completed, within 14 but in no case more than 30 calendar days of referral, and an individualized services plan (ISP) is initiated within 24 hours of the individual's admission to a program area for services in its case management services program and updated when required by the Department's licensing regulations. A copy of an advance directive, a wellness recovery action plan, or a similar expression of an

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES

individual's treatment preferences, if available, is included in the clinical record. During its inspections, the Department's Licensing Office may verify these affirmations as it reviews services records.

5. For individuals for whom case management services will be discontinued due to failure to keep scheduled appointments, outreach attempts, including home visits, telephone calls, letters, and contacts with others as appropriate, to reengage the individual are documented. The CSB has a procedure in place to routinely review the rate of and reasons for refused or discontinued case management services and takes appropriate actions when possible to reduce that rate and address those reasons. The CSB shall provide a copy of this procedure to the Department upon request. During its inspections, the Department's Licensing Office may examine this procedure to verify this affirmation.

D. Co-Occurring Mental Health and Substance Use Disorder Performance Expectation

The CSB ensures that, as part of its regular intake processes, every adolescent (ages 12 to 18) and adult presenting for mental health or substance use disorder services is screened, based on clear clinical indications noted in the services record or use of a validated brief screening instrument, for co-occurring mental health and substance use disorders. If screening indicates a need, the CSB assesses the individual for co-occurring disorders. During its on-site reviews, staff from the Department's Office of Community Behavioral Health Services may examine a sample of service records to verify this affirmation.

E. Data Quality Performance Expectation

1. The CSB submits 100 percent of its monthly CCS consumer, type of care, and services file extracts to the Department in accordance with the schedule in Exhibit E of the performance contract and the current CCS Extract Specifications and Business Rules, a submission for each month by the end of the following month for which the extracts are due. The Department will monitor this measure quarterly by analyzing the CSB's CCS submissions and may negotiate an Exhibit D with the CSB if it fails to meet this goal for more than two months in a quarter.
2. The CSB monitors the total number of consumer records rejected due to fatal errors divided by the total consumer records in the CSB's monthly CCS consumer extract file. If the CSB experiences a fatal error rate of more than five percent of its CCS consumer records in more than one monthly submission, the CSB develops and implements a data quality improvement plan to achieve the goal of no more than five percent of its CCS consumer records containing fatal errors within a timeframe negotiated with the Department. The Department will monitor this affirmation by analyzing the CSB's CCS submissions.
 - a. The CSB ensures that all required CCS data is collected and entered into its information system when a case is opened or an individual is admitted to a program area, updated at least annually when an individual remains in service that long, and updated when an individual is discharged from a program area or his case is closed.
 - b. The CSB identifies situations where data is missing or incomplete and implements a data quality improvement plan to increase the completeness, accuracy, and quality of CCS data that it collects and reports.
 - c. The CSB monitors the total number of individuals without service records submitted showing receipt of any substance use disorder service within the prior 90 days divided by the total number of individuals with a TypeOfCare record showing a substance use disorder discharge in those 90 days. If more than 10 percent of the individuals it serves have not received any substance use disorder services within the prior 90 days and have not been discharged from the substance use disorder services program area, the CSB develops and implements a data quality improvement plan to reduce that percentage to no more than 10 percent.
3. The Department will monitor this affirmation by analyzing the CSB's CCS submissions.

EXHIBIT B FY 2022 AND FY 2023: CONTINUOUS QUALITY IMPROVEMENT (CQI) PROCESS AND CSB PERFORMANCE MEASURES**F. Employment and Housing Opportunities Expectation**

The CSB reviews and revises, if necessary, its joint written agreement, required by subdivision A.12 of § 37.2-504 or subsection 14 of § 37.2-605 of the Code of Virginia, with the Department of Aging and Rehabilitative Services (DARS) regional office to ensure the availability of employment services and specify DARS services to be provided to individuals receiving services from the CSB.

1. The CSB works with employment service organizations (ESOs) where they exist to support the availability of employment services and identify ESO services available to individuals receiving services from the CSB. Where ESOs do not exist, the CSB works with other entities to develop employment services in accordance with State Board Policy 1044 (SYS) 12-1 to meet the needs of employment age (18-64) adults who choose integrated employment.
2. Pursuant to State Board Policy 1044, the CSB ensures its case managers discuss integrated, community-based employment services at least annually with adults currently receiving services from it, include employment-related goals in their individualized services and supports plans if they want to work, and when appropriate and as practicable engage them in seeking employment services that comply with the policy in a timely manner.
3. The CSB reviews and revises, if necessary, its joint written agreements, required by subdivision 12 of subsection A of § 37.2-504 or subsection 14 of § 37.2-605 of the Code of Virginia, with public housing agencies, where they exist, and works with planning district commissions, local governments, private developers, and other stakeholders to maximize federal, state, and local resources for the development of and access to affordable housing and appropriate supports for individuals receiving services from the CSB.
4. The CSB works with the Department through the VACSB Data Management Committee, at the direction of the VACSB Executive Directors Forum, to collaboratively establish clear employment and stable housing policy and outcome goals and develop and monitor key housing and employment outcome measures.

Exhibit C FY22-23: Regional Discharge Assistance Program (RDAP) Requirements

The Department and the CSB agree to implement the following requirements for management and utilization of all current state regional discharge assistance program (RDAP) funds to enhance monitoring of and financial accountability for RDAP funding, decrease the number of individuals on state hospital extraordinary barriers to discharge lists (EBLs), and return the greatest number of individuals with long lengths of state hospital stays to their communities.

1. The Department shall work with the VACSB, representative CSBs, and regional managers to develop clear and consistent criteria for identification of individuals who would be eligible for individualized discharge assistance program plans (IDAPPs) and acceptable uses of state RDAP funds and standard terminology that all CSBs and regions shall use for collecting and reporting data about individuals, services, funds, expenditures, and costs.
2. The CSB shall comply with the current Discharge Assistance Program Manual issued by the Department.
3. All state RDAP funds allocated within the region shall be managed by the regional management group (RMG) and the regional utilization management and consultation team (RUMCT) on which the CSB participates in accordance with Services Taxonomy.
4. The CSB, through the RMG and RUMCT on which it participates, shall ensure that other funds such as Medicaid payments are used to offset the costs of approved IDAPPs to the greatest extent possible so that state RDAP funds can be used to implement additional IDAPPs to reduce EBLs.
5. On behalf of the CSBs in the region, the regional manager funded by the Department and employed by a participating CSB shall submit mid-year and end of the fiscal year reports to the Department in a format developed by the Department in consultation with regional managers that separately displays the total actual year-to-date expenditures of state RDAP funds for ongoing IDAPPs and for one-time IDAPPs and the amounts of obligated but unspent state RDAP funds.
6. The CSB and state hospital representatives on the RMG on which the CSB participates shall have authority to reallocate state RDAP funds among CSBs from CSBs that cannot use them in a reasonable time to CSBs that need additional state RDAP funds to implement more IDAPPs to reduce EBLs.
7. If CSBs in the region cannot obligate at least 95 percent and expend at least 90 percent of the total annual ongoing state RDAP fund allocations on a regional basis by the end of the fiscal year, the Department may work with the RMG and participating CSBs to transfer state RDAP funds to other regions to reduce EBLs to the greatest extent possible, unless the CSBs through the regional manager provide acceptable explanations for greater amounts of unexpended or unobligated state RDAP funds. This does not include one-time allocations to support ongoing DAP plans for multiple years.
8. On behalf of the CSBs in a region, the regional manager shall continue submitting the quarterly summary of IDAPPs to the Department in a format developed by the Department in consultation with regional managers that displays year-to-date information about ongoing and one-time IDAPPs, including data about each individual receiving DAP services, the amounts of state RDAP funds approved for each IDAPP, the total number of IDAPPs that have been implemented, and the projected total net state RDAP funds obligated for these IDAPPs.
9. The Department may conduct utilization reviews of the CSB or region at any time to confirm the effective utilization of state RDAP funds and the implementation of all approved ongoing and one-time IDAPPs.

Exhibit E: FY2022 AND FY2023 Performance Contract Schedule and Process

DUE DATE	DESCRIPTION
5-21-21	<ol style="list-style-type: none"> 1. The Department distributes the FY 2022 Letters of Notification to CSBs by this date electronically with enclosures that show tentative allocations of state and federal block grant funds. <i>NOTE: <u>This is contingent on the implementation of the fiscal year budget as passed by the General Assembly and signed into law by the Governor. The Code of Virginia allows the Governor to make certain adjustments to the Budget. Changes in Federal legislation, inclement weather and uncertain revenue collections, are just a few examples of events that may require adjustments to the budget in order to maintain the balanced budget as required by Virginia's constitution.</u></i> 2. Contracts shall conform to Letter of Notification allocations of state and federal funds or amounts subsequently revised by or negotiated with the OMS and confirmed in writing and shall contain actual appropriated amounts of local matching funds. 3. The Department's Office of Information Services and Technology (OIS&T) distributes the FY 2022 Performance Contract package software in the Community Automated Reporting System (CARS) to CSBs. 4. CSB Financial Analysts in the Department's Office of Fiscal and Grants Management (OFGM) During June and July, prepare electronic data interchange transfers for the first two semi- monthly payments (July) of state and federal funds for all CSBs.
06-25-21	FY 2022 Exhibit A submitted electronically in CARS, are due by this date. Table 2 Board Management and Salary Cost and Integrated Behavioral and Primary Health Care Questions of Exhibit A shall be submitted with in CARS.
07-01-21	<ol style="list-style-type: none"> 1. All required signature pages for the FY2022 performance contract shall be signed and submitted electronically. This shall include the any applicable Exhibits D that may be due at this time to the Office of Management Services (OMS) attached by email and sent to the performancecontractsupport@dbhds.virginia.gov email address. 2. If the CSB has not included the minimum 10 percent local matching funds in the contract, it shall submit a written request for a waiver of the matching funds requirement, pursuant to § 37.2-509 of the Code and State Board Policy 4010, to the OMS attached by email and sent to the performancecontractsupport@dbhds.virginia.gov email address. 3. If the amount of CSBs local match in their end of year report results in reducing the local match below the required 10%, then this requirement also applies to end of the fiscal year performance contract reports. The waiver shall conform to the Minimum Ten Percent Matching Funds Waiver Request Guidelines. 4. The CSB Financial Analysts prepares the transfers for payments 3 and 4 during July and August (August payments) of state and federal funds. CSB Financial Analysts prepare the transfers for payments 5 and 6 during August and September (September payments) of state and federal funds. 5. Payments may not be released without complete contracts. Once the completed contract is received transfers for these two semi-monthly payments will be processed and funds will be disbursed with the next scheduled payment.

Exhibit E: FY2022 AND FY2023 Performance Contract Schedule and Process

DUE DATE	DESCRIPTION
07-12-21	The OIS&T distributes FY 2021 end of the fiscal year performance contract report.
07-30-21	CSBs submit their June Community Consumer Submission (CCS) extract files for June to the OIS&T in time to be received by this date.
08-20-21	CSBs submit their complete CCS reports for total (annual) FY 2021 CCS service unit data to the in time to be received by this date. The Department will not accept any corrections to the FY2021 end of year CCS report after this date.
08-31-21	<ol style="list-style-type: none"> 1. CSBs send complete FY 2021 end of the fiscal year electronic CARS performance contract reports to the OIS&T in time to be received by this date. 2. The OMS reviews services sections of the reports for correctness, completeness, consistency, and acceptability; resolves discrepancies with CSBs; and communicates necessary changes to CSBs. 3. OFGM CSB Financial Analysts review financial portions of reports for arithmetic accuracy, completeness, consistency, and conformity with state funding actions; resolve discrepancies with CSBs; and communicate necessary changes to CSBs. 4. Once they complete their reviews of a CSB's reports, the OMS and OFGM CSB Financial Analysts notify the CSB to submit new reports reflecting only those approved changes to OIS&T. 5. CSBs submit new reports to correct errors or inaccuracies no later than 09-17-2021. The Department will not accept CARS report corrections after this date. 6. Submitting a report without correcting errors identified by the CARS error checking program may result in the imposition by the Department of a one- time, one percent reduction not to exceed \$15,000 of state funds apportioned for CSB administrative expenses. 7. CSBs shall submit their July 2022 CCS monthly extract files for July to in time to be received by this date.

Exhibit E: FY2022 AND FY2023 Performance Contract Schedule and Process

DUE DATE	DESCRIPTION
09-30-21	<ol style="list-style-type: none"> 1. Department staff complete reviews by this date of contracts received by the due date that are complete and acceptable. 2. The OFGM analyzes the revenue information in the contract for conformity to Letter of Notification allocations and advises the CSB to revise and resubmit financial forms in Exhibit A of its contract if necessary. 3. The Offices of Community Behavioral Health, Child and Family, and Developmental Services review and approve new service proposals and consider program issues related to existing services based on Exhibit A. 4. The OMS assesses contract completeness, examines maintenance of local matching funds, integrates new service information, makes corrections and changes on the service forms in Exhibit A, negotiates changes in Exhibit A, and finalizes the contract for signature by the Commissioner. The OMS notifies the CSB when its contract is not complete or has not been approved and advises the CSB to revise and resubmit its contract. 5. The OIS&T receives CARS and CCS submissions from CSBs, maintains the community services database, and processes signed contracts into that database as they are received from the OMS. 6. CSBs submit their CCS monthly consumer, type of care, service, diagnosis, and outcomes extract files for August in time to be received by this date.
10-01-21	<ol style="list-style-type: none"> 1. After the Commissioner signs the contracts, a fully executed copy of the Contract will be send to the CSBs. 2. CSB Financial Analysts prepare transfers for payments 7 and 8 during September and October (October payments). 3. Payment 7 or 8 may not be released without receipt of a CSB's final FY 2021 CCS consumer, type of care, service, diagnosis, and outcomes extract files and FY 2021 end of the fiscal year by the due date. 4. CSB Financial Analysts prepare transfers for payments 9 and 10 during October and November (November payments).
10-15-21	CSBs submit Federal Balance Reports to the OFGM in time to be received by this date.
10-29-21	<ol style="list-style-type: none"> 1. CSBs submit CCS monthly consumer, type of care, service, diagnosis, and outcomes extract files for September to the OIT&S in time to be received by this date. 2. CSB Financial Analysts prepare transfers for payments 11 and 12 During November and December (December payments), Payments may not be released without receipt of September CCS submissions and final Federal Balance Reports.
11-30-21	CSBs submit their CCS monthly consumer, type of care, service, diagnosis, and outcomes extract files for October to the OIT&S in time to be received by this date.
12-03-21	1. CSBs that are not local government departments or included in local government audits send one

Exhibit E: FY2022 AND FY2023 Performance Contract Schedule and Process

DUE DATE	DESCRIPTION
	<p>copy of the Certified Public Accountant (CPA) audit reports for the previous fiscal year on all CSB operated programs to the Department's Office of Budget and Financial Reporting (OBFR) by this date.</p> <ol style="list-style-type: none"> 2. CSBs submit a copy of CPA audit reports for all contract programs for their last full fiscal year, ending on June 30th, to the OBFR by this date. For programs with different fiscal years, reports are due three months after the end of the year. 3. The CSBs shall have a management letter and plan of correction for deficiencies which must be sent with these reports. 4. Audit reports for CSBs that are local government departments or are included in local government audits are submitted to the Auditor of Public Accounts (APA) by the local government. 5. The CSB must forward a plan of correction for any audit deficiencies to the OBFR by this date. 6. To satisfy federal block grant sub-recipient monitoring requirements imposed on the Department under the Single Audit Act, a CSB that is a local government department or is included in its local government audit shall contract with the same CPA audit firm that audits its locality to perform testing related to the federal Mental Health Services and Substance Abuse Prevention and Treatment Block Grants. Alternately, the local government's internal audit department can work with the CSB and the Department to provide the necessary sub-recipient monitoring information. 7. If the CSB receives an audit identifying material deficiencies or containing a disclaimer or prepares the plan of correction referenced in the preceding paragraph, the CSB and the Department may negotiate an Exhibit D that addresses the deficiencies or disclaimer and includes a proposed plan with specific timeframes to address them.
12-31-21	<ol style="list-style-type: none"> 1. CSB Financial Analysts prepare transfers for payment 13 through 16 (January and February payments). For CSBs who's FY 2021 end of the fiscal year performance contract reports have been not verified as accurate and internally consistent, and whose CCS monthly extracts for October have been not received, payments may not be released. 2. CSBs submit their CCS monthly extract files for November in time to be received by this date.
01-07-22	The OIS&T distributes FY 2022 mid-year performance contract report software in CARS
01-31-22	CSBs submit their CCS monthly consumer, type of care, service, diagnosis, and outcomes extract files for December in time to be received by this date.
02-18-22	<ol style="list-style-type: none"> 1. CSBs send complete mid-year performance contract reports and a revised Table 1: Board of Directors Membership Characteristics to the OIS&T electronically in CARS. 2. CSB Financial Analysts prepare transfers during February for payment 17 and 18 (March payments) for CSBs whose monthly CCS extract for December and CARS reports not received by the end of January; payments may not be released. 3. CSB Financial Analysts prepare transfers during March for payments 19 and 20 (April payments) for CSBs whose complete FY 2022 mid-year performance contract reports not received by the due date, payments may not be released.
02-25-22	CSBs submit their CCS extract files for January to the OIS&T in time to be received by this date, for CSBs whose monthly CCS extract files for January were not received by the end of the month, payments may not be released.

Exhibit E: FY2022 AND FY2023 Performance Contract Schedule and Process

DUE DATE	DESCRIPTION
03-31-22	<ol style="list-style-type: none"> 1. CSBs submit their CCS extract files for February to the OIS&T in time to be received by this date. 2. CSB Financial Analysts prepare transfers during March for payments 21 and 22 (May payments) for CSBs whose mid-year performance contract reports have not been verified as accurate and internally consistent and whose monthly CCS extract files for February were not received by the end of the month. Payments may not be released.
04-29-22	<ol style="list-style-type: none"> 1. CSBs submit their CCS monthly consumer, type of care, service, diagnosis, and outcomes extract files for March to the OIS&T in time to be received by this date. 2. CSB Financial Analysts prepare transfers during May for payment 23 and 24 (June payments) for CSBs whose monthly CCS extract files for March were not received by the end of April, payments may not be released.
05-31-22	<ol style="list-style-type: none"> 1. CSBs submit their CCS monthly extract files for April to the OIS&T in time to be received by this date, for CSBs whose monthly CCS extract files for April were received by the end of May. 2. If April CCS extract files are not received by May 31st, this may delay or even eliminate payment 24 due to time restrictions on when the Department can send transfers to the Department of Accounts for payment 24.
06-30-22	CSBs submit their CCS monthly extract files for May to the OIS&T by this date.

Exhibit E: FY2022 Performance Contract Schedule

Administrative Performance Requirements

The CSB shall meet these administrative performance requirements in submitting its performance contract, contract revisions, and mid-year and end-of-the-fiscal year performance contract reports in the CARS, and monthly CCS extracts to the Department.

- A.** The performance contract and any revisions submitted by the CSB shall be:
1. complete, that is all required information is displayed in the correct places and all required Exhibits, including applicable signature pages, are included;
 2. consistent with Letter of Notification allocations or figures subsequently revised by or negotiated with the Department;
 3. prepared in accordance with instructions in the Department-provided CARS software and any subsequent instructional memoranda; and
 4. received by the due dates listed in Exhibit E of this contract.
- B.** If the CSB does not meet these performance contract requirements, the Department may delay future semi-monthly payments of state and federal funds until satisfactory performance is achieved.
- C.** Mid-year and end-of-the-fiscal year performance contract reports submitted by the CSB shall be:
1. complete, that is all required information is displayed in the correct places, all required data are included in the electronic CARS application reports, and any required paper forms that gather information not included in CARS are submitted;
 2. consistent with the state and federal block grant funds allocations in the Letter of Notification or figures subsequently revised by or negotiated with the Department;
 3. prepared in accordance with instructions;
 4. (i) internally consistent and arithmetically accurate: all related funding, expense, and cost data are consistent, congruent, and correct within a report, and (ii) submitted only after errors identified by the CARS error checking programs are corrected; and
 5. received by the due dates listed in Exhibit E of this contract.
- D.** If the CSB does not meet these requirements for its mid-year and end-of-the-fiscal year CARS reports, the Department may delay future semi-monthly payments state and federal funds until satisfactory performance is achieved. The Department may impose one-time reductions of state funds apportioned for CSB administrative expenses on a CSB for its failure to meet the following requirements in its end-of-the-fiscal year CARS report:
1. a one percent reduction not to exceed \$15,000 for failure to comply with requirement of section C.4. of this exhibit; and
 2. a one percent reduction not to exceed \$15,000 for failure to comply with requirement of section C.5. of this exhibit, unless an extension has been obtained from the Department through the process on the next page.
- E.** The CSB shall submit monthly consumer, type of care, service, diagnosis, and outcomes files by the end of the month following the month for which the data is extracted in accordance with the CCS Extract Specifications, including the current Business Rules. The submissions shall satisfy the requirements.
- F.** If the CSB fails to meet the extract submission requirements in Exhibit E of this contract, the Department may delay semi-monthly payments until satisfactory performance is achieved, unless

Exhibit E: FY2022 Performance Contract Schedule

Administrative Performance Requirements

the Department has not provided the CCS extract application to the CSB in time for it to transmit its monthly submissions.

- G.** If the Department negotiates an Exhibit D with a CSB because of unacceptable data quality, and the CSB fails to satisfy the requirements in Exhibit D by the end of the contract term, the Department may impose a one-time one percent reduction not to exceed a total of \$15,000 of state funds apportioned for CSB administrative expenses¹ on the CSB.
- H.** Substance abuse prevention units of service data and quarterly reports shall be submitted to the Department through the prevention data system planned and implemented by the Department in collaboration with the VACSB DMC.
- I.** The Department will calculate state funds apportioned for CSB administrative expenses by multiplying the total state funds allocated to the CSB by the CSB's administrative percentage displayed on page AF-1 of the contract.
- J.** The CSB shall not allocate or transfer a one-time reduction of state funds apportioned for administrative expenses to direct service or program costs.
- K.** Process for Obtaining an Extension of the End-of-the-Fiscal Year CARS Report Due Date
 - 1. Extension Request: The Department will grant an extension only in very exceptional situations such as a catastrophic information system failure, a key staff person's unanticipated illness or accident, or a local emergency or disaster situation that makes it impossible to meet the due date.
 - a. It is the responsibility of the CSB to obtain and confirm the Department's approval of an extension of the due date within the time frames specified below. Failure of the CSB to fulfill this responsibility constitutes prima facie acceptance by the CSB of any resulting one-time reduction in state funds apportioned for administrative expenses.
 - b. As soon as CSB staff becomes aware that it cannot submit the end-of-the-fiscal year CARS report in time to be received in the Department by the due date, the executive director must inform the Office of Management Services (OMS) Director that it is requesting an extension of this due date. This request should be submitted as soon as possible and it shall be in writing, describe completely the reason(s) and need for the extension, and state the date on which the report will be received by the Department.
 - c. The written request for an extension must be received in the OMS no later than 5:00 p.m. on the fourth business day before the due date through the performancecontractsupport@dbhds.virginia.gov email mailbox. Telephone extension requests are not acceptable and will not be processed.
 - d. The OMS will act on all requests for due date extensions that are received in accordance with this process and will notify the requesting CSBs of the status of their requests on the second business day before the due date.
- L.** Performance Contract Revision Instructions:
 - 1. The CSB may revise Exhibit A of its signed contract only in the following circumstances:
 - 2. a new, previously unavailable category or subcategory of services is implemented;
 - 3. an existing category or subcategory of services is totally eliminated;
 - 4. a new program offering an existing category or subcategory of services is implemented;
 - 5. a program offering an existing category or subcategory of services is eliminated;

Exhibit E: FY2022 Performance Contract Schedule

Administrative Performance Requirements

6. new restricted or earmarked state or federal funds are received to expand an existing service or establish a new one;
7. state or federal block grant funds are moved among program (mental health, developmental, or substance use disorder) areas or emergency or ancillary services (an exceptional situation);
8. allocations of state, federal, or local funds change; or
9. a major error is discovered in the original contract.
10. Revisions of Exhibit A shall be submitted using the CARS software and the same procedures used for the original performance contract.

Exhibit F: FY22-23 Federal Grant Compliance Requirements

Background

State agencies often administer federal awards received as pass-through funds to other non-federal entities. These non-federal recipient entities are called Subrecipient and they assist in carrying out various federally-funded programs. Subrecipient are typically units of local government (i.e. city and county agencies) but also include other entities such as Native American tribes, other state agencies, and institutions of higher education, special districts and non-profits. The nature of these relationships are governed by federal statute, regulations, and policies in addition to state laws and regulations. The source of the funding determines the regulations and policies that govern the provision of the funds. The Substance Abuse and Mental Health Services Administration (SAMHSA) is the primary source of federal funds awarded to DBHDS. DBHDS also receives funds from the U.S. Department of Justice and the U.S. Department of Education.

As a primary recipient of federal funds, state agencies serve a pass-through role in which funds are subawarded to Subrecipient. Federal regulations require that pass-through entities provide monitoring of their Subrecipient which is outlined in Sections 200.330 through 200.345 in 2 C.F.R. Part 200 and Sections 75.300 through 75.391 in 45 C.F.R. Part 75 for SAMHSA awards. Further, audit requirements contained in 2 C.F.R. Part 200, Subpart F and 45 C.F.R. Part 75, Subpart F for SAMHSA awards, require that pass-through entities monitor the activities of their Subrecipient, as necessary, to ensure that federal awards are used appropriately and that performance goals are achieved.

In order to further the provision of necessary goods and services to the community, DBHDS may enter into federally-funded subrecipient relationships with Community Service Boards (CSBs). This exhibit provides compliance requirements and other general grant information for the federal grant funds that DBHDS passes-through to the CSBs.

Defined Terms

Administrative Proceeding – A non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

Conference – A meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is necessary and reasonable for successful performance under the Federal award.

Conviction – For purposes of this award term and condition, a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

Drug-Free Workplace – A site for the performance of work done in connection with a specific SFA awarded to a Subrecipient, 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 SFA.

Employee - An individual employed by the subrecipient who is engaged in the performance of the project or program under this award; or another person engaged in the performance of the project or program under this award and not compensated by the subrecipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

Entity – Any of the following, as defined in 2 CFR Part 25: a Governmental organization, which is a State, local government, or Indian tribe; a foreign public entity; a domestic or foreign nonprofit organization; a domestic or foreign for-profit organization; a Federal agency, but only as a subrecipient under an award or sub-award to a non-Federal entity.

Equipment – Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.

Executive – Officers, managing partners, or any other employees in management positions.

Exhibit F: FY22-23 Federal Grant Compliance Requirements

Forced labor - Labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Funding Opportunity Announcement (FOA) – The document that all federal agencies utilize to announce the availability of grant funds to the public. The number of the announcement pertaining to this SFA is included in the Grant Specific Requirements in Section VI.

Intangible Property – Intangible property means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

Major Medical Equipment – An item intended for a medical use that has a cost of more than \$1,000 per unit.

Minor Renovation, Remodeling, Expansion, and Repair of Housing – Improvements or renovations to existing facilities or buildings that do not total more than \$5,000.

Notice of Award (NOA) – The official award document issued by the federal granting agency that notifies the primary recipient of their award amount. A copy of the NOA is included in Attachment B.

Obligation – Orders placed for property and services, contracts and subawards made, and similar transactions during the Period of Performance.

Pass-Through Entity - Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Period of Performance – The timeframe in which the Subrecipient may incur obligations on funding as a result of this agreement.

Recipient – The non-federal entity that receives a grant award from a federal entity. The recipient may be the end user of the funds or may serve as a pass-through to subrecipient entities.

Subaward – A legal instrument to provide support for the performance of any portion of the substantive project or program for which the Recipient received the Federal award and that the recipient awards to an eligible subrecipient.

Subrecipient – A non-Federal entity that receives a subaward from the recipient (or Pass-Through Entity) under this award to carry out part of a Federal award, including a portion of the scope of work or objectives, and is accountable to the Pass-Through Entity for the use of the Federal funds provided by the subaward. Grant recipients are responsible for ensuring that all sub-recipients comply with the terms and conditions of the award, per 45 CFR §75.101.

Supplant – To replace funding of a recipient’s existing program with funds from a federal grant.

System of Award Management (SAM) – The Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at: <http://www.sam.gov>).

Total compensation – The cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)): salary and bonus; awards of stock, stock options, and stock appreciation rights (use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments); earnings for services under non-equity incentive plans (this does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees); change in pension value (this is the change in present value of defined benefit and actuarial pension plans); above-market earnings on deferred compensation which is not tax-qualified and; other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000. [75 FR 55669, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014]

Exhibit F: FY22-23 Federal Grant Compliance Requirements

Total value of currently active grants, cooperative agreements, and procurement contracts – Only the Federal share of the funding under any Federal award with a recipient cost share or match; and the value of all expected funding increments under a Federal award and options, even if not yet exercised [81 FR 3019, Jan. 20, 2016].

Unique Entity Identifier (UEI) – The identifier required for SAM registration to uniquely identify business entities.

Unliquidated Obligations – An invoice for which the Subrecipient has already been allocated funding to pay by the pass-through entity that falls within timeframe for expending unliquidated obligations provided in Section III of this Exhibit. Unliquidated Obligations cannot include personnel costs and are limited to goods or services that were purchased or contracted for prior to the end of the Period of Performance but were not yet expensed as the goods or services were not yet received or the Subrecipient had not yet received an invoice.

I. Federal Grant Requirements for DBHDS as the Pass-through Entity

As the pass-through entity for federal grant funds, DBHDS must comply and provide guidance to the subrecipient in accordance with U.S. C.F.R. 2 § 200.332 and CFR 45 § 75.352 (for SAMHSA awards):

- A. Ensure every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward. If any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward:
 1. Subrecipient name (which must match the name associated with its unique entity identifier);
 2. Subrecipient's unique entity identifier;
 3. Federal Award Identification Number (FAIN);
 4. Federal Award Date (see § 200.1 and § 75.2 Federal award date) of award to the recipient by the HHS awarding agency;
 5. Subaward Period of Performance Start and End Date;
 6. Subaward Budget Period Start and End Date;
 7. Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;
 8. Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;
 9. Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;
 10. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
 11. Name of Federal awarding agency, pass-through entity, and contract information for awarding official of the pass-through entity;
 12. CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;
 13. Identification of whether the award is R&D; and
 14. Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 and § 75.414).

- B. Comply with all Federal statutes, regulations and the terms and conditions of the Federal award.

- C. The Department shall negotiate with the subrecipient an approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient or a de minimis indirect cost rate as defined in § 200.414(f) and § 75.414(f).

- D. The Department is responsible for monitoring the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include, but is not limited to the following:
 1. Reviewing financial and performance reports required by the pass-through entity.
 2. Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

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3. Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by § 200.521 and § 75.521.
4. The Department shall evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.
5. The Department shall verify that every subrecipient is audited as required by subpart F when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in § 200.501 and § 75.501.
6. The Department shall consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

II. General Federal Grant Requirements for the Department and CSBs

The federal grants listed in Section IV of this Exhibit have requirements that are general to the federal agency that issues the funds. Included below are the general grant terms and conditions for each of the federal agencies for which DBHDS is the pass-through entity to the CSBs.

A. SAMHSA GRANT

1. **Grant Oversight:** The CSBs and the Department are legally and financially responsible for all aspects of this award including funds provided to sub-recipients, in accordance with 45 CFR § 75.351 – 75.353, Sub-recipient monitoring and management.
2. **Acceptance of the Terms of an Award:** By drawing or otherwise obtaining funds from DBHDS that resulted from funds obtained from the Health and Human Services (HHS) Payment Management System), the subrecipient acknowledges acceptance of the terms and conditions of the award and is obligated to perform in accordance with the requirements of the award. If the subrecipient cannot accept the terms, the subrecipient should notify the Program contact at DBHDS prior to the signature of its Exhibit D or Notice of Award. Once the Exhibit D or Notice of Award is signed by the subrecipient, the contents of the Exhibit D or Notice of Award are binding on the subrecipient unless and until modified and signed by DBHDS.

Certification Statement: By invoicing DBHDS for funds, the subrecipient certifies that proper financial management controls and accounting systems, to include personnel policies and procedures, have been established to adequately administer Federal awards and drawdown funds. Recipients of Department of Health and Human Services' (DHHS) grants or cooperative agreement awards, and their Subrecipient, must comply with all terms and conditions of their awards, including: (a) terms and conditions included in the HHS Grants Policy Statement in effect at the time of a new, non-competing continuation, or renewal award (<https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf>), including the requirements of HHS grants administration regulations; (b) requirements of the authorizing statutes and implementing regulations for the program under which the award is funded; (c) applicable requirements or limitations in appropriations acts; and (d) any requirements specific to the particular award specified in program policy and guidance, the FOA, or the NOA.

3. **Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards:** The NOA issued is subject to the administrative requirements, cost principles, and audit requirements that govern Federal monies associated with this award, as applicable, in the Uniform Guidance 2 CFR Part 200 as codified by HHS at 45 CFR Part 75 (<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=0ddb69baec587eeea4ab7e6a68c4acb0&mc=TRUE&r=PART&n=pt45.1.75.>)

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4. **Award Expectations:** The eligibility and program requirements originally outlined in the FOA must continue to be adhered to as the funded project is implemented. Recipients must comply with the performance goals, milestones, outcomes, and performance data collection as reflected in the FOA and related policy and guidance. Additional terms and/or conditions may be applied to this award if outstanding financial or programmatic compliance issues are identified by Substance Abuse and Mental Health Services Administration (SAMHSA). Subrecipient must comply with the Scope of Services of this SFA as outlined in their Exhibit D or Notice of Award.

5. **Flow down of requirements to sub-recipients:** The grantee, as the awardee organization, is legally and financially responsible for all aspects of this award including funds provided to sub-recipients, in accordance with 45 CFR 75.351 – 75.353, Subrecipient monitoring and management.

6. **Risk Assessment:** SAMHSA’s Office of Financial Advisory Services (OFAS) may perform an administrative review of the subrecipient organization’s financial management system. If the review discloses material weaknesses or other financial management concerns, grant funding may be restricted in accordance with 45 CFR 75 and 2 CFR 200, as applicable. DBHDS reviews and determines the risk associated with its Subrecipient. As part of the risk assessment process, DBHDS may perform an administrative review of the subrecipient’s financial management system.

7. **Improper Payments:** Any expenditure by the Subrecipient which is found by auditors, investigators, and other authorized representatives of DBHDS, the Commonwealth of Virginia, the U.S. Department of Health and Human Services, the U.S. Government Accountability Office or the Comptroller General of the United States to be improper, unallowable, in violation of federal or state law or the terms of the NOA, FOA, or this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of the Subrecipient, shall become Subrecipient’s liability, to be paid by Subrecipient from funds other than those provided by DBHDS for the given program or any other funding agreements between DBHDS and the Subrecipient. This provision shall survive the expiration or termination of the applicable Performance Contract.

8. **Treatment of Property and Equipment:** If the Program permits the Subrecipient or entities that receive funding from the Subrecipient to purchase real property or equipment with grant funds, the Program retains a residual financial interest, enabling the Program to recover the assets or determine final disposition. This will be accomplished on a case-by-case basis, according to the federal grant guidelines applicable to the grant that is funding the service(s) in accordance with 2 CFR 200.33 and 45 CFR 75.2. Equipment is defined in the defined terms section of this Exhibit.

9. **Program Income:** Program income accrued under this grant award must be reported to the Recipient and must be used to further the objectives of the grant project and only for allowable costs.

10. **Financial Management:** The Subrecipient shall maintain a financial management system and financial records and shall administer funds received in accordance with all applicable federal and state requirements, including without limitation:
 - 1) the Uniform Guidance, 45 C.F.R. Part 75;
 - 2) the NOA; and
 - 3) FOA.

The Subrecipient shall adopt such additional financial management procedures as may from time to time be prescribed by DBHDS if required by applicable laws, regulations or guidelines from its federal and state government funding sources. Subrecipient shall maintain detailed, itemized documentation and records of all income received and expenses incurred pursuant to this Exhibit.

11. **Audit of Financial Records:** The Subrecipient shall comply with the audit and reporting requirements defined by the Federal Office of Management and Budget (OMB) 2 CFR 200 (Audits of States, Local, Governments and Non-Profit organizations) and 45 CFR 75.500 – 75.521 as applicable. The Subrecipient will, if total Federal funds expended are \$750,000 or more a year, have a single or

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program specific financial statement audit conducted for the annual period in compliance with the General Accounting Office audit standards (45 CFR 75-501(a)).

If total federal funds expended are less than \$750,000 for a year the Subrecipient is exempt from federal audit requirements (45 CFR 75-501(d)), but the Subrecipient's records must be available to the Pass-Through Agency and appropriate officials of HHS, SAMHSA, the U.S. Government Accountability Office and the Comptroller General of the United States, and it must still have a financial audit performed for that year by an independent Certified Public Accountant. Further, the subrecipient shall complete the certification letter included in Exhibit F (B) disclosing that they are not subject to the single audit requirement.

Should an audit by authorized state or federal official result in disallowance of amounts previously paid to the Subrecipient, the Subrecipient shall reimburse the Pass-Through Agency upon demand.

Pursuant to 45 CFR 75.361, the Subrecipient shall retain all books, records, and other relevant documents for three (3) years from the end of the calendar year in which the grant period terminates. In the event that any litigation, claim, or audit is initiated prior to the expiration of the 3-year period, all records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. DBHDS, its authorized agents, and/or federal or state auditors shall have full access to and the right to examine any of said materials during said period.

12. **Accounting Records and Disclosures:** The Subrecipient must maintain records which adequately identify the source and application of funds provided for financially assisted activities, including awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. The Subrecipient should expect that the Recipient and SAMHSA may conduct a financial compliance audit and on-site program review of this project as outlined in paragraph (12).
13. **Standards for Documentation of Personnel Expenses:** The Subrecipient shall comply with 2 CFR 200.430 and 45 CFR 75.430 Compensation-Personal Services and 2 CFR 200.431 and 45 CFR 75.431 Compensation-Fringe Benefits as required by the Federal Office of Management and Budget (OMB) Circular 2 CFR 200 (Cost Principles for State, Local and Indian Tribal Government). Per Standards for Documentation of Personnel Expenses 45 CFR 75.430(x)(3) in accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR Part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section (45 CFR 75.430), must also be supported by the appropriate records.
14. **Non-Supplant:** Federal award funds must supplement, not replace (supplant) nonfederal funds. Applicants or award recipients and Subrecipient may be required to demonstrate and document that a reduction in non-federal resources occurred for reasons other than the receipt of expected receipt of federal funds.
15. **Unallowable Costs:** All costs incurred prior to the award issue date and costs not consistent with the FOA, 45 CFR Part 75, and the HHS Grants Policy Statement, are not allowable.
16. **Executive Pay:** The Consolidated Appropriations Act, 2021 (Public Law 116-260), signed into law on December 27, 2020 restricts the amount of direct salary to Executive Level II of the Federal Executive Pay scale. Effective January 3, 2021, the salary limitation for Executive Level II is \$199,300.
17. **Intent to Utilize Funding to Enter into a Procurement/Contractual Relationship:** If the Subrecipient utilizes any of these funds to contract for any goods or services, the Subrecipient must ensure that the resultant contract complies with the terms of Appendix II, 45 C.F.R. 75 which governs the contractual provisions for non-federal entity contracts under federal awards issued by the Department of Health and Human Services.

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18. **Ad Hoc Submissions:** Throughout the project period, SAMHSA or DBHDS may require submission of additional information beyond the standard deliverables. This information may include, but is not limited to the following:
- Payroll
 - Purchase Orders
 - Contract documentation
 - Proof of Project implementation
19. **Conflicts of Interest Policy:** Subrecipient must establish written policies and procedures to prevent employees, consultants, and others (including family, business, or other ties) involved in grant-supported activities, from involvement in actual or perceived conflicts of interest. The policies and procedures must:
- Address conditions under which outside activities, relationships, or financial interest are proper or improper;
 - Provide for advance disclosure of outside activities, relationships, or financial interest to a responsible organizational official;
 - Include a process for notification and review by the responsible official of potential or actual violations of the standards; and
 - Specify the nature of penalties that may be imposed for violations.
20. **Administrative and National Policy Requirements:** Public policy requirements are requirements with a broader national purpose than that of the Federal sponsoring program or award that an applicant/recipient/subrecipient must adhere to as a prerequisite to and/or condition of an award. Public policy requirements are established by statute, regulation, or Executive order. In some cases they relate to general activities, such as preservation of the environment, while, in other cases they are integral to the purposes of the award-supported activities. An application funded with the release of federal funds through a grant award does not constitute or imply compliance with federal statute and regulations. Funded organizations are responsible for ensuring that their activities comply with all applicable federal regulations.
21. **Marijuana Restriction:** Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. See, e.g., 45 C.F.R. 75.300(a) (requiring HHS to “ensure that Federal funding is expended in full accordance with U.S. statutory requirements.”); 21 U.S.C. § 812(c) (10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the Drug Enforcement Agency and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.
22. **Confidentiality of Alcohol and Drug Abuse Patient Records:** The regulations (42 CFR 2) are applicable to any information about alcohol and other drug abuse patients obtained by a "program" (42 CFR 2.11), if the program is federally assisted in any manner (42 CFR 2.12b). Accordingly, all project patient records are confidential and may be disclosed and used only in accordance with 42 CFR Part 2. The recipient and/or subrecipient is responsible for assuring compliance with these regulations and principles, including responsibility for assuring the security and confidentiality of all electronically transmitted patient material.
23. **Drug-Free Workplace:** The Subrecipient agrees to 1) provide a drug-free workplace for the Subrecipient’s employees; 2) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution,

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dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition; 3) state in all solicitations or advertisements for employees placed by or on behalf of the Suprecipient that the Subrecipient maintains a drug-free workplace; and 4) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

24. **Promotional Items:** SAMHSA grant funds may not be used for Promotional Items. Promotional items include but are not limited to clothing and commemorative items such as pens, mugs/cups, folders/folios, lanyards, and conference bags. HHS Policy on the Use of Appropriated Funds for Promotional Items: <https://www.hhs.gov/grants/contracts/contract-policies-regulations/spending-on-promotionalitems/index.html>
25. **SAM and DUNS Requirements:** This award is subject to requirements as set forth in 2 CFR 25.310 Appendix A System of Award Management (SAM) and Data Universal Number System (DUNS) numbers. 2 CFR Part 25 - Appendix A4 SAM and Universal Identifier Requirements. This includes the following:
- A. Requirement for SAM: Unless exempted from this requirement under 2 CFR 25.110, the Subrecipient must maintain its information in SAM, until the end of the calendar year in which the grant(s) from which funding is received expire. The information must be reviewed and updated at least annually after the initial registration, and more frequently if required by changes in the information or the addition of another award term.
- B. Requirement for Unique Entity Identifier (UEI) if you are authorized to make subawards under this award, you:
1. Must notify potential Subrecipient that no governmental organization, foreign public entity, domestic or foreign nonprofit organization, or Federal agency serving as a subrecipient may receive a subaward unless the entity has provided its UEI; and
 2. May not make a subaward to a governmental organization, foreign public entity, domestic or foreign nonprofit organization, or Federal agency serving as a subrecipient, unless the entity has provided its UEI.
26. **Acknowledgement of Federal Funding in Communications and Contracting:** As required by HHS appropriations acts, all HHS recipients and Subrecipient must acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds. Recipients and Subrecipient are required to state: (1) the percentage and dollar amounts of the total program or project costs financed with Federal funds; and (2) the percentage and dollar amount of the total costs financed by nongovernmental sources.
27. **Acknowledgement of Federal Funding at Conferences and Meetings:** Allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award. The HHS awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly. See also 45 CFR 75.438, 75.456, 75.474, and 75.475.

When a conference is funded by a grant or cooperative agreement, the recipient and/or subrecipient must include the following statement on all conference materials (including promotional materials, agenda, and Internet sites):

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Funding for this conference was made possible (in part) by (insert grant or cooperative agreement award number) from SAMHSA. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services; nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government.

Conference materials and other publications funded by this SFA must include language that conveys the following:

- a. The publication, event or conference was funded [in part or in whole] by SAMHSA Grant (Enter Grant Number from the appropriate federal NOA that was sent out to your CSB);
- b. The views expressed in written materials or by conference speakers and moderators do not necessarily reflect the official policies of the U.S. Department of Health and Human Services or the Executive Branch of the Commonwealth of Virginia;
- c. Mention of trade names, commercial practices or organizations does not imply endorsement by the U.S. Government or the Commonwealth of Virginia.

28. **Mandatory Disclosures:** Consistent with 45 CFR 75.113, the Subrecipient must disclose in a timely manner, in writing to the HHS Office of Inspector General (OIG), all information related to violations, or suspected violations, of Federal criminal law involving fraud, bribery, waste, abuse, or gratuity violations potentially affecting the Federal award. Subrecipient must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations, or suspected violations, of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to the awarding agency and to the HHS OIG at the following addresses:

U.S. Department of Health and Human Services
Office of Inspector General ATTN: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Avenue, SW, Cohen Building Room 5527
Washington, DC 20201
Fax: (202) 205-0604
(Include "Mandatory Grant Disclosures" in subject line) or email:
MandatoryGranteeDisclosures@oig.hhs.gov

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 remedies for noncompliance, including suspension or debarment (see 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

The Subrecipient will notify DBHDS when violations are reported to HHS Office of Inspector General within three business days.

29. **Lobbying Restrictions:** Pursuant to 45 CFR 75.215, no portion of these funds may be used to engage in activities that are intended to support or defeat the enactment of legislation before the Congress or Virginia General Assembly, or any local legislative body, or to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any federal, state or local government, except in presentation to the executive branch of any State or local government itself. No portion of these funds can be used to support any personnel engaged in these activities. These prohibitions include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
30. **Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(G)), amended by 2 C.F.R. Part 175:** The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance

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provided to a private entity, without penalty to the Federal government, if the recipient or subrecipient engages in certain activities related to trafficking in persons. SAMHSA may unilaterally terminate this award, without penalty, if a private entity recipient, or a private entity subrecipient, or their employees:

- a) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- b) Procure a commercial sex act during the period of time that the award is in effect; or,
- c) Use forced labor in the performance of the award or subawards under the award.

The text of the full award term is available at 2 C.F.R. 175.15(b). See <http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-sec175-15.pdf>

31. **Accessibility Provisions:** Recipients and Subrecipient of Federal Financial Assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients and Subrecipient of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age, and in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency.

The HHS Office for Civil Rights also provides guidance on complying with civil rights laws enforced by HHS. Please see: <http://www.hhs.gov/ocr/civilrights/understanding/section1557/index.html>. Recipients and Subrecipient of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see- <http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html>. Please contact the HHS Office for Civil Rights for more information about obligations and prohibitions under Federal civil rights laws at <https://www.hhs.gov/civil-rights/index.html> or call 1-800-368-1019 or TDD 1-800-537-7697.

Also note that it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients and Subrecipient should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=1&lvlid=6>.

32. **Executive Order 13410: Promoting Quality and Efficient Health Care:** This Executive Order promotes efficient delivery of quality health care through the use of health information technology, transparency regarding health care quality and price, and incentives to promote the widespread adoption of health information technology and quality of care. Accordingly, all recipients and Subrecipient that electronically exchange patient level health information to external entities where national standards exist must:
 - a) Use recognized health information interoperability standards at the time of any HIT system update, acquisition, or implementation, in all relevant information technology systems supported, in whole or in part, through this agreement/contract. Please consult www.healthit.gov for more information, and
 - b) Use Electronic Health Record systems (EHRs) that are certified by agencies authorized by the Office of the National Coordinator for Health Information Technology (ONC), or that will be certified during the life of the grant. For additional information contact: Jim Kretz, at 240-276-1755 or Jim.Kretz@samhsa.hhs.gov.
33. **Travel:** Funds used to attend meetings, conferences or implement the activities of this grant must not exceed the lodging rates and per diem for Federal travel and Meal/Incidental expenses provided by the General Services Administration. These rates vary by jurisdiction.

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34. **English Language:** All communication between the Pass-Through Agency and the Subrecipient must be in the English language and must utilize the terms of U.S. dollars. Information may be translated into other languages. Where there is inconsistency in meaning between the English language and other languages, the English language meaning shall prevail.
35. **Intangible Property Rights:** Pursuant to 2 CFR 200.315 and 45 CFR 75.322:
- A. Title to intangible property (as defined in the Definitions Section of this Exhibit) acquired under a Federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally authorized purpose, and must not encumber the property without approval of the Federal awarding agency (SAMHSA). When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 CFR 200.313(e) and 45 CFR 75.320(e).
- B. The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes and to authorize others to do so.
- C. The non-Federal entity is subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401.
- D. The Federal Government has the right to: 1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal Award; and 2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.
- E. Freedom of Information Act:
- 1) In response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal Government in developing an agency action that has the force and effect of law, the HHS awarding agency must request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the HHS awarding agency obtains the research data solely in response to a FOIA request, the HHS awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the non-Federal entity. This fee is in addition to any fees the HHS awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).
- 2) Published research findings means when:
- (i) Research findings are published in a peer-reviewed scientific or technical journal; or
- (ii) A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. “Used by the Federal Government in developing an agency action that has the force and effect of law” is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.
- 3) Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: Preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This “recorded” material excludes physical objects (e.g., laboratory samples). Research data also do not include:
- (i) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and
- (ii) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

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F. The requirements set forth in paragraph (E)(1) of this part do not apply to commercial organizations.

The Pass-Through Agency reserves the irrevocable right to utilize any Intangible Property described above, royalty-free, for the completion of the terms of this Grant and Agreement.

36. **National Historical Preservation Act and Executive Order 13287, Preserve America:** The Subrecipient must comply with this federal legislation and executive order.
37. **Welfare-to-Work:** The Subrecipient is encouraged to hire welfare recipients and to provide additional needed training and mentoring as needed.
38. **Applicable Laws and Courts:** Awards of federal funds from DBHDS shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations.
39. **Immigration Reform and Control Act of 1986:** The Subrecipient certifies that the Subrecipient does not, and shall not knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
40. **Construction Purchases:** SAMHSA grant funds may not be used for the purchase or construction of any building or structure to house any part of the program (Applicants may request up to \$5,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project).
41. **Residential or Outpatient Treatment:** SAMHSA grant funds may not be used to provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible).
42. **Inpatient Services:** SAMHSA grant funds may not be used to provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.
43. **Direct Payments to Individuals:** SAMHSA grant funds may not be used to make direct payments to individuals to enter treatment or continue to participate in prevention or treatment services. Note: A recipient or treatment or prevention provider may provide up to \$30 in non-cash incentives to individuals to participate in required data collection follow-up. This amount may be paid for participation in each required follow-up interview.
44. **Meals:** Meals are allowable so long as they are part of conferences or allowable non-local travel and do not exceed the per diem reimbursement rate allowed for the jurisdiction by the General Services Administration. Grant funds may be used for light snacks, not to exceed \$3.00 per person per day.
45. **Sterile Needles or Syringes:** Funds may not be used to provide sterile needles or syringes for the hypodermic injection of any illegal drug. Provided, that such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with state and local law.

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46. **Compliance with Federal Regulations/Statute/Policy:** The Subrecipient agrees to enforce, administer, and comply with any applicable federal regulations, statutes, or policies that are not otherwise mentioned including 2 C.F.R. § 200, 45 C.F.R. § 75, the Health and Human Services Grants Policy Statement, or any other source.

III. Federal Grant Specific Requirements

There are additional requirements to the grants included in Section IV of this Exhibit that are not universal to all grants that DBHDS administers. Included below, by grant name, is a list of the grant specific requirements as required by federal statute, regulation, and policy.

A. SAMHSA GRANTS

1. **State Opioid Response Grant (SUD Federal Opioid Response)**

Pursuant to the Notice of Award received by DBHDS and the Funding Opportunity Announcement (TI-20-012) associated with the State Opioid Response Grant, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. Restrictions on Expenditures:** State Opioid Response Grant funds may not be used to:
- i. Pay for services that can be supported through other accessible sources of funding such as other federal discretionary and formula grant funds, e.g. HHS (CDC, CMS, HRSA, and SAMHSA), DOJ (OJP/BJA) and non-federal funds, 3rd party insurance, and sliding scale self-pay among others.
 - ii. Pay for a grant or subaward to any agency which would deny any eligible client, patient, or individual access to their program because of their use of Food and Drug Administration (FDA)-approved medications for the treatment of substance use disorders.
 - iii. Provide incentives to any health care professional for receipt of data waiver or any type of professional training development.
 - iv. Procure DATA waiver training. This training is offered free of charge by SAMHSA at pcssnow.org.
- b. Expenditure Guidelines:**
- i. Grant funds:
 - a) Shall be used to fund services and practices that have a demonstrated evidence-base, and that are appropriate for the population(s) of focus.
 - b) For treatment and recovery support services grant funds shall only be utilized to provide services to individuals with a diagnosis of an opioid use disorder or to individuals with a demonstrated history of opioid overdose problems.
 - c) May only fund FDA approved products.
 - d) May only be used for HIV and viral hepatitis testing that is performed as clinically indicated and referral to appropriate treatment must be provided to those testing positive. Vaccination for hepatitis A and B should be provided or referral made for same as clinically indicated.
- a. Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to or more than 40 days after the appropriate Award Period included in section IV.

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DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement

b. Closeout: Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days after the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until 40 days after the end of the Period of Performance to pay for unliquidated obligations as defined in this agreement

Any funds remaining unexpended and unobligated at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Any funds distributed to the Subrecipient by the pass-through entity that remain unexpended by 40 days after the end of the Period of Performance shall be returned to DBHDS. The Subrecipient will send these funds to DBHDS by no later than the end of the 75th day after the end of the Performance Period. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS

PO Box 1797

Richmond, VA 23218-1797

C/O Eric Billings

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

2. Substance Abuse Prevention and Treatment Block Grant (SUD FBG)

Pursuant to the Substance Abuse Prevention and Treatment Block Grant (SAPTBG) Funding Agreement and relevant federal statutes, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** No SAPTBG funds may not be used for any of the following purposes:
- i. To provide inpatient hospital services unless it has been determined, in accordance with the guidelines issued by the Secretary of Health and Human Services, that such treatment is a medical necessity for the individual involved and that the individual cannot be effectively treated in a community-based, non-hospital, residential program of treatment;
 - ii. To make cash payments to intended recipients of health services;
 - iii. To purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling with DBHDS, Federal Grants Manager approval) any building or other facility, or purchase major medical equipment as defined in the Defined Terms section of this Exhibit.

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- iv. To satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds; or
 - v. To provide financial assistance to any entity other than a public or non-profit entity.
 - vi. To carry out any program that provides individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for acquired immune deficiency syndrome. (42 US Code § 300x-31(a))
- b. **Grant Guidelines:**
1. In the case of an individual for whom grant funds are expended to provide inpatient hospital services, as outlined above (A.a.), the Subrecipient shall not incur costs that are in excess of the comparable daily rate provided for community-based, non-hospital, residential programs of treatment for substance abuse (42 US Code § 300x-31(b)(2)).
 2. No entity receiving SAPTBG funding may participate in any form of discrimination on the basis of age as defined under the Age Discrimination Act of 1975 (42 US Code § 6101), on the basis of handicap as defined under section 504 of the Rehabilitation Act of 1973 (29 US Code § 794), on the basis of sex as defined under Title IX of the Education Amendments of 1972 (20 US Code § 1681) or on the basis of race, color, or national origin as defined under Title VI of the Civil Rights Act of 1964 (42 US Code § 2000) (42 US Code § 300x-57(a)(1)).
 3. No person shall on the ground of sex, or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under section 300x or 300x-21 of title 42 US Code (42 US Code § 300x-57(a)(2)).
 4. The Subrecipient agrees to comply with the provisions of the Hatch Act (5 US Code § 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
 5. The Subrecipient will comply, as applicable with the provisions of the Davis-Bacon Act (40 US Code § 276(a) – 276(a)-7), the Copeland Act (40 US Code § 276(c) and 18 US Code § 874), and the Contract Work Hours and Safety Standards Act (40 US Code § 327-333), regarding labor standards for federally assisted construction subagreements.
 6. This funding source is designated to plan, implement, and evaluate activities that prevent or treat substance use disorder, including to fund priority substance use disorder treatment and support services for individuals without insurance or for whom coverage is terminated for short periods of time. Further these funds can be utilized to fund those priority treatment and support services that demonstrate success in improving outcomes and/or supporting recovery that are not covered by Medicaid, Medicare, or private insurance, fund primary prevention by providing universal, selective, and indicated prevention activities and services for persons not identified as needing treatment, and collecting performance and outcome data to determine the ongoing effectiveness of behavioral health promotion, treatment, and recovery support services. Medicaid and private insurance, if available, must be used first. Target and priority populations are pregnant and parenting women and intravenous (IV) drug users. In providing treatment services to these target and priority populations, providers must offer treatment in order of population preference as outlined in 45 CFR 96.131 (a) which is as follows:
 - i. Pregnant injecting drug users;
 - ii. Pregnant substance abusers;
 - iii. Injecting drug users;
 - iv. All others

Allowable SAPTBG services include: Healthcare Home/Physical Health (General and specialized outpatient medical services, Acute Primary care, General Health Screens, Tests and Immunizations, Comprehensive Care Management, Care coordination and Health Promotion, Comprehensive

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Transitional Care, Individual and Family Support, Referral to Community Services), Prevention and Promotion (Including Promotion, such as Screening, Brief Intervention and Referral to Treatment, Brief Motivational Interviews, Screening and Brief Intervention for Tobacco Cessation, Parent Training, Facilitated Referrals, Relapse Prevention/Wellness Recovery Support, Warm Line); Engagement Services (including Assessment, Specialized Evaluations (Psychological and Neurological), Service Planning (including crisis planning), Consumer/Family Education, Outreach); Outpatient Services (including Individual evidenced based therapies, Group therapy, Family therapy, Multi-family therapy, Consultation to Caregivers); Medication Services (including Medication management, Pharmacotherapy including MAT; Laboratory services); Community Rehabilitative Support (including Parent/Caregiver Support, Skill building (social, daily living, cognitive), Case management, Behavior management, Supported employment, Permanent supported housing, Recovery housing, Therapeutic mentoring, Traditional healing services); Recovery Supports (including Peer Support, Recovery Support Coaching, Recovery Support Center Services, Supports for Self Directed Care); and Other Habilitative Supports (including Respite; Supported Education; Transportation; Assisted living services; Recreational services; Trained behavioral health interpreters; Interactive communication technology devices); Intensive Support Services (including Substance abuse intensive outpatient; Partial hospital; Assertive Community Treatment; Intensive home based services; Multi-systemic therapy; Intensive Case Management); Out of Home Residential Services (including Crisis residential/stabilization, Clinically Managed 24 Hour Care (SA), Clinically Managed Medium Intensity Care (SA), Adult Substance Abuse Residential, Adult Mental Health Residential, Youth Substance Abuse Residential Services, Children's Residential Mental Health Services, Therapeutic foster care); and Acute Intensive Services (including Mobile crisis, Peer based crisis services, Urgent care, 23 hr. observation bed, Medically Monitored Intensive Inpatient (SA), 24/7 crisis hotline services). Treatment and competency restoration services may be provided to individuals with a serious mental illness or serious emotional

- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to or after the appropriate Award Period included in section IV.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days after the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until the end of the Period of Performance to pay for remaining allowable costs.

Any funds remaining unexpended at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS

PO Box 1797

Richmond, VA 23218-1797

C/O Eric Billings

Exhibit F: FY22-23 Federal Grant Compliance Requirements

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

3. Community Mental Health Services Block Grant (MH FBG)

Pursuant to the Community Mental Health Services Block Grant (CMHSBG) Funding Agreement and relevant federal statutes, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** CMHSBG funds may not be used for any of the following purposes:
 1. To provide inpatient services;
 2. To make cash payments to intended recipients of health services;
 3. To purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling with DBHDS, Federal Grants Manager approval) any building or other facility, or purchase major medical equipment (as defined in the Definitions section of this Exhibit);
 4. To satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds; or
 5. To provide financial assistance to any entity other than a public or non-profit entity. (42 US Code § 300x-5(a))

- b. **Grant Guidelines:**
 1. No entity receiving CMHSBG funding may participate in any form of discrimination on the basis of age as defined under the Age Discrimination Act of 1975 (42 US Code § 6101), on the basis of handicap as defined under section 504 of the Rehabilitation Act of 1973 (29 US Code § 794), on the basis of sex as defined under Title IX of the Education Amendments of 1972 (20 US Code § 1681) or on the basis of race, color, or national origin as defined under Title VI of the Civil Rights Act of 1964 (42 US Code § 2000) (42 US Code § 300x-57(a)(1)).
 2. No person shall on the ground of sex, or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under section 300x or 300x-21 of title 42 US Code (42 US Code § 300x-57(a)(2)).
 3. The Subrecipient must provide the services through appropriate, qualified community programs, which may include community mental health centers, child mental-health programs, psychosocial rehabilitation programs, mental health peer-support programs, and mental-health primary consumer-directed programs. Services may be provided through community mental health centers only if the centers provide: 1) Services principally to individuals residing in a defined geographic area (hereafter referred to as a "service area"); 2) Outpatient services, including specialized outpatient services for children, the elderly, individuals with a Serious Mental Illness (SMI), and residents of the service areas of the center who have been discharged from inpatient treatment at a mental health facility; 3) 24-hour-a-day emergency care services; 4) Day treatment or other partial hospitalization services, or psychosocial rehabilitation services; 5) Screening for patients being considered for admission to state

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mental health facilities to determine the appropriateness of such admission; 6) Services within the limits of the capacities of the centers, to any individual residing or employed in the service area of the center regardless of ability to pay; and 7) Services that are accessible promptly, as appropriate, and in a manner which preserves human dignity and assures continuity of high quality care (42 US Code § 300x-2(c)).

4. The Subrecipient agrees to comply with the provisions of the Hatch Act (5 US Code § 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
 5. The Subrecipient will comply, as applicable with the provisions of the Davis-Bacon Act (40 US Code § 276(a) – 276(a)-7), the Copeland Act (40 US Code § 276(c) and 18 US Code § 874), and the Contract Work Hours and Safety Standards Act (40 US Code § 327-333), regarding labor standards for federally assisted construction subagreements.
 6. Treatment and competency restoration services may be provided to individuals with a serious mental illness or serious emotional disturbance who are involved with the criminal justice system or during incarceration.
 7. Medicaid and private insurance, if available, must be used first.
- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to or after the appropriate Award Period provided in section IV.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days after the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until the end of the Period of Performance to pay for remaining allowable costs.

Any funds remaining unexpended at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS

PO Box 1797

Richmond, VA 23218-1797

C/O Eric Billings

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever,

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which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

4. Projects for Assistance in Transition from Homelessness (PATH)

Pursuant to the Notice of Award received by DBHDS, Funding Opportunity Announcement (SM-20-F2), and relevant statutes associated with the Project for Assistance in Transition from Homelessness (PATH) Grant, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** PATH funds may not be used for any of the following purposes:
1. To support emergency shelters or construction of housing facilities;
 2. For inpatient psychiatric treatment costs or inpatient substance use disorder treatment costs; or
 3. To make cash payments to intended recipients of mental health or substance use disorder services (42 U.S. Code § 290cc-22(g)).
 4. For lease arrangements in association with the proposed project utilizing PATH funds beyond the project period nor may the portion of the space leased with PATH funds be used for purposes not supported by the grant.
- b. **Grant Guidelines:**
1. All funds shall be used for the purpose of providing the following:
 - i. Outreach services;
 - ii. Screening and diagnostic treatment services;
 - iii. Habilitation and rehabilitation services;
 - iv. Community mental health services;
 - v. Alcohol or drug treatment services;
 - vi. Staff training including the training of individuals who work in shelters, mental health clinics, substance use disorder programs, and other sites where homeless individuals require services;
 - vii. Case management services including:
 1. Preparing a plan for the provision of community mental health services to the eligible homeless individual involved and reviewing such plan not less than once every three months;
 2. Providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individuals, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;
 3. Providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, supplemental nutrition assistance program benefits, and supplemental security income benefits;
 4. Referring the eligible homeless individual for such other services as may be appropriate; and
 5. Providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act (42 U.S. Code § 1383(a)(2)) if the eligible homeless individual is receiving aid under Title XVI of such act (42 U.S. Code § 1381 et seq.) and if the applicant is designated by the Secretary to provide such services;
 - viii. Supportive and supervisory services in residential settings;
 - ix. Referrals for primary health services, job training, educational services, and relevant housing services;
 - x. Minor renovation, expansion, and repair of housing (as defined in the Definitions section of this Exhibit);
 - xi. Planning of housing;
 - xii. Technical assistance in applying for housing assistance;
 - xiii. Improving the coordination of housing services;
 - xiv. Security deposits;

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- xv. The costs associated with matching eligible homeless individuals with appropriate housing situations;
 - xvi. One-time rental payments to prevent eviction;
 - xvii. Other appropriate services as determined by the Secretary of Health and Human Services (42 U.S. Code § 290cc-22(b)).
2. All funds shall only be utilized for providing the services outlined above to individuals who:
 - i. Are suffering from a serious mental illness; or
 - ii. Are suffering from a serious mental illness and from a substance use disorder; and
 - iii. Are homeless or at imminent risk of becoming homeless (42 U.S. Code § 290cc-22(a)).
 3. Funding may not be allocated to an entity that:
 - i. Has a policy of excluding individuals from mental health services due to the existence or suspicion of a substance use disorder; or
 - ii. Has a policy of excluding individuals from substance use disorder services due to the existence or suspicion of mental illness (42 U.S. Code § 290cc-22(e)).
 4. Match amounts agreed to with DBHDS may be:
 - i. Cash;
 - ii. In-kind contributions, that are fairly evaluated, including plant, equipment, or services.

Amounts provided by the federal government or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of match (42 U.S. Code § 290cc-23(b)).
 5. Subrecipient may not discriminate on the basis of age under the Age Discrimination Act of 1975 (42 U.S. Code § 6101 et seq.), on the basis of handicap under section 504 of the Rehabilitation Act of 1973 (29 U.S. Code § 794), on the basis of sex under Title IX of the Education Amendments of 1972 (20 U.S. Code § 1681 et seq.), or on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964 (42 U.S. Code § 2000d et seq.)(42 U.S. Code § 290cc-33(a)(1)).
 6. The Subrecipient shall not exclude from participation in, deny benefits to, or discriminate against any individuals that are otherwise eligible to participate in any program or activity funded from the PATH grant (42 U.S. Code § 290cc-33(a)(2)).
- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to or following one year after the end of the appropriate Award Period provided in section IV.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days after the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until 365 days after the end of the Period of Performance to pay for remaining allowable costs.

Any funds remaining unexpended and unobligated at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Any funds distributed to the Subrecipient by the pass-through entity that remain unexpended by 365 days after the end of the Period of Performance shall be returned to DBHDS. The Subrecipient will send these funds to DBHDS by no later than the end of the 395th day after the end of the Performance Period. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS

PO Box 1797

Exhibit F: FY22-23 Federal Grant Compliance Requirements

Richmond, VA 23218-1797

C/O Eric Billings

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

SubrecipientSubrecipient**5. Young Adult Substance Abuse Treatment Implementation Grant**

Pursuant to the Notice of Award received by DBHDS and the Funding Opportunity Announcement (TI-17-002) associated with the Youth Treatment Implementation Grant, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** Young Adult Substance Abuse Treatment Implementation Grant funds may not be used for any of the following purposes:
1. Pay for any lease beyond the project period.
 2. Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).
 3. Pay for the purchase or construction of any building or structure to house any part of the program. (Subrecipient may request up to \$5,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)
 4. Pay for housing other than residential mental health and/or substance use disorder treatment.
 5. Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)
 6. Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.
 7. Only allowable costs associated with the use of federal funds are permitted to fund EBPs. Other sources of funds may be used for unallowable costs (e.g. meals, sporting events, entertainment). Other support is defined as funds or resources, whether federal, non-federal or institutional, in direct support of activities through fellowships, gifts, prizes, or in-kind contributions.
 8. Make direct payments to individuals to induce them to enter prevention or treatment services. However, grant funds may be used for non-clinical support services (e.g. bus tokens, child care) designed to improve access to and retention in prevention and treatment programs.
 9. Make direct payments to individuals to encourage attendance and/or attainment of prevention or treatment goals. However, grant funds may be used for non-cash incentives of up to \$30 to encourage attendance and/or attainment of prevention or treatment goals when the incentives are built into the program design and when the incentives are the minimum amount that is deemed necessary to meet program goals. SAMHSA policy allows an individual participant to receive more than one incentive over the course of the program. However, non-cash incentives should be limited to the minimum number of times deemed necessary to achieve program outcomes. A grantee or treatment or prevention provider may also provide up to \$30 cash or equivalent (coupons, bus tokens, gifts, child care, and vouchers) to individuals as

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incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

10. Meals are generally unallowable unless they are an integral part of a conference grant or specifically stated as an allowable expense in the Performance Contract. Grant funds may be used for light snacks, not to exceed \$3.00 per person.
11. Consolidated Appropriations Act, 2016, Division H states, SEC. 520, notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. Provided, that such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant state or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the state or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with state and local law.
12. Pay for pharmacologies for HIV antiretroviral therapy, Sexually Transmitted Diseases (STD)/Sexually Transmitted Illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

b. Grant Guidelines:

1. Funds must be used to improve capacity to increase access to treatment and to improve the quality of treatment for adolescents and transitional youth aged 16-25, and their families/primary caregivers through:
 - i. Expanding and enhancing SUD treatment services for adolescents and transitional youth aged 16-25;
 - ii. Involving families, adolescents, and transitional aged youth at the state/territorial/tribal/local levels to inform policy, program, and effective practice;
 - iii. Expanding the qualified workforce;
 - iv. Disseminating Evidence-Based Practices (EBPs);
 - v. Developing funding and payment strategies that support EBPs in the current funding environment; and
 - vi. Improving interagency collaboration.
2. Subrecipient must address each of the following required activities:
 - i. Provide outreach and other engagement strategies to increase participation in, and provide access to, treatment for diverse populations (i.e. ethnic, racial, sexual orientation, gender identity, etc.).
 - ii. Provide direct treatment including screening, assessment, care management, and recovery support for diverse populations at risk. Treatment must be provided in outpatient, intensive outpatient, or day treatment settings. Clients must be screened and assessed for the presence of substance use disorders and/or co-occurring mental and substance use disorders, using an assessment instrument(s) that is evidence-based, and use the information obtained from the screening and assessment to develop appropriate treatment approaches for the persons identified as having such disorders.
 - iii. Provide youth recovery support services and supports (e.g. recovery coaching, vocational, educational, and transportation services) designed to support recovery and improve access and retention.
 - iv. Provide the EBPs in assessment(s) and treatment intervention(s), selected in consultation with DBHDS for the population of focus.
 - v. Participate in a provider collaborative, managed by DBHDS, that, at a minimum, provides the following:
 1. Direct treatment for SUD and/or co-occurring substance use and mental disorders and recovery support services to the population of focus;
 2. Identifies and addresses common provider-level administrative challenges in providing substance abuse treatment and recovery support services to the population of focus;
 3. Develops and implements a common continuous quality improvement/quality assurance plan across the providers in the collaborative to improve the services provided;

Exhibit F: FY22-23 Federal Grant Compliance Requirements

4. Identifies and addresses common barriers faced by the population of focus in accessing services; and
 5. Promotes coordination and collaboration with family support organizations to assist in the development of peer support services and strengthen services for the population of focus who have, or are at risk of SUD and/or co-occurring substance use and mental disorders.
3. Subrecipient must screen and assess clients for the presence of SUD and/or co-occurring mental and substance use disorders and use the information obtained from the screening and assessment to develop appropriate treatment approaches for the persons identified as having such co-occurring disorders.
 4. Subrecipient must utilize third party and other revenue realized from the provision of services to the extent possible and use Youth Treatment Implementation Grant funds only for services to individuals who are not covered by public or commercial eHealth insurance programs, individuals for whom coverage has been formally determined to be unaffordable, or for services that are not sufficiently covered by an individual's health insurance plan. Subrecipient are also expected to facilitate the health insurance application and enrollment process for eligible uninsured clients. Subrecipient should also consider other systems from which a potential service recipient may be eligible for services if appropriate for and desired by that individual to meet his/her needs. In addition, Subrecipient are required to implement policies and procedures that ensure other sources of funding are utilized first when available for that individual.
- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to or following 40 days after the end of the Award Period included in section IV.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days after the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until 40 days after the end of the Period of Performance to pay for unliquidated obligations as defined in this agreement

Any funds remaining unexpended and unobligated at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Any funds distributed to the Subrecipient by the pass-through entity that remain unexpended by 40 days after the end of the Period of Performance shall be returned to DBHDS. The Subrecipient will send these funds to DBHDS by no later than the end of the 75th day after the end of the Performance Period. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS
PO Box 1797
Richmond, VA 23218-1797
C/O Eric Billings

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and

Exhibit F: FY22-23 Federal Grant Compliance Requirements

all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

6. Emergency Grants to Address Mental and Substance Use Disorders During COVID-19 (MH & SUD Federal COVID Emergency Grant)

Pursuant to the Notice of Award received by DBHDS and the Funding Opportunity Announcement (FG-20-006) associated with the MH and SUD Emergency COVID-19 Grant, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** MH and SUD Emergency COVID-19 Grant funds may not be used for any of the following purposes:
 1. Construction or major alterations and renovations.
Subrecipient
- b. **Grant Guidelines:**
 1. Subrecipient funds are to be used primarily to support direct treatment services for individuals impacted by COVID-19.
 2. The purchase of PPE is an allowable cost and can only be provided for staff working directly on the grant. The purchase of PPE for clients is not an allowable cost.
 3. The purchase of equipment or supplies (e.g., pre-paid minutes, cell phones, Hot spots, iPad tablets, etc.) for clients is not an allowable cost.
- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to or following 40 days after the end of the appropriate Award Period included in section IV.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days after the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until 40 days after the end of the Period of Performance to pay for unliquidated obligations as defined in this agreement

Any funds remaining unexpended and unobligated at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Any funds distributed to the Subrecipient by the pass-through entity that remain unexpended by 40 days after the end of the Period of Performance shall be returned to DBHDS. The Subrecipient will send these funds to DBHDS by no later than the end of the 75th day after the end of the Performance Period. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS
PO Box 1797
Richmond, VA 23218-1797
C/O

Exhibit F: FY22-23 Federal Grant Compliance Requirements

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

IV. List of Federal Grants

Provided in the chart below is a current list of the federal grants that DBHDS passes-through to CSBs and the required identifying information that should be used to categorize and track these funds.

SAMHSA GRANTS
GRANT NAME: State Opioid Response Grant (SUD Federal Opioid Response)
GRANT NAME: State Opioid Response Grant (SUD Federal Opioid Response) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): H79TI081682 FEDERAL AWARD DATE: 2/19/2018 FEDERAL AWARING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.788 RESEARCH AND DEVELOPMENT AWARD: ___YES OR ___X___NO FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 9/30/2019 – 9/29/2021
GRANT NAME: Substance Abuse Prevention and Treatment Block Grant (SUD FBG)
GRANT NAME: Substance Abuse Prevention and Treatment Block Grant (SUD FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B08TI083056-01 FEDERAL AWARD DATE: 5/15/2020 FEDERAL AWARING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.959 RESEARCH AND DEVELOPMENT AWARD: ___YES OR ___X___NO FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 10/1/2019 – 9/30/2021
GRANT NAME: Community Mental Health Services Block Grant (MH FBG)

Exhibit F: FY22-23 Federal Grant Compliance Requirements

<p>GRANT NAME: Community Mental Health Services Block Grant (MH FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B09SM082636-01 FEDERAL AWARD DATE: 12/31/2019 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.958 RESEARCH AND DEVELOPMENT AWARD: ___ YES OR ___X___NO FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 10/1/2019 – 9/30/2021</p>	
<p>GRANT NAME: Projects for Assistance in Transition from Homelessness (PATH)</p>	
<p>GRANT NAME: Projects for Assistance in Transition from Homelessness (PATH) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): X06SM083701-01 FEDERAL AWARD DATE: 8/24/2020 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.15 RESEARCH AND DEVELOPMENT AWARD: ___ YES OR ___X___NO FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 9/1/2020 – 8/31/2021</p>	<p>GRANT NAME: Projects for Assistance in Transition from Homelessness (PATH) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): X06SM083701-02 FEDERAL AWARD DATE: TBD FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.15 RESEARCH AND DEVELOPMENT AWARD: ___ YES OR ___X___NO FEDERAL GRANT AWARD YEAR: FFY 2021 AWARD PERIOD: 9/1/2021 – 8/31/2022</p>
<p>GRANT NAME: Young Adult Substance Abuse Treatment Implementation Grant (YSAT)</p>	
<p>GRANT NAME: Young Adult Substance Abuse Treatment Implementation Grant (YSAT) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): H79TI080197 FEDERAL AWARD DATE: 5/15/2020 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.243 RESEARCH AND DEVELOPMENT AWARD: ___ YES OR ___X___NO FEDERAL GRANT AWARD YEAR: FFY 2021 AWARD PERIOD: 9/30/2020 – 9/29/2021</p>	
<p>GRANT NAME: State Opioid Response Grant (SUD Federal Opioid Response)</p>	

Exhibit F: FY22-23 Federal Grant Compliance Requirements

<p>GRANT NAME: State Opioid Response Grant (SUD Federal Opioid Response) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): H79TI081682 FEDERAL AWARD DATE: 2/19/2018 FEDERAL AWARING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.788 RESEARCH AND DEVELOPMENT AWARD: ___YES OR <input checked="" type="checkbox"/>X_NO FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 9/30/2019 – 9/29/2021</p>	<p>GRANT NAME: State Opioid Response Grant (SUD Federal Opioid Response) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): H79TI083296 FEDERAL AWARD DATE: 8/27/2020 FEDERAL AWARING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.788 RESEARCH AND DEVELOPMENT AWARD: ___YES OR <input checked="" type="checkbox"/>X_NO FEDERAL GRANT AWARD YEAR: FFY 2021 AWARD PERIOD: 9/30/2020 – 9/29/2021</p>
GRANT NAME: Substance Abuse Prevention and Treatment Block Grant (SUD FBG)	
<p>GRANT NAME: Substance Abuse Prevention and Treatment Block Grant (SUD FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B08TI083481 FEDERAL AWARD DATE: 2/1/2021 FEDERAL AWARING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.959 RESEARCH AND DEVELOPMENT AWARD: ___YES OR <input checked="" type="checkbox"/>X_NO FEDERAL GRANT AWARD YEAR: FFY 2021 AWARD PERIOD: 10/1/2020 – 9/30/2022</p>	<p>GRANT NAME: Substance Abuse Prevention and Treatment Block Grant (SUD FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B08TI083547 FEDERAL AWARD DATE: 3/11/2021 FEDERAL AWARING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.959 RESEARCH AND DEVELOPMENT AWARD: ___YES OR <input checked="" type="checkbox"/>X_NO FEDERAL GRANT AWARD YEAR: FFY 2022 AWARD PERIOD: 3/15/2021 – 3/14/2023</p>
GRANT NAME: Community Mental Health Services Block Grant (MH FBG)	
<p>GRANT NAME: Community Mental Health Services Block Grant (MH FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B09SM083794 FEDERAL AWARD DATE: 11/17/2020 FEDERAL AWARING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.958 RESEARCH AND DEVELOPMENT AWARD: ___YES OR <input checked="" type="checkbox"/>X_NO FEDERAL GRANT AWARD YEAR: FFY 2021 AWARD PERIOD: 10/1/2020 – 9/30/2022</p>	<p>GRANT NAME: Community Mental Health Services Block Grant (MH FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B09SM083950 FEDERAL AWARD DATE: 3/11/2021 FEDERAL AWARING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.958 RESEARCH AND DEVELOPMENT AWARD: ___YES OR <input checked="" type="checkbox"/>X_NO FEDERAL GRANT AWARD YEAR: FFY 2022 AWARD PERIOD: 3/15/2021 – 3/14/2023</p>

Exhibit F: FY22-23 Federal Grant Compliance Requirements

GRANT NAME: Emergency Grants to Address Mental & Substance Use Disorders During COVID-19 (MH & SUD Federal COVID Emergency Grant)	
<p>GRANT NAME: Emergency Grants to Address Mental & Substance Use Disorders During COVID-19 (MH & SUD Federal COVID Emergency Grant)</p> <p>FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): H79FG000285</p> <p>FEDERAL AWARD DATE: 4/16/2020</p> <p>FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA)</p> <p>FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services</p> <p>CFDA NUMBER: 93.665</p> <p>RESEARCH AND DEVELOPMENT AWARD: ___YES OR __X__NO</p> <p>FEDERAL GRANT AWARD YEAR: FFY 2021</p> <p>AWARD PERIOD: 4/20/2020 – 8/19/2021</p>	<p>GRANT NAME: Emergency Grants to Address Mental & Substance Use Disorders During COVID-19 (MH & SUD Federal COVID Emergency Grant)</p> <p>FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): H79FG000712</p> <p>FEDERAL AWARD DATE: 1/15/2021</p> <p>FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA)</p> <p>FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services</p> <p>CFDA NUMBER: 93.665</p> <p>RESEARCH AND DEVELOPMENT AWARD: ___YES OR __X__NO</p> <p>FEDERAL GRANT AWARD YEAR: FFY 2021</p> <p>AWARD PERIOD: 2/1/2021 – 5/31/2022</p>

Exhibit F (B) FY22-23 Single Audit Exemption Form

Audit of Financial Records: The Subrecipient shall comply with the audit and reporting requirements defined by the Federal Office of Management and Budget (OMB) 2 CFR 200 (Audits of States, Local, Governments and Non-Profit organizations) and 45 CFR 75.500 – 75.521 as applicable.

If total federal funds expended are less than \$750,000 for a year the Subrecipient is exempt from federal audit requirements (45 CFR 75-501(d)), however, the Subrecipient's records must be made available to the Pass-Through Agency and appropriate officials of HHS, SAMHSA, the U.S. Government Accountability Office and the Comptroller General of the United States upon request, and it must still have a financial audit performed for that year by an independent Certified Public Accountant.

The due date for submission of the audit shall be December 1, the same due date as audits required by OMB 2 CFR 200. Further, if applicable, within 30 days of the effective date of this Agreement, the Subrecipient must submit to DBHDS' Federal Grants Manager a written statement of exemptions to the single audit requirement and a copy of the most recent audited financial statement along with any findings and corrective action plans.

Organization Information:

<u>Agency Name and Address</u>		<u>FEIN(s)</u>	<u>Fiscal Year End Date</u>
<u>Agency Representative</u>		<u>Title</u>	
<u>Telephone</u>	<u>Fax</u>	<u>Email</u>	

Certification:

For the fiscal year indicated above, the agency did not incur expenditures of \$750,000 or more for all federal programs and is not required to have an audit of federal programs in accordance with the Federal Single Audit 2 CFR § 200.501 and 45 CFR 75.501. **The agency, however, agrees to submit an independent financial audit performed by an independent Certified Public Accountant.**

<u>Agency Representative's Signature</u>	<u>Date</u>
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Independent Auditor Information:

<u>Firm Name and Address</u>		
<u>CPA Name</u>	<u>Virginia State License Number</u>	
<u>Telephone</u>	<u>Fax</u>	<u>Email</u>

Exhibit G: FY22 – Core Mandated Services

Core mandated services a CSB shall be responsible for providing.

Services	Mandated	Description
Virginia Psychiatric Bed Registry	VA Code Mandated	The CSB shall participate in and utilize the Virginia Psychiatric Bed Registry required by § 37.2-308.1 of the Code to access local or state hospital psychiatric beds or residential crisis stabilization beds whenever necessary to comply with requirements in § 37.2-809 of the Code that govern the temporary detention process.
Preadmission Screening	VA Code Mandated	The CSB shall provide preadmission screening services pursuant to § 37.2-505 or § 37.2-606, § 37.2-805, § 37.2-809 through § 37.2-813, § 37.2-814, and § 16.1-335 et seq. of the Code.
Discharge Planning	VA Code Mandated	Section 37.2-500 of the Code of Virginia requires that CSBs must provide emergency services.
Emergency Services Availability	VA Code Mandated	Section 32.2-500 of the code requires the CSB shall have at least one local telephone number, and where appropriate one toll-free number, for emergency services telephone calls that is available to the public 24 hours per day and seven days per week throughout its service area.
Preadmission Screening Evaluations	VA Code Mandated	1.) The purpose of preadmission screening evaluations is to determine whether the person meets the criteria for temporary detention pursuant to Article 16 of Chapter 11 of Title 16.1, Chapters 11 and 11.1 of Title 19.2, and Chapter 8 of Title 37.2 in the Code and to assess the need for hospitalization or treatment. Preadmission screening reports required by § 37.2-816 of the Code shall comply with requirements in that section.
Certification of Preadmission Screening Clinicians	VA Code Mandated	The CSB and Department prioritize having emergency custody order or preadmission screening evaluations performed pursuant to Article 16 of Chapter 11 of Title 16.1, Chapters 11 and 11.1 of Title 19.2, and Chapter 8 of Title 37.2 in the Code provided by the most qualified, knowledgeable, and experienced CSB staff.
STEP-VA	VA Code Mandated and Appropriations Act MM.1	Pursuant to 37.2-500 and 37.2-601 of the Code, all CSBs shall provide the following services as described in the Taxonomy and report data through CCS 3 and CARS as required by the Department. <ul style="list-style-type: none"> a. Same Day Mental Health Assessment Services (SDA or Same Day Access) b. Outpatient Primary Care Screening Services

Exhibit G: FY22 – Core Mandated Services

		<ul style="list-style-type: none"> c. Outpatient Behavioral Health and Substance Use Disorder Services d. Peer Support and Family Support Services e. Mental Health Services for Military Service Members, Veterans, and Families (SMVF)
Department of Justice Settlement Agreement (DOJ SA)	Compliance with DOJ SA	See Exhibit M

COMMUNITY SERVICES PERFORMANCE CONTRACT

Exhibit H FY22-23: Regional Local Inpatient Purchase of Services (LIPOS) Requirements

Effective July 1, 2021, The Department and the CSB agree to implement the following requirements for management and utilization of all regional state mental health acute care (LIPOS) funds to enhance monitoring of and financial accountability for LIPOS funding, divert individuals from admission to state hospitals when clinically appropriate, and expand the availability of local inpatient psychiatric hospital services for state facility diversions.

HB1800 P. Out of this appropriation, \$8,774,784 from the general fund the second year is provided from a transfer from Item 322 for Community Services Boards and a Behavioral Health Authority to divert admissions from state hospitals by purchasing acute inpatient or community-based psychiatric services at private facilities. This funding shall continue to be allocated to Community Services Boards and a Behavioral Health Authority for such purpose in an efficient and effective manner so as not to disrupt local service contracts and to allow for expeditious reallocation of unspent funding between Community Services Boards and a Behavioral Health Authority.

A. The CSB Responsibilities

1. All regional state mental health LIPOS funds allocated within the region shall be managed by the regional management group (RMG) and the regional utilization management and consultation team (RUMCT) on which the CSB participates in accordance with Core Services Taxonomy 7.3.
2. The CSB, through the RMG and RUMCT on which it participates, shall ensure that other funds or resources such as pro bono bed days offered by contracting local hospitals and Medicaid or other insurance payments are used to offset the costs of local inpatient psychiatric bed days or beds purchased with state mental health LIPOS funds so that regional state mental health LIPOS funds can be used to obtain additional local inpatient psychiatric bed days or beds.
3. If an individual's primary diagnosis is SA (Substance Abuse) and a TDO (Temporary Detention Order) is issued to a private psychiatric facility LIPOS may be used by the CSB.
4. CSBs and/or regions are expected to maintain contracts or memorandum of agreement with local facilities that at minimum specifies funding is to be utilized as funding of last resort, authorization procedures, timeliness of invoicing, the rate and any other limitations. These contracts or MOU's shall be available to DBHDS upon request for review.
5. Annually regions will provide DBHDS with contracted rates for facilities. This will be due with the first quarter report.

B. The Department Responsibilities

1. The Department, may conduct utilization reviews of the CSB or region at any time to confirm the effective utilization of regional state mental health LIPOS funds.
2. The Department shall provide technical assistance when requested by the CSB.

C. Payment Terms

1. LIPOS allocations are distributed to the regional fiscal agent. The RMG/ RUMCT and Regional fiscal agent retain responsibility to ensure equitable access to the regional allocation by CSB and report to DBHDS any funding deficits or re allocation by CSB. Funding for regions will be

COMMUNITY SERVICES PERFORMANCE CONTRACT

Exhibit H FY22-23: Regional Local Inpatient Purchase of Services (LIPOS) Requirements

determined by DBHDS in collaboration with the region based on regional spending from previous year.

- a) For initial allocation to be distributed within 15 day of the beginning of the fiscal year DBHDS will allocated the higher of: either Average spending for previous fiscal year quarters 1, 2 and 3 **OR** the highest quarter spent.
 - b) For the quarters 2, 3 and 4 of the fiscal year determination of the allocation will be based on the previous quarter amount spent. *For example: Quarter 2 funding is a reimbursed amount of quarter 1 LIPOS spending.*
 - c) At any time during the year should expenses exceed funding regions may request assistance from DBHDS. Additionally DBHDS will monitor expenses and encumbrance to ensure regions have adequate funding for invoices received after the end of the fiscal year per contract/MOA agreements.
2. Administration fees for LIPOS are based on the following:
- a) The Regional Fiscal Agent is entering into a subcontract with another entity which will allow the third party to administer the service or program, the Regional Fiscal Agent may retain up to 5% of the allocation/expenditures for Administrative Costs.
- OR**
- The annualized cost of the employed Regional manager.
- b) The determination of which administration fee methodology utilized will be discussed and documented by regional leadership and DAP specialist with DBDHS. Should the region choose the 5% this 5% will be determined based on the amount spent the previous fiscal year.
 - c) The administration fee that is agreed upon will be sent in full to the region at the beginning of the fiscal year.
3. Any balance of LIPOS funds at the end of quarter 4 may be accounted for in the following fiscal year allocation. Unspent balances are not to be utilized without approval from DBHDS.

D. Reporting

1. The region will provide quarterly data on an agreed upon LIPOS data collection tool each quarter no later than 30 Days after the end of the quarter. Regions will maintain documentation of invoices from providers. These invoices and documentation shall be available to DBHDS upon request.
2. Any changes to the LIPOS reporting tool will be reviewed and discussed with CSB Regional Managers and they will be given a 30-day time frame to implement changes.
3. CSBs are responsible for maintaining reporting in the electronic health record for individuals receiving LIPOS contracted services. Bed days used should be recorded under Inpatient services (250).

I. Behavioral Health Wellness/Prevention Services

A. Required SABG Prevention Set-Aside Frameworks

- 1. Strategic Prevention Framework (SPF):** The CSB, in partnership with local community coalitions, shall use the data driven Strategic Prevention Framework (SPF) planning model to: complete a needs assessment using community, regional, and state data; build capacity to successfully implement prevention services; develop logic models, inclusive of CSB only programs and coalition partnership efforts, and a strategic plan with measurable goals, objectives, and strategies; implement evidenced-based programs, practices, and strategies that are linked to data and target populations; evaluate program management and decision making for enabling the ability to reach outcomes; plan for the sustainability of prevention outcomes; and utilize culturally appropriate strategies throughout all aspects of the SPF process.

The CSB shall work with OMNI Institute, the Department’s evaluation contractor, to develop an evaluation plan for its SABG prevention set aside-funded prevention services, Suicide Prevention and Mental Health First Aid strategies.

- 2. Institute of Medicine (IOM) and Center for Substance Abuse Prevention (CSAP) Six (6) Strategies:** The CSB shall use the IOM model to identify target populations based on levels of risk: universal, selective, and indicated. The CSB shall utilize the CSAPs evidenced- based strategies: information dissemination, education and skill building, alternatives, problem identification and referral, community-based process, and environmental approaches. Community-based process/coalitions and environmental approaches that impact the population as a whole are keys to achieving successful outcomes and are Department priorities.
- 3. Evidence Based Prevention Practice:** The Department prioritizes programs, practices, and strategies that target the prevention of substance use disorders and suicide and promotes mental health wellness across the lifespan using data to identify specific targets. The current prevention model best practice and a Department priority is environmental strategies complemented by programs that target the highest risk populations: selective and indicated (refer to subsection 5.b).

All programs, practices, and strategies must link to a current local needs assessment and align with priorities set forth by the Department. Remaining Departmental resources may be utilized to meet additional locally identified needs in the CSB catchment area. Programs, practices, and strategies can be selected from the following resources: Office of Juvenile Justice and Delinquency Prevention Effective, Blueprints Model Programs, Blueprints Promising Programs, Suicide Prevention Resource Center Section 1, Centers for Disease Control and Prevention Evidence-Based Practices and other sources of evidenced based prevention practice.

The CSB must select them based on evidence and effectiveness for the community and target population. All programs, practices, and strategies must be approved by the Department prior to implementation.

Substance abuse prevention services may not be delivered to persons who have substance use disorders in an effort to prevent continued substance use.

B. DBHDS Behavioral Health Wellness Priorities

Exhibit I FY2022-2023: Behavioral Health Wellness/Prevention Services

1. **SYNAR Strategies- Merchant Education and Counter Tools:** In July 1992, Congress enacted P.L. 102-321 section 1926, the SYNAR Amendment, to decrease youth retail access to tobacco. Beginning in FY 2003, the Department allocated \$10,000 annually to the CSB to complete SYNAR-related tasks. To stay in compliance with the SABG, states must meet and sustain the merchant retail violation rate (RVR) under 20 percent or face penalties to the entire SABG, including funds for treatment. Merchant education involves educating local merchants about the consequences of selling tobacco products to youth. This strategy has been effective in keeping state RVR rates under the required 20 percent. The CSB shall conduct merchant education activities with all merchants deemed by the Alcoholic Beverage Control Board to be in violation of selling tobacco products to youth in the CSB's service area. Other merchants shall be added if deemed to be at higher risk due to factors such as being in proximity to schools.

The CSB, itself or in collaboration with the local coalition, shall continuously update the verified list of tobacco retailers, including all retailers selling vapor products, by conducting store audits and recording the data into the Countertools system.

The CSB shall conduct store audits of and merchant education with 100 percent of tobacco retailers in its service area over a two year period. All store audit and merchant education activities shall be documented in the Counter Tools system and recorded in the prevention data system. Tobacco education programs for youth with the goal of reducing prevalence or use are not to be identified as SYNAR activities.

2. **Adverse Childhood Experiences (ACEs) Self-Healing Communities:**

ACEs have been connected to physical, emotional and behavioral health consequences in youth and adults to include substance use disorder, depression, anxiety and suicide. The self-healing communities' model builds the capacity of communities to define and solve problems most relevant to their localities to address ACEs and prevent and reduce the impact.

This model starts with training and then expanding leadership in each community. Research shows there is a significant connection between ACEs and suicides and drug overdoses. Helping communities understand the impact of ACEs will expand the leadership capacity necessary to do just that.

3. **Mental Health First Aid (MHFA) and Regional Suicide Prevention Initiatives:** In the FY 2014 budget, an ongoing appropriation was made to expand and support Suicide Prevention and Mental Health First Aid initiatives across the Commonwealth of Virginia in an effort to prevent suicide and reduce the stigma of mental illness and encourage seeking help.

The CSB shall work with the regional MH/Suicide prevention team to provide a regionally developed suicide prevention plan using the Strategic Prevention Framework model.

The plan developed by the team shall identify suicide prevention policies and strategies using the most current data to target populations with the highest rates of suicide. If selected by the region, the CSB shall act as the fiscal agent for the state funds supporting the suicide prevention services. MHFA may be offered by individual CSBs and/or as a part of the regional effort.

C. SABG Prevention Proposed Performance Contract Measures

To reflect the performance in the above-named categories, we will use the following measures as a minimum requirement:

Priority Strategy	Proposed FY21 and FY22 Performance Contract Measures
<p>General Capacity Requirements</p>	<ul style="list-style-type: none"> • Each CSB must complete an evaluation plan which is revised and approved annually and includes: <ul style="list-style-type: none"> ○ A logic model which includes all of the required priority strategies all CSBs must implement and any discretionary strategies the CSB has elected to implement. ○ A measurement plan documenting how all required metrics will be tracked and reported. • All prevention programs, practices, and strategies must be evidence-based and approved by the DBHDS OBHW team. Only strategies that align with the state-identified priorities and/or the CSB’s logic model outcomes will be approved. • Each CSB must maintain a license for the Performance-Based Prevention System (PBPS) and record all implemented strategies in the PBPS. • Each CSB must maintain a minimum of 1 FTE Prevention Lead position. This position leads and ensures compliance and implementation of all Prevention priority strategies. • Prevention funding should be used for prevention staff to attend at least one national prevention-related conference per year. Any national conferences outside of the NPN Prevention Research Conference, NATCON, CADCA National or Mid-Year Conferences must have prior DBHDS approval. Each CSB receives \$3000 in their base allocation to help support this capacity building effort.
<p>Community Coalition Development</p>	<ol style="list-style-type: none"> 1. The CSB shall be involved in a minimum of 6-10 coalition meetings a year. 2. The CSB should maintain membership in CADCA and/or CCoVA each year. 3. The CSB and its associated coalition should ensure youth engagement in the coalition either as a sub-group of the coalition or a separate youth coalition. 4. The CSB should maintain a social media presence to publicize prevention activities and messaging (Facebook page, Instagram, website, etc.) Websites should be updated monthly at a minimum and social media bi-weekly to ensure information and resources remain relevant and engages the community. 5. Every 2 years, each CSB must complete a coalition readiness assessment and an assessment of representation in the coalition of the following 12 sectors: youth; parents; businesses; media; school; youth-serving organizations; law enforcement; religious/fraternal organizations; civic and volunteer organizations; healthcare professionals; state, local and tribal governments; and other organizations involved in reducing illicit substance use.
<p>SYNAR: Merchant Education and Counter Tools</p>	<ol style="list-style-type: none"> 1. The CSB shall conduct store audits of and merchant education with 100 percent of tobacco/nicotine retailers in its service area over a two-year period. Any retailer to be found in violation in the previous year is to be given priority for merchant education. 2. The CSB also must maintain and update a list of tobacco/nicotine retailers in its catchment area over the two-year period. 3. Data must be entered into the Counter Tools and PBPS systems. 4. Tobacco education programs for youth with the goal of reducing prevalence of use are not to be identified as SYNAR activities.
<p>ACEs Self-Healing Communities</p>	<ol style="list-style-type: none"> 1. All CSBs should ensure there are at least 2 ACEs master trainers in their catchment area at all times. 2. All CSBs must conduct at least 12 ACEs trainings annually. 3. All ACEs training data (including number of trainings held and number of people trained) must be reported in PBPS. 4. CSBs which are designated as Self-Healing Communities and are receiving additional funding to address ACEs must complete all items noted above <i>and</i> the following: 5. Maintain an ACEs self-healing community advisory committee made up of a cross-section of community partners, meets at least quarterly, reviews the Self-Healing Communities logic model and provides ongoing feedback and recommendations on how to best achieve the logic model goals.

Priority Strategy	Proposed FY21 and FY22 Performance Contract Measures
	<ol style="list-style-type: none"> 6. Create a logic model specific to the ACEs work that is planned and implemented in the community. 7. Submit a quarterly report on all ACEs strategies and measures. 8. Engage in a local Trauma-Informed Community Network (TICN) or other trauma-centered coalition.
<p>MHFA/Suicide Prevention Planning and Trainings</p>	<ol style="list-style-type: none"> 1. The CSB shall work with the regional MH/suicide prevention team to provide a regionally developed suicide prevention plan using the Strategic Prevention Framework model. 2. The plan developed by the team shall identify suicide prevention policies and strategies. Strategies should be determined using the most current data and there should be strategies in the plan that are for the community as a whole as well as strategies that target subpopulations with the highest rates of suicide. The plan should also identify the CSB’s marketing plan to ensure community groups (schools, faith groups, businesses, etc.) and community members are aware of the mental health and suicide prevention trainings the CSB is providing. 3. Each MHFA trainer must provide a minimum of 3 Youth and/or Adult MHFA trainings annually. 4. The CSB should ensure a minimum of 45 community participants are trained annually in MHFA (across all MHFA trainers at the CSB; there is no minimum number of trainees for each certified trainer). 5. In addition to the required MHFA trainings, a minimum of 3 suicide prevention trainings <i>per trainer</i> must be provided annually. These 3 trainings may be a combination of any of the approved trainings below: <ol style="list-style-type: none"> a. ASIST b. safeTALK c. suicideTALK d. QPR 6. Every year, each CSB will be required to submit a mid-year (April) and end-of-year (September) report which should contain details on trainings implemented, including the number of different groups and community members participating in the trainings.
<p>Lock & Talk</p>	<ol style="list-style-type: none"> 1. CSBs participating in the Lock and Talk Initiative shall develop an implementation plan that best meets the needs of their respective communities (including strategies to address target populations.) At a minimum CSBs are expected to implement components 1 & 2 below, and strongly encouraged to implement the Gun Shop Project and/or partner with their medical community (pharmacies, medical practices) if the Gun Shop Project is not an appropriate fit for their community. 2. Lock and Talk Components: <ol style="list-style-type: none"> a) Media Campaign Materials (bus ads, posters, billboards, PSA, etc.) b) Medication Lock Box/Cable Lock/Trigger Lock Distribution at Event c) Gun Shop Project

FY 22-23 Exhibit K**Collaborative Discharge Requirements for Community Services Boards and State Hospitals****Adult & Geriatric****Department of Behavioral Health and Developmental Services**

This document is designed to provide consistent direction and coordination of activities required of state hospitals and community services boards (CSBs) in the development and implementation of discharge planning. The activities delineated in these protocols are based on or referenced in the Code of Virginia or the community services performance contract. In these protocols, the term CSB includes local government departments with a policy-advisory CSBs, established pursuant to § 37.2-100 of the Code of Virginia, and the behavioral health authority, established pursuant to § 37.2-601 et seq. of the Code of Virginia.

Shared Values:

Both CSBs and state hospitals recognize the importance of timely discharge planning and implementation of discharge plans to ensure the ongoing availability of state hospital beds for individuals presenting with acute psychiatric needs in the community. The recognition that discharge planning begins at admission is an important aspect of efficient discharge planning.

The Code of Virginia assigns the primary responsibility for discharge planning to CSBs; however, discharge planning is a collaborative process that must include state hospitals.

Joint participation in treatment planning and frequent communication between CSBs and state hospitals are the most advantageous method of developing comprehensive treatment goals and implementing successful discharge plans. The treatment team, in consultation with the CSB, shall ascertain, document, and address the preferences of the individual and their surrogate decision maker (if one has been designated) in the assessment and discharge planning process that will promote elements of recovery, resiliency, self-determination, empowerment, and community integration.

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Collaborative Discharge Requirements for Community Services Boards and State Hospitals

Adult & Geriatric

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Appendix C: DAP Memory Care Justification Form

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General Requirements

Regional responsibility	Responsible entity	Timeframe
The CSB emergency services clinicians shall complete a tracking form documenting all private hospital contacts prior to seeking a bed of last resort at a state hospital, and transmit the form to the receiving state hospital, along with the preadmission screening form.	CSB emergency services	<i>Upon admission request to state hospital</i>
Each CSB shall provide the DBHDS Director of Community Integration (or designee) with the names of CSB personnel who are serving as the CSB's state hospital discharge liaisons. The DBHDS Office of Community Integration will update and distribute listings of all CSB discharge planning and state hospital social work contacts to CSB regional managers and state hospital social work directors, with the expectation that these will be distributed to individual CSBs and state hospital social workers.	CSBs DBHDS Office of Community Integration	<i>At least quarterly, or whenever changes occur</i> <i>At least quarterly</i>
Each region shall develop a process for developing, updating, and distributing a list of available CSB and regional housing resources funded by DBHDS for individuals being discharged from state hospitals. The resource listing should include willing private providers. Regions shall review and update the list and ensure that it is available to CSB state hospital liaisons, state hospital social work staff, and Central Office Community Transition Specialists to ensure that all resource options are explored for individuals in state hospitals.	CSB regions	<i>Updated at least quarterly</i>
In order to facilitate communication and timely problem solving, each region shall establish, regularly review, and update a regional bidirectional process, with time frames, and clearly defined steps for notification, discussion, and	CSB regions	<i>Updated as needed</i>

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resolution of issues surrounding discharge planning for both adult and geriatric hospitals, to include CSBs, state hospitals, and Central Office levels. A copy of this process shall be submitted to each region's Community Transition Specialist.		
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Collaborative Responsibilities Following Admission to State Hospitals

CSB responsibilities	Timeframe	State hospital responsibilities	Timeframe
The CSB emergency services clinician shall notify the CSB discharge planner of every admission to a state hospital	<i>Within 24 hours of the issuance of the TDO</i>		
CSB staff shall participate in discussions to determine whether the state hospital is the most appropriate treatment site	<i>Immediately upon admission and ongoing</i>	State hospital staff shall assess each individual to determine whether the state hospital is the most appropriate treatment site	<i>Immediately upon admission and ongoing</i>
<p>CSB staff shall begin the discharge planning process for both civil and forensic admissions. If the CSB disputes case management CSB/discharge planning responsibility for the individual, the CSB shall notify the state hospital social work director immediately upon notification of the admission (for reference, please see the definition of “case management CSB/CSB responsible for discharge planning” contained in the glossary of this document).</p> <ol style="list-style-type: none"> 1. For every admission to a state hospital from the CSB’s catchment area that is not currently open to services at that CSB, the CSB shall open the individual to consumer monitoring and assign case management/discharge planning responsibilities to the appropriate staff. 2. The individual assigned to take the lead in discharge planning will ensure that other relevant parties (CSB program staff, private providers, etc.) are engaged with state hospital social work staff. 	<i>Upon admission</i>	<p>State hospital staff shall contact the CSB to notify them of the new admission</p> <p>State hospital staff shall also provide a copy of the admissions information/face sheet to the CSB, as well as the name and phone number of the social worker assigned and the name of the admitting unit</p> <p>For individuals admitted with a primary developmental disability (DD) diagnosis, or a co-occurring mental health and DD diagnosis, the hospital social work director (or designee) shall communicate with the CSB discharge liaison to determine who the CSB has identified to take the lead in discharge planning (CSB liaison or DD staff). At a minimum, the CSB staff is who assigned lead discharge planning responsibilities shall participate in all treatment team meetings and discharge planning meetings; however, it is most advantageous if both staff can participate in treatment teams as much as possible.</p>	<p><i>Within one business day</i></p> <p><i>Within one business day</i></p>

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<p>3. CSB staff shall establish a personal contact (preferably in person) with the hospitalized individual in order to initiate collaborative discharge planning.</p>	<p><i>Within seven calendar days of admission</i></p>		
<p>CSB staff will make arrangements to attend CTP and TPR meetings in person. If CSB staff are unable to physically attend the CTP or TPR meeting, the CSB may request arrangements for telephone or video conference.</p> <p>For NGRI patients with approval for unescorted community not overnight privileges and higher, the CSB NGRI Coordinator shall also make arrangements to attend any CTP and TPR meetings in person, or, if unable to attend in person, may request alternative accommodations.</p> <p>In the event that the arrangements above are not possible, the CSB shall make efforts to discuss the individual's progress towards discharge with the state hospital social worker within two business days of the CTP or TPR meeting.</p> <p>Note: While it may not be possible for the CSB to attend every treatment planning meeting,</p>	<p><i>Ongoing</i></p> <p><i>Ongoing</i></p> <p><i>Within two business days of</i></p>	<p>State hospital staff shall make every effort to inform the CSB by email of the date and time of CTP meetings. For NGRI patients with approval for unescorted community not overnight privileges and higher, state hospital staff will include the CSB NGRI Coordinator in these notifications.</p> <p>If CTP and TPR meetings must be changed from the originally scheduled time, the state hospital shall make every effort to ensure that the CSB is made aware of this change</p> <p>The CTP meeting shall be held within seven calendar days of admission.</p> <p>Note: It is expected that the state hospital will make every effort to include CSBs in CTP and TPRs, including providing alternative accommodations (such as phone or video) and scheduling meetings so that liaisons can</p>	<p><i>At least two business days prior to the scheduled meeting</i></p> <p><i>Within seven calendar days of admission</i></p>

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<p>participation in person or via phone or video conference is expected. This is the most effective method of developing comprehensive treatment goals and implementing efficient and successful discharge plans.</p>	<p><i>the missed meeting</i></p>	<p>participate in as many treatment team meetings as possible</p>	
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Needs Assessment

CSB responsibilities	Timeframe	State hospital responsibilities	Timeframe
<p>Discharge planning begins on the initial prescreening evaluation and continues throughout hospitalization. In completing the discharge plan, the CSB shall consult with the individual, members of the treatment team, the surrogate decision maker, and (with consent) family members or other parties, to determine the preferences of the individual upon discharge.</p> <p>The CSB shall obtain required releases of information.</p> <p>The discharge plan shall include:</p> <ul style="list-style-type: none"> • The anticipated date of discharge from the state hospital • The identified services needed for successful community placement and the frequency of those services • The specific public and/or private providers that have agreed to provide these services 	<p><i>At admission and ongoing thereafter</i></p> <p><i>As soon as possible upon admission</i></p>	<p>The state hospital social worker shall complete the comprehensive social work assessment. This assessment shall provide information to help determine the individual's needs upon discharge.</p> <p>The treatment team shall document the individual's preferences in assessing their unique needs upon discharge.</p>	<p><i>Prior to the CTP or within seven calendar days of admission</i></p> <p><i>Ongoing</i></p>
<p>CSB shall assist with any required forms of identification, or obtaining required documents that an individual may already have.</p>	<p><i>As needed</i></p>	<p>The state hospital shall assess if any form of identification will be required for discharge planning purposes, what forms of identification the individual may already have available, and begin the process of obtaining identification if needed</p>	<p><i>Within one week of admission</i></p>
<p>If the individual's needs change or as more specific information about the discharge plan</p>	<p><i>Ongoing</i></p>	<p>As an individual's needs change, the hospital social worker shall document changes in their</p>	<p><i>Ongoing</i></p>

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becomes available, the CSB staff shall update the discharge plan accordingly		progress notes and through communications/meetings with the CSB.	
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The CSB and the state hospital treatment team shall ascertain, document, and address the preferences of the individual and the surrogate decision maker as to the placement upon discharge. These preferences shall be addressed to the greatest degree possible in determining the optimal and appropriate discharge placement (please see attached memo regarding patient choice in state hospital discharges)	<i>Ongoing</i>
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<p>The CSB NGRI Coordinator or designee (with decision-making and signatory authority) shall attend in person or via telephone any meetings scheduled to discuss an acquittee’s appropriateness for privilege level increases at the unescorted community not overnight privilege level or higher.</p> <p>The CSB NGRI Coordinator shall review, edit, sign, and return the risk management plan (RMP) for individuals adjudicated as NGRI</p> <p>The CSB NGRI Coordinator shall develop and transmit to the state hospital a fully developed conditional release plan (CRP) or unconditional release plan (UCRP) with all required signatures</p> <p>Please note: For some NGRI patients, the RMP or CRP may involve more than one CSB. It is essential that the CSB responsible for the development of these plans communicates efficiently with other involved CSBs, and ensures that these plans are signed as soon as possible according to the time frames above.</p>	<p><i>to DBHDS Central Office Forensics staff</i></p> <p><i>Ongoing</i></p> <p><i>Within 10 business days of receiving notice from the state hospital</i></p> <p><i>Within 10 business day of being notified that the individual has been recommended for release</i></p>	<p>The state hospital shall provide notice to CSB staff, including the CSB NGRI Coordinator, of the need for a risk management plan (RMP), a Conditional Release Plan (CRP), or an Unconditional Release Plan (UCRP) once the determination has been made that a packet must be completed</p> <p>The state hospital shall complete the packet requesting an increase in privilege level or release</p>	<p><i>Within one business day of the treatment team identifying the individual as being eligible for a privilege increase or release</i></p> <p><i>Within 10 business days of the treatment team identifying the individual as being eligible for a privilege increase</i></p>
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<p>Guardianship:</p> <p>Upon being notified of the need for a guardian, the CSB shall explore potential individuals/agencies to serve in that capacity.</p> <p>If the CSB cannot locate a suitable candidate who agrees to serve as guardian, they shall notify the state hospital to begin the process of referral for a DBHDS guardianship slot.</p>	<p><i>Within two business days of notification</i></p> <p><i>Within 10 business days of notification of need for a guardian</i></p>	<p>Guardianship:</p> <p>Evaluation for the need for a guardian shall start upon admission. Activities related to securing a guardian (if needed) start and continue regardless of a patient’s discharge readiness level.</p> <p>The hospital social worker shall notify the CSB discharge planner that the treatment team has determined that the individual is in need of a guardian in order to be safely discharged.</p> <p>If notified by the CSB that a suitable candidate for guardianship cannot be located, the state hospital shall begin the process of referring the individual to DBHDS Central Office for a DBHDS guardianship slot. This referral shall include a comprehensive assessment of the individual’s lack of capacity, and potential for regaining capacity. This assessment shall be shared with the CSB upon completion by the evaluating clinician.</p>	<p><i>Within two business days of determination</i></p> <p><i>Immediately upon notification by the CSB of the need for a DBHDS guardianship slot</i></p>

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<p>Assisted Living (ALF) referrals:</p> <p>The CSB shall obtain verbal consent and releases from the individual or the surrogate decision maker to begin initial contacts to facilities regarding bed availability and willingness to consider the individual for placement.</p> <p>The CSB shall obtain required documentation and send referral packets to multiple potential placements. The referrals are to be sent simultaneously.</p> <p>If the CSB does not receive a response from a potential placement, the CSB shall be follow up with providers regarding potential placements. It is expected that the CSB will continue to communicate with the provider about potential placement until a disposition decision is reached or the patient discharges to a different placement.</p>	<p><i>As soon as an ALF is being considered, and prior to the individual being determined to be RFD</i></p> <p><i>Within one business day after the individual is rated as RFD</i></p> <p><i>Within five business days of sending the referral</i></p>	<p>Assisted Living referrals:</p> <p>The state hospital shall complete the UAI.</p> <p>The state hospital shall transmit the UAI to the CSB</p> <p>The state hospital shall assist in the facilitation of interviews/assessments required by potential ALF providers</p>	<p><i>Within five business days of the individual being found discharge ready level 2</i></p> <p><i>Immediately upon completion of the UAI</i></p> <p><i>As requested</i></p>

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<p>If it is determined that a secure Memory Care unit is recommended and that DAP will be required to fund this placement, the CSB shall completed the Memory Care Justification form, submit to the Community Transition Specialist for their hospital, and receive approval prior to referring to secure memory care units.</p>	<p><i>Prior to referring to private pay Memory Care units</i></p>		
<p>Nursing home (NH) referrals:</p> <p>The CSB shall obtain verbal consent and releases from the individual or the surrogate decision maker to begin initial contacts regarding bed availability and willingness to consider the individual for placement.</p> <p>The CSB shall obtain required documentation and send referral packets to multiple potential placements. The referrals are to be sent simultaneously.</p> <p>If the CSB does not receive a response from a potential placement, the CSB shall follow up with providers regarding potential placements. It is expected that the CSB will continued to communicate with the provider about potential placement until a disposition decision is reached</p>	<p><i>As soon as an NH is being considered, and prior to the individual being determined to be RFD</i></p> <p><i>Within one business day after the individual is rated as RFD</i></p>	<p>Nursing home referrals:</p> <p>The state hospital shall complete the UAI</p> <p>For individuals who require PASRR screening, the state hospital shall send the referral packet to Ascend</p> <p>The results of the level 2 PASRR screening shall be transmitted to the CSB</p> <p>The state hospital shall assist in the facilitation of interviews/assessments required by potential nursing home providers</p>	<p><i>Within five business days of the individual being found discharge ready level 2</i></p> <p><i>Within one business day of the individual being found clinically ready for discharge</i></p> <p><i>Immediately upon receipt of the screening results</i></p>

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<p>or the patient discharges to a different placement.</p>	<p><i>Within five business days of sending the referral</i></p>		<p><i>As requested</i></p>
<p>Shelter placements: Both the CSB responsible for discharge planning, and the CSB that serves the catchment area where the shelter is located shall follow the same procedures as outlined in the CSB transfers section for out of catchment placements.</p>		<p>Shelter placements: If discharge to a shelter is clinically recommended and the individual or their surrogate decision maker agrees with this placement, the hospital social worker shall document this recommendation in the medical record. The hospital social worker shall notify the director of social work when CSB consultation has occurred. The director of social work shall review the plan for discharge to a shelter with the medical director (or their designee). Following this review, the medical director (or designee) shall document</p>	

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<p>The CSB liaison and support coordinator shall participate in the development and updating of the discharge plan, including attending and participating in treatment team meetings, discharge planning meetings, and other related meetings.</p> <p>The CSB shall contact and send referrals to potential providers, and assist in coordinating assessments with these providers.</p> <p>The CSB shall assist in scheduling tours/visits with potential providers for the individual and/or the individual’s surrogate decision maker.</p> <p>The CSB shall locate and secure needed specialists who will support the individual in the community at discharge.</p> <p>If required, the CSB shall facilitate the transfer of case management responsibilities to the receiving CSB according to the <i>Transferring Support Coordination/DD Waiver Slots</i> policy.</p> <p>The CSB shall request an emergency DD waiver slot if the individual is determined to be eligible for waiver, prior to requesting DAP funding.</p> <p>If it is anticipated that an individual with a DD diagnosis is going to require transitional</p>	<p><i>Immediately upon notification of need</i></p> <p><i>At admission and ongoing</i></p> <p><i>At the time that an individual is rated a discharge ready level 2</i></p> <p><i>Ongoing</i></p> <p><i>Prior to discharge</i></p> <p><i>According to timelines set forth</i></p>	<p>including conducting psychological testing and assessments as needed.</p> <p>The state hospital shall serve as a consultant to the DD case manager as needed.</p> <p>The state hospital shall assist with coordinating assessments with potential providers.</p> <p>The state hospital shall facilitate tours/visits with potential providers for the individual and/or the individual’s surrogate decision maker.</p> <p>Note: When requested referrals or assessments are not completed in a timely manner, the state hospital director shall contact the CSB Executive Director to resolve delays in the referral and assessment process.</p>	<p><i>psychological testing and assessment shall be completed within 21 calendar days of referral</i></p> <p><i>At the time that the individual is rated a discharge ready level 2</i></p> <p><i>Ongoing</i></p>
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Collaborative Discharge Requirements for Community Services Boards and State Hospitals

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<p>funding, the CSB shall completed an application for DD crisis funds.</p>	<p><i>in the transfer procedure</i></p> <p><i>Immediately upon notification of need</i></p> <p><i>Immediately upon notification of need</i></p>		
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Collaborative Discharge Requirements for Community Services Boards and State Hospitals

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Readiness for Discharge

CSB responsibilities	Timeframe	State hospital responsibilities	Timeframe
<p>Once the CSB has received notification of an individual's readiness for discharge, they shall take immediate steps to implement the discharge plan</p>	<p><i>Immediately upon notification</i></p>	<p>The treatment team shall assess and rate the clinical readiness for discharge for all individuals</p> <p>The state hospital social worker shall notify the CSB through the use of email when the treatment team has made a change to an individual's discharge readiness rating. This includes when an individual is determined to be ready for discharge and no longer requires inpatient level of care. Or, for voluntary admissions, when consent has been withdrawn.</p>	<p><i>A minimum of weekly</i></p> <p><i>Within one business day</i></p>
<p>In response to the state hospital's weekly email including all patients who are RFD, the CSB shall "reply all" with discharge planning updates.</p> <p>Note: These email correspondences are not required to occur on weeks when CSBs and state hospitals collaboratively review patients who are ready for discharge. These notifications and responses shall occur for all individuals, including individuals who were diverted from other state hospitals.</p>	<p><i>Within two business days</i></p>	<p>On weeks in which CSB and state hospital census/barriers meetings do not occur, the state hospital shall use encrypted email to provide notification to each CSB's liaison, the liaison's supervisor, the CSB behavioral health director or equivalent, the CSB executive director, the state hospital social work director, the state hospital director, the appropriate Regional Manager, and the Central Office Community Transition Specialist (and others as appropriate) of every individual who is ready for discharge, including the date that the individual was determined to be clinically ready for discharge.</p>	<p><i>Weekly</i></p>

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		Note: These notifications and responses shall occur for all individuals, including individuals who were diverted from other state hospitals.	
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Collaborative Discharge Requirements for Community Services Boards and State Hospitals

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Clinical Readiness for Discharge Rating Scale

1. Clinically Ready for Discharge

- Has met treatment goals and no longer requires inpatient hospitalization
- Is exhibiting baseline behavior that is not anticipated to improve with continued inpatient treatment
- No longer requires inpatient hospitalization, but individual/family/surrogate decision maker is reluctant to participate in discharge planning
- NGRI patients with approval to begin 48 hour passes*
- NGRI patient for whom at least one forensic evaluator has recommended conditional or unconditional release and there is a pending court date*
- NGRI on revocation status and treatment team and CSB recommend conditional or unconditional release and there is a pending court date*
- Any civil patient for which the barrier to discharge is not clinical stability
- Other forensic legal status (CST, restoration, etc.): clinically stable, evaluations completed and ready to be discharged back to jail*

2. Almost Clinically Ready for Discharge

- Has made significant progress towards meeting treatment goals, but needs additional inpatient care to fully address clinical issues and/or there is a concern about adjustment difficulties
- Can take community trial visits to assess readiness for discharge; may have the civil privilege level to go on temporary overnight visits
- NGRI with unescorted community visits, not overnight privilege level
- Other forensic legal status: significant clinical improvement, evaluations not yet completed

3. Not Clinically Ready for Discharge

- Has not made significant progress towards treatment goals and requires treatment and further stabilization in an acute psychiatric inpatient setting
- NGRI and does not have unescorted community visits privilege
- Other forensic legal status: may present with symptoms, willing to engage in treatment, evaluations not yet completed

4. Significant Clinical Instability Limiting Privileges and Engagement in Treatment

- Not nearing psychiatric stability
- Requires constant 24 hour a day supervision in an acute inpatient psychiatric setting
- Presents significant risk and/or behavioral management issues that requires psychiatric hospitalization to treat
- Unable to actively engage in treatment and discharge planning, due to psychiatric or behavioral instability

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- Other forensic legal status: not psychiatrically stable or nearing psychiatric stability, evaluations not completed

For any patient in which the legal system (e.g. court system, probation, etc.) is required to approve their discharge plan, their designation on the discharge ready list should be notated with a double asterisk()*

Note: Discharge planning begins at admission and is continuously active throughout hospitalization, independent of an individual's clinically readiness for discharge rating.

Discharge Readiness Dispute Process for State Hospitals, CSBs, and DBHDS Central Office

1. The CSB shall notify the state hospital social work director (or designee), in writing, of their disagreement with the treatment team's designation of the individual's clinical readiness for discharge within three calendar days (72 hours) of receiving the discharge readiness notification.
2. The state hospital social work director (or designee) shall initiate a resolution effort to include a meeting with the state hospital and CSB staff at a higher level than the treatment team (including notification to the CSB executive director and state hospital director), as well as a representative from the Central Office Community Integration Team. This meeting shall occur within one business day of receipt of the CSB's written disagreement.
3. If the disagreement remains unresolved, the Central Office Community Integration Team will immediately give a recommendation regarding the patient's discharge readiness to the DBHDS Commissioner. The Commissioner shall provide written notice of their decision regarding discharge to the CSB executive director and state hospital director.
4. During the dispute process outlined above, the CSB shall formulate a discharge plan that can be implemented within three business days if the decision is in support of clinical readiness for discharge.
5. Should the Commissioner determine that the individual is clinically ready for discharge and the CSB has not developed a discharge plan to implement immediately, then the discharge plan shall be developed by the Department and the Commissioner may take action in accordance with Virginia Code § 37.2-505(A)(3).

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Finalizing Discharge

Joint Responsibility of the State Hospital, CSB, and DBHDS Central Office

At a minimum, twice per month the state hospital and CSB staff shall review individuals rated a 1 on the clinical readiness for discharge scale. Individuals rated a 2 on the clinical readiness for discharge scale shall be jointly reviewed at least once per month. To ensure that discharge planning is occurring at an efficient pace, the CSB shall provide updated discharge planning progress that shall be documented in these reviews. The regional utilization structures shall review at least monthly the placement status of those individuals who are on the EBL.

The Office of Community Integration shall monitor the progress of those individuals who are identified as being ready for discharge, with a specific focus on individuals who are on the EBL.

When a disagreement between the state hospital and the CSB occurs regarding the discharge plan for an individual, both parties shall attempt to revolve the disagreement and will include the individual and their surrogate decision maker, if appropriate. If these parties are unable to reach a resolution, the state hospital will notify their Central Office Community Transition Specialist within three business days to request assistance in resolving the dispute.

CSB responsibilities	Timeframe	State hospital responsibilities	Timeframe
<p>In the event that the CSB experiences extraordinary barriers to discharge and is unable to complete the discharge within seven (7) calendar days of the determination that the individual is clinically ready for discharge, the CSB shall document in the CSB medical record the reason(s) why the discharge cannot occur within seven (7) days of determination. The documentation shall describe the barriers to discharge (i.e. reason for placement on the Extraordinary Barriers List (EBL) and the specific steps being taken by the CSB to address these barriers.</p>	<p><i>Within seven (7) calendar days of determination that individual is clinically ready for discharge</i></p>		

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<p>The reduce readmissions to state hospitals, CSBs, in conjunction with the treatment team, shall develop and complete (when clinically indicated) a safety and support plan as part of the individual’s discharge plan</p> <p>Note: Safety and support plans are generally not required for court-ordered evaluations, restoration to competency cases, and jail transfers; however, at the clinical discretion of the CSB and/or treatment team, the development of a safety and support plan may be advantageous when the individuals presents significant risk factors, and for those individuals who will be returning to the community following a brief incarceration period.</p> <p>Exception: Due to having a risk management plan as part of the conditional release plan, NGRI acquittees do not require a safety and support plan</p>	<p><i>Prior to discharge</i></p>	<p>The state hospital shall collaborate and provide assistance in the development of safety and support plans</p> <p>Note: Safety and support plans are generally not required for court-ordered evaluations, restoration to competency cases, and jail transfers; however, at the clinical discretion of the CSB and/or treatment team, the development of a safety and support plan may be advantageous when the individuals presents significant risk factors, and for those individuals who will be returning to the community following a brief incarceration period.</p> <p>Exception: Due to having a risk management plan as part of the conditional release plan, NGRI acquittees do not require a safety and support plan</p>	<p><i>Prior to discharge</i></p>
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<p>Benefit applications: For any patient who is committed to a state facility (or CMA), and whose hospital stay is less than 30 days, the CSB shall initiate applications for Social Security benefits.</p> <p>The CSB shall contact the entity responsible for processing entitlement applications (SSA, DSS, etc.) to ensure that the benefits application has been received and that these entities have all required documentation.</p> <p>If benefits are not active with 30 days of the patient’s discharge, the CSB shall again contact the entity responsible for processing the entitlement application in order to expedite benefit approval.</p>	<p><i>As soon as a discharge date is finalized</i></p> <p><i>30 days post-discharge, and every 15 days thereafter until benefits are active</i></p>	<p>Benefit applications: State hospital staff shall initiate applications for Medicare, Medicaid, Social Security benefits, Auxiliary Grant, and other financial entitlements as necessary. Applications shall be initiated in a timely manner per federal and state regulations <i>*Note: For patients whose hospital stay is less than 30 days, the CSB will be responsible for Social Security applications</i></p> <p>To facilitate follow-up, if benefits are not active at the time of discharge, the state hospital shall notify the CSB of the type of entitlement application, as well as the date it was submitted, and include a copy of entitlement applications with the discharge documentation that is provided to the CSB</p>	<p><i>Prior to discharge and per federal and state regulations</i></p>
<p>Discharge Transportation:</p> <p>The CSB shall ensure that discharge transportation is arranged for individuals discharging from state hospitals.</p> <p>Note: When transportation is the only remaining barrier to discharge, the state hospital and CSB will implement a resolution process for resolving transportation issues when these are anticipated to result in discharges being delayed by 24 hours or more.</p>	<p><i>Prior to scheduled discharge date</i></p>	<p>Note: When transportation is the only remaining barrier to discharge, the state hospital and CSB will implement a resolution process for resolving transportation issues when these are anticipated to result in discharges being delayed by 24 hours or more.</p>	

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<p>permanently unavailable, resulting in increased risk to the community or to the NGRI acquittee.</p> <p>For individuals who are enrolled in CSB DD services, please follow the <i>Transferring Support Coordination/DD Waiver Slots</i> policy.</p>			
<p>At a minimum, the CSB responsible for discharge and the CSB that serves the discharge catchment area shall collaborate prior to the actual discharge date. The CSB responsible for discharge planning is responsible for completing the discharge plan, conditional release plan, and safety and support plan (if indicated), and for the scheduling of follow up appointments.</p> <p>While not responsible for the development of the discharge plan and the safety and support plan, the CSB that serves the catchment area where the patient will be discharged should be actively involved in the development of these plans. The arrangements for and logistics of this involvement are to be documented in the</p>	<p><i>Prior to discharge</i></p>		

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<p>discharge plan and the individual’s medical record.</p> <p>The CSB responsible for discharge planning shall provide the CSB that serves the catchment area where the patient will be discharging with copies of all relevant documentation related to the treatment of the individual.</p>	<p><i>Prior to discharge</i></p>		
<p>If the two CSBs cannot agree on the transfer, they shall seek resolution from the Director of Community Integration (or designee). The CSB responsible for discharge planning shall initiate this contact</p>	<p><i>Within three calendar days of notification of intent to transfer</i></p>		

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Glossary

Acute admissions or acute care services: Services that provide intensive short-term psychiatric treatment in state mental health hospitals.

Case management CSB/CSB responsible for discharge planning: The public body established pursuant to § 37.2-501 of the *Code of Virginia* that provides mental health, developmental, and substance abuse services within each city and county that established it and in which an adult resides or in which surrogate decision maker resides. The case management CSB is responsible for case management and liaising with the hospital when an individual is admitted to a state hospital, and for discharge planning. If the individual or surrogate decision maker chooses for the individual to reside in a different locality after discharge from the state hospital, the CSB serving that locality becomes the receiving CSB and works with the CSB responsible for discharge planning/referring CSB, the individual, and the state hospital to effect a smooth transition and discharge. The CSB responsible for discharge planning is ultimately responsible for the completion of the discharge plan. Reference in these protocols to CSB means CSB responsible for discharge planning, unless the context clearly indicates otherwise.

Case management/ CSB responsible for discharge planning designations may vary from the definition above under the following circumstances:

- When the individual's living situation is unknown or cannot be determined, or the individual lives outside of Virginia, the CSB responsible for discharge planning is the CSB which completed the pre-screening admission form.
- For individuals who are transient or homeless, the CSB serving the catchment area in which the individual is living or sheltered at the time of pre-screening is the CSB responsible for discharge planning.
- When a CSB other than the pre-screening CSB is continuing to provide services and supports to the individual, then the CSB responsible for discharge planning is the CSB providing those services and supports.
- For individuals in correctional facilities, in local hospitals, or Veteran's Administration facilities, or in regional treatment/detox programs, the CSB responsible for discharge planning is the CSB serving the catchment area in which the individual resided prior to incarceration, or admission to local hospitals, Veterans Administration facilities, or regional detox programs
- In instances in which there is a dispute related to which CSB is responsible for discharge planning, the state hospital will work collaboratively with the CSBs involved to determine which CSB is responsible within two business days. If resolution cannot be reached, the state hospital will contact their Community Transition Specialist who will make a determination based on the available information.

Comprehensive treatment planning meeting: The meeting, which follows the initial treatment meeting and occurs within seven days of admission to a state hospital. At this meeting, the individual's comprehensive treatment plan (CTP) is developed by the treatment team in consultation with the individual, the surrogate decision maker, the CSB and, with the individual's consent, family members and private providers. The purpose of the meeting is to guide, direct, and support all treatment aspects for the individual.

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Co-occurring disorders: Individuals are diagnosed with more than one, and often several, of the following disorders: mental health disorders, developmental disability, or substance use disorders. Individuals may have more than one substance use disorder and more than one mental health disorder. At an individual level, co-occurring disorders exist when at least one disorder of each type (for example: a mental health and substance use disorder or developmental disability and mental health disorder) can be identified independently of the other and are not simply a cluster of symptoms resulting from a single disorder.

Discharge plan or pre-discharge plan: Hereafter referred to as the discharge plan, means an individualized plan for post-hospital services that is developed by the case management CSB in accordance with § 37.2-505 and § 16.1-346.1 of the Code of Virginia in consultation with the individual, surrogate decision maker, and the state hospital treatment team. This plan must include the mental health, developmental, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services and supports needed by the individual, consistent with subdivision A.3 of § 37.2-505, following an episode of hospitalization and must identify the public or private providers that have agreed to provide these services and supports. The discharge plan is required by § 37.2-505, § 16.1-346.1, and § 37.2-508 of the Code of Virginia.

Level 2 PASRR Screening: Federal law requires that all individuals (regardless of payer source) who apply as a new admission to a Medicaid-certified nursing facility (NF) be evaluated for evidence of possible mental illness or intellectual disability. This evaluation and determination is conducted to ensure that individuals are placed appropriately, in the least restrictive setting possible, and that individuals receive needed services, wherever they are living. The process involves two steps, known as Level 1(UAI) and Level 2 screening. The use of a Level 1 and Level 2 screening and evaluation is known as the Preadmission Screening and Resident Review (PASRR) process. In Virginia, level 2 PASRR screenings are conducted by Ascend. Individuals with a sole or primary diagnosis of dementia are exempt from Level 2 screenings.

NGRI Coordinator (CSB): Required knowledge:

- Understanding of the basic criminal justice process and the Virginia Code related to insanity acquittees
- Understanding of risk assessment and risk management in the community as well as the knowledge of what community resources are needed for risk management
- Ability to work with an interdisciplinary team
- Ability to communicate well, particularly knowledge of how to write to the court and how to verbally present information in a courtroom setting
- Knowledge of person-centered planning practices that emphasizes recovery principals.

Responsibilities:

1. Serving as the central point of accountability for CSB-assigned acquittees in DBHDS state hospitals
 - a. Ensuring adequate and prompt communication with state hospital staff, Central Office staff, and their own agency staff related to NGRI patients
 - b. Working with state hospital staff to resolve any barriers to treatment or release planning for NGRI patients

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- c. Participating in all meetings where their presence is necessary in order to make decisions related to NGRI privilege increases or release
- d. Jointly preparing Risk Management Plans, Conditional Release Plans, or Unconditional Release Plans; Promptly responding to requests for modifications, reconciling differences, and returning signed documents to prevent delays to NGRI patient progress towards discharge
- 2. Serving as the central point for accountability and overseeing compliance of the CSB and the NGRI acquittee when court ordered for Conditional Release:
 - a. Oversee compliance of the CSB with the acquittee’s court-ordered Conditional Release Plan (CRP).
 - b. Monitor the provision of CSB and non-CSB services in the CRP through agreed-upon means, including written reports, observation of services, satisfaction of the acquittee, etc.
 - c. Assess risk on a continuous basis and make recommendations to the court
 - d. Be the primary point of contact for judges, attorneys, and DBHDS staff.
 - e. Coordinate the provision of reports to the courts & DBHDS in a timely fashion
 - f. Assure that reports are written professionally and address the general and special conditions of the CRP with appropriate recommendations
 - g. Prepare correspondence to the courts and DBHDS regarding acquittee non-compliance to include appropriate recommendations for the court to consider
 - h. Provide adequate communication and coordinate the re-admission of NGRI acquittees to the state hospital when necessary
 - i. Represent the CSB in court hearings regarding insanity acquittees
- 3. Maintain training and expertise needed for this role.
 - a. Agree to participate in any and all DBHDS-developed training developed specifically for this role
 - b. Agree to seek out consultation with DBHDS as needed
 - c. Train other CSB staff and other provider staff (as appropriate) regarding the responsibilities of working with insanity acquittees, including the monthly and 6 month court reports

Primary substance use disorder: An individual who is clinically assessed as having one or more substance use disorder per the current Diagnostic and Statistical Manual of Mental Disorders (DSM) with the substance use disorder being the “principle diagnosis” (i.e. the condition established after evaluation to be chiefly responsible for the admission). The individual may not have a mental health disorder per the current DSM or the mental health disorder is not the principle diagnosis.

Releases of Information: The practice of authorizing a healthcare entity to release protected health information to other healthcare providers, non-healthcare organizations, or individuals. Obtained a signed release of information is best practice and should occur if at all possible; however, collaboration and information sharing for the purposes of discharge planning does not require a release of information, with the exception of SUD information protected by 42 CFR Part 2. While releases of information are best practice, they should not be a barrier to discharge. These activities are explained in the Code of Virginia § 37.2-839. Additionally please see HIPAA requirements on [Treatment, Payment, & Health Care Operations](#). Lastly this provision is covered in the Human Right Regulations 12VAC35-115-80- B.8.g.

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State hospital: A hospital or psychiatric institute, or other institution operated by DBHDS that provides acute psychiatric care and treatment for persons with mental illness

Surrogate decision maker: A person permitted by law or regulations to authorize the disclosure of information or give consent for treatment and services, including medical treatment, or participation in human research, on behalf of an individual who lacks the mental capacity to make these decisions. A surrogate decision maker may include an attorney-in-fact, health care agent, legal guardian, or, if these are not available, the individual's family member (spouse, adult child, parent, adult brother or sister, or any other relative of the individual) or a next friend of the individual (defined in 12VAC35-115-146).

Treatment team: The group of individuals responsible for the care and treatment of the individual during the period of hospitalization. Team members shall include, at a minimum, the individual receiving services, psychiatrist, a psychologist, a social worker, and a nurse. CSB staff shall actively participate, collaborate, and consult with the treatment team during the individual's period of hospitalization. The treatment team is responsible for providing all necessary and appropriate supports to assist the CSB in completing and implementing the individual's discharge plan.

Treatment plan: A written plan that identifies the individual's treatment, educational/vocational and service needs, and states the goals, objectives, and interventions designed to address those needs. There are two sequential levels of treatment plans:

1. The "initial treatment plan," which directs the course of care during the first hours and days after admission; and
2. The "comprehensive treatment plan (CTP)," developed by the treatment team with CSB consultation, which guides, directs, and supports all treatment of the individual.

Treatment plan review (TPR): Treatment planning meetings or conferences held subsequent to the CTP meeting.

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CSB State Hospital Discharge Planning Performance Measures

- 1. Eligible patients will be seen by CSB staff (outpatient therapist, case manager, psychiatrist, etc.) within seven calendar days of discharge from a state hospital (assessments by emergency services are not considered follow-up appointments). 80% of eligible patients will be seen by a CSB clinical staff member within seven calendar days of the discharge date.**
- 2. CSBs will have a state hospital 30 day readmission rate of 7% or below**
- 3. Patients followed by CSBs will have an average length of stay on the extraordinary barriers list (EBL) of 60 days or less. *Please note this measure will exclude NGRI patients.**
- 4. CSBs that serve a population of 100,000 or more will have an average daily census of ten (10) beds or less per 100,000 adult and geriatric population. DBHDS shall calculate the CSBs' average daily census per 100,000 for the adult and geriatric population for patients with the following legal statuses: civil temporary detention order, civil commitment, court mandated voluntary, voluntary, and NGRI patients with 48 hours unescorted community visit privileges.**

All data performance measure outcomes will be distributed to CSBs by DBHDS on a monthly basis.



COMMONWEALTH of VIRGINIA

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MEMORANDUM

Re: Guidance Regarding Individual Choice and Discharge Options

As referenced in a memo that was distributed by Daniel Herr, Deputy Commissioner for Facility Services on September 25, 2019, below is guidance that was developed in consultation with the DBHDS Office of Human Rights. This guidance concerns an individuals' choice as it relates to community based discharge options and continuing inpatient hospitalization.

This guidance is based upon the following primary considerations.

- Human Rights:
 - o It is a violation of an individual's right to remain in the state's most restrictive setting, i.e., state hospital, when a more integrated and less restrictive level of care is available and addresses the individual's risks and treatment needs;
 - o An individual does not have a right for the state to provide multiple alternatives when there is an existing clinically appropriate option currently available ; and
 - o The individual does not have a right to remain in the hospital once a community based option is made available.

- Patient Care and Safety: Given the state hospital census crisis, the impact of overcrowding and high case-loads for patient and staff safety, quality of care, and potential for delayed admissions for individuals in the community, state hospitals have an affirmative obligation to provide treatment focused on rapid discharge. An individual in a state hospital does not have the choice of waiting for a "more ideal" community alternative when another clinically appropriate option is available.

Guidance

Once an individual is clinically ready for discharge, and services and a placement are available to meet their community needs, DBHDS expects that the individual will be discharged to that placement as expeditiously as possible.

If an individual requires funding support through DAP, the CSB and state hospital must first refer the individual to any appropriate DBHDS contracted placement, such as a group home or

assisted living facility. DAP funds for alternative placements will not be available to the individual if existing funded resources are available and appropriate.

When appropriate services and housing have been identified, the individual should promptly be scheduled for discharge. If the individual wishes to make alternative arrangements, the individual must make those arrangements prior to discharge, or make their preferred arrangements from the community setting post discharge. The individual may not delay their discharge for the purpose of putting preferred arrangements into place.



DAP SECURE MEMORY CARE JUSTIFICATION

Instructions:

With the assistance of the state hospital social worker, complete to determine patient's need for secure memory care.

Patient Name: Click or tap here to enter text.

SECURE MEMORY CARE NEEDS	
Has this individual been diagnosed with Major Neurocognitive Disorder (dementia)? If yes, please list specific diagnosis: Click or tap here to enter text.	Choose an item.
What is this individual's level of mobility? Does this individual require equipment in order to ambulate? If yes, explain Click or tap here to enter text.	Choose an item.
Has this individual engaged in exit-seeking behaviors on a consistent basis while hospitalized? If yes, explain Click or tap here to enter text.	Choose an item.
Can the individual be supported safely to a less restrictive setting with a monitoring device such as project lifesaver or wander guard? Click or tap here to enter text.	Choose an item.
Is this individual currently formally identified by the state hospital as an elopement risk? Click or tap here to enter text.	Choose an item.
Please provide a justification as to why a secure (locked) facility is the least restrictive setting appropriate for this individual's discharge from the state hospital: Click or tap here to enter text.	Choose an item.

CSB DAP Coordinator Signature _____

Date _____

Revised 3/2020

OUT OF CATCHMENT REFERRAL INSTRUCTIONS

The out of catchment referral is to be used when individuals are being discharged from the state hospital to a catchment area that is outside of the originating CSB's area. The form is utilized to provide information about the individual, as a referral for needed services, and notification for emergency services.

The form has two parts: notification and referral.

For individuals residing short term in another catchment area, or individuals not engaged in CSB services:

- **Please complete page 1- Notification-** This page provides necessary information for CSBs to be aware of individuals discharging from state facilities who are temporarily in another catchment area, or individuals discharging to a catchment area that will not be referred to CSB services.

For individuals being placed in another catchment who will require CSB services AND/OR have a DAP plan for services in another catchment area:

- **Please complete the entire referral form**
- **Please provide documentation including any EHR face sheet and most recent assessments. Additionally, at discharge, please provide the hospital discharge information to the accepting CSB.**

If the individual has a DAP plan, please be sure to submit the narrative and IDAPP to the accepting CSB and the regional manager.

OUT OF CATCHMENT NOTIFICATION/REFERRAL FORM

Notification Only (Page 1) Full Referral (Pages 1-3; for individuals who will be referred for services)

Patient Name:

Last 4 of SS#:

DOB:

State Hospital:

Admission Date:

Primary Diagnosis:

Anticipated Discharge Date: Next Treatment Team Date:

Social Worker: Phone Number:

Current CSB:

 Name of Contact:

 Phone:

 Email:

CSB of Discharge Residence:

 Name of Contact:

 Phone:

 Email:

Discharge Address:

Type of Residence:

Phone Number:

Contact at Residence (if applicable):

Does this individual have a legal guardian or POA?

(If yes, please list below under "Emergency Contact")

Emergency contact:

Address:

Phone:

Does this individual have a conservator or payee?

Name:

Address:

Phone:

Will this individual be referred for any services at CSB of discharge residence?

(If yes, please complete the remaining pages of this form.)

I. **Previous Housing** – Please list the individual’s housing prior to admission to the state hospital:

Type of Housing:

Name of Residence (if applicable):

Reason Not Returning:

II. **Entitlements and Funding Sources**

SSI/SSA Amount:

SSDI Amount:

Medicaid List # and Type:

Medicare List # and Type:

DD Waiver Choose an item.

Auxiliary Grant Local DSS office where application sent:

SNAP

VA Benefits Click or tap here to enter text.

Private Insurance List Type and #:

Other:

III. **DAP**

Type: Choose an item.

Reason Needed:

IV. **Community Support** – What type of community-based services will be required?

Case Management

PACT/ICT

Mental Health Skill Building

Psychosocial Rehabilitation

Employment Services:

Substance Use Services:

Outpatient Services:

Other:

DAP Monitoring

V. **Legal Status**

Does individual have a valid ID? Choose an item.

Does the patient have any existing/pending criminal charges or court dates? Choose an item.

List Charges:

Court:

Court Date(s):

Is the individual NGRI? Choose an item. If yes please follow NGRI protocols.

VI. **Safety and Support Plan/Crisis Plan Initiated?** - Choose an item.

(If Yes, please attach)

VII. **Electronic Signature**

Notifying/Referring CSB: _____ Date: _____

Referral Sent to: Click or tap here to enter text.

Date: Click or tap to enter a date.

Referral Communication Method: Choose an item.

Exhibit M - FY2022

Department of Justice Settlement Agreement Requirements

The CSB and the Department agrees to comply with the following requirements in the Settlement Agreement for Civil Action No: 3:12cv00059-JAG between the U.S. Department of Justice (DOJ) and the Commonwealth of Virginia, entered in the U. S. District Court for the Eastern District of Virginia on August 23, 2012 [section IX.A, p. 36], and in compliance indicators agreed to by the parties and filed with the Court on January 14, 2020.

Sections identified in text or brackets refer to sections in the agreement requirements that apply to the target population defined in section III.B of the Agreement: individuals with developmental disabilities who currently reside in training centers, (ii) meet criteria for the DD Waiver waiting list, including those currently receiving DD Waiver services, or (iii) reside in a nursing home or an intermediate care facility (ICF).

- 1.) Case Managers or Support Coordinators shall provide anyone interested in accessing DD Waiver Services with a DBHDS provided resource guide that contains information including but not limited to case management eligibility and services, family supports- including the IFSP Funding Program, family and peer supports, and information on the My Life, My Community Website, information on how to access REACH services, and information on where to access general information. [section III.C.2. a-f, p. 1].
- 2.) Case management services, defined in section III.C.5.b, shall be provided to all individuals receiving Medicaid Home and Community-Based Waiver services under the Agreement by case managers or support coordinators who are not directly providing or supervising the provision of Waiver services to those individuals [section III.C.5.c, p. 8].
- 3.) For individuals receiving case management services pursuant to the Agreement, the individual's case manager or support coordinator shall meet with the individual face-to-face on a regular basis and shall conduct regular visits to the individual's residence, as dictated by the individual's needs [section V.F.1, page 26].
 - a. At these face-to-face meetings, the case manager or support coordinator shall: observe the individual and the individual's environment to assess for previously unidentified risks, injuries, needs, or other changes in status; assess the status of previously identified risks, injuries, needs, or other changes in status; assess whether the individual's individual support plan (ISP) is being implemented appropriately and remains appropriate for the individual; and ascertain whether supports and services are being implemented consistent with the individual's strengths and preferences and in the most integrated setting appropriate to the individual's needs.
 - b. The case manager or support coordinator shall document in the ISP the performance of these observations and assessments and any findings, including any changes in status or significant events that have occurred since the last face-to-face meeting.
 - c. If any of these observations or assessments identifies an unidentified or inadequately addressed risk, injury, need, or change in status, a deficiency in the individual's support plan or its implementation, or a discrepancy between the implementation of supports and services and the individual's strengths and preferences, then the case manager or support coordinator shall report and document the issue in accordance with Department policies and regulations, convene the individual's service planning team to address it, and document its resolution.
- 4.) DBHDS shall develop and make available training for CSB case managers and leadership staff on how to assess change in status and that ISPs are implemented appropriately. DBHDS shall provide a tool with elements for the case managers to utilize during face-to-face visits to assure that changes in status as well as ISP are implemented appropriately and documented.

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Department of Justice Settlement Agreement Requirements

- a. CSB shall ensure that all case managers and case management leadership complete the training that helps to explain how to identify change in status and that elements of the ISP are implemented appropriately. The CSB shall deliver the contents of the DBHDS training through support coordinator supervisors or designated trainers to ensure case managers understand the definitions of a change in status or needs and the elements of appropriately implemented services, as well as how to apply and document observations and needed actions.
 - b. CSB shall ensure that all case managers use the DBHDS On-Site Visit Tool during one face-to-face visit each quarter to assess at whether or not each person receiving targeted case management under the waiver experienced a change in status and to assess whether or not the ISP was implemented appropriately.
- 5.) Using the process developed jointly by the Department and Virginia Association of Community Services Boards (VACSB) Data Management Committee (DMC), the CSB shall report the number, type, and frequency of case manager or support coordinator contacts with individuals receiving case management services [section V.F.4, p. 27].
 - 6.) The CSB shall report key indicators, selected from relevant domains in section V.D.3 on page 24, from the case manager's or support coordinator's face-to-face visits and observations and assessments [section V.F.5, p 27]. Reporting in WaMS shall include the provision of data and actions related to DBHDS defined elements regarding a change in status or needs and the elements of appropriately implemented services in a format, frequency, and method determined by DBHDS [section III.C.5.b.i.].
 - 7.) The individual's case manager or support coordinator shall meet with the individual face-to-face at least every 30 days (including a 10 day grace period but no more than 40 days between visits), and at least one such visit every two month must be in the individual's place of residence, for any individuals who [section V.F.3, pages 26 and 27]:
 - a. Receive services from providers having conditional or provisional licenses;
 - b. Have more intensive behavioral or medical needs as defined by the Supports Intensity Scale category representing the highest level of risk to individuals
 - c. Have an interruption of service greater than 30 days;
 - d. Encounter the crisis system for a serious crisis or for multiple less serious crises within a three-month period;
 - e. Have transitioned from a training center within the previous 12 months; or
 - f. Reside in congregate settings of five or more individuals. Refer to Enhanced Case Management Criteria Instructions and Guidance issued by the Department.
 - 8.) Case managers or support coordinators shall give individuals a choice of service providers from which they may receive approved DD Waiver services, present all options of service providers based on the preferences of the individuals, including CSB and non-CSB providers, and document this using the Virginia Informed Choice Form in the waiver management system (WaMS) application. [section III.C.5.c, p. 8]. The CSB SC will complete the Virginia Informed Choice form to document provider and SC choice for Regional Support Team referrals, when changes in any provider, service, or service setting occurs, a new service is requested, the individual is dissatisfied with a service or provider, and no less than annually.
 - 9.) The CSB shall complete the Support Coordinator Quality Review process for a statistically significant sample size as outlined in the Support Coordinator Quality Review Process.
 - a. DBHDS shall annually pull a statistically significant stratified sample of individuals receiving HCBS waiver and send this to the CSB to be utilized to complete the review.

Exhibit M - FY2022**Department of Justice Settlement Agreement Requirements**

- b. Each quarter, the CSB shall complete the number of Support Coordinator Quality Reviews and provide data to DBHDS as outlined by the process.
 - c. DBHDS shall analyze the data submitted to determine the following elements are met:
 - i. The CSB offered each person the choice of case manager/provider
 - ii. The case manager assesses risk, and risk mitigation plans are in place
 - iii. The case manager assesses whether the person's status or needs for services and supports have changed and the plan has been modified as needed.
 - iv. The case manager assists in developing the person's ISP that addresses all of the individual's risks, identified needs and preferences.
 - v. The ISP includes specific and measurable outcomes, including evidence that employment goals have been discussed and developed, when applicable.
 - vi. The ISP was developed with professionals and nonprofessionals who provide individualized supports, as well as the individual being served and other persons important to the individual being served.
 - vii. The ISP includes the necessary services and supports to achieve the outcomes such as medical, social, education, transportation, housing, nutritional, therapeutic, behavioral, psychiatric, nursing, personal care, respite, and other services necessary.
 - viii. Individuals have been offered choice of providers for each service.
 - ix. The case manager completes face-to-face assessments that the individual's ISP is being implemented appropriately and remains appropriate to the individual by meeting their health and safety needs and integration preferences.
 - x. The CSB has in place and the case manager has utilized where necessary, established strategies for solving conflict or disagreement within the process of developing or revising ISPs, and addressing changes in the individual's needs, including, but not limited to, reconvening the planning team as necessary to meet the individuals' needs.
 - d. DBHDS shall review the data submitted and complete a semi-annual report that includes a review of data from the Support Coordinator Quality Reviews and provide this information to the CSB. To assure consistency between reviewers, DBHDS shall complete an inter-rater reliability process.
 - e. If 2 or more records do not meet 86% compliance for two consecutive quarters, the CSB shall receive technical assistance provided by DBHDS.
 - f. The CSB shall cooperate with DBHDS and facilitate its completion of on-site annual retrospective reviews at the CSB to validate findings of the CSB Support Coordinator Quality Review to provide technical assistance for any areas needing improvement.
- 10.) Case managers or support coordinators shall offer education about integrated community options to any individuals living outside of their own or their families' homes and, if relevant, to their authorized representatives or guardians [section III.D.7, p. 14]. Case managers shall offer this education at least annually and at the following times:
- a. At enrollment in a DD Waiver
 - b. When there is a request for a change in Waiver service provider(s)
 - c. When an individual is dissatisfied with a current Waiver service provider,
 - d. When a new service is requested
 - e. When an individual wants to move to a new location, or
 - f. When a regional support team referral is made as required by the Virginia Informed Choice Form
- 11.) For individuals receiving case management services identified to have co-occurring mental health conditions or engaging in challenging behaviors, the individual's case manager or support coordinator shall assure that effective community based behavioral health and/or behavioral supports and services are identified and accessed where appropriate and available.

Exhibit M - FY2022**Department of Justice Settlement Agreement Requirements**

- a. If the case manager or support coordinator incurs capacity issues related to accessing needed behavioral support services in their designated Region, every attempt to secure supports should be made to include adding the individual to several provider waitlists (e.g., based upon individualized needs, this may be inclusive of psychotherapy, psychiatry, counseling, applied behavior analysis/positive behavior support providers, etc.) and following up with these providers quarterly to determine waitlist status. [SA. Provision: III.C.6.a.i-iii Filing reference: 7.14, 7.18]
 - b. DBHDS will provide the practice guidelines and a training program for case managers regarding the minimum elements that constitute an adequately designed behavioral program and what can be observed to determine whether the plan is appropriately implemented. The CSB shall ensure that all case managers and case management leadership complete the training such that case managers are aware of the practice guidelines for behavior support plans and of key elements that can be observed to determine whether the plan is appropriately implemented. [SA. Provision: III.C.6.a.i-iii Filing reference: 7.16, 7.20]
- 12.) The CSB shall identify children and adults who are at risk for crisis through the standardized crisis screening tool or through the utilization of the elements contained in the tool at intake, and if the individual is identified as at risk for crisis or hospitalization, shall refer the individual to REACH. [SA. Provision: III.C.6.a.i-iii Filing reference: 7.2]
 - 13.) For individuals that receive enhanced case management, the case manager or support coordinator shall utilize the standardized crisis screening tool during monthly visits; for individuals that receive targeted case management, the case manager or support coordinator shall use the standardized crisis screening tool during quarterly visits. Any individual that is identified as at risk for crisis shall be referred to REACH. [S.A. Provision: III.C.6.a.i-iii Filing reference: 7.3]
 - 14.) The CSB shall ensure that CSB Executive Directors, Developmental Disability Directors, case management or support coordination supervisors, case managers or support coordinators, and intake workers participate in training on how to identify children and adults who are at risk for going into crisis.
 - a. CSBs shall ensure that training on identifying risk of crisis for intake workers and case managers (or support coordinators) shall occur within 6 months of hire. [S.A. Provision: III.C.6.a.i-iii Filing reference: 7.5]
 - 15.) The CSB shall provide data on implementation of the crisis screening tool as requested by DBHDS when it is determined that an individual with a developmental disability has been hospitalized and has not been referred to the REACH program.
 - a. The CSB shall provide to DBHDS upon request copies of the crisis risk assessment tool, or documentation of utilization of the elements contained within the tool during a crisis screening, for quality review purposes to ensure the tool is being implemented as designed and is appropriately identifying people at risk of crisis. [S.A. Provision: III.C.6.a.i-iii Filing reference: 7.6]
 - b. DBHDS shall develop a training for the CSB to utilize when training staff on assessing an individual's risk of crisis/hospitalization.
 - c. DBHDS shall initiate a quality review process to include requesting documentation for anyone psychiatrically hospitalized who was not referred to the REACH program and either actively receiving case management during the time frame or for whom an intake was completed prior to hospitalization. The CSB shall promptly, but within no more than 5 business days, provide the information requested.
 - d. DBHDS shall request information to verify presence of DD diagnosis for persons that are psychiatrically hospitalized that are not known to the REACH program. The CSB shall promptly,

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Department of Justice Settlement Agreement Requirements

but within no more than 5 business days, provide the information requested. [S.A. Provision: III.C.6.b.ii.A Filing references 8.6, 8.7]

- e.
- 16.) CSB Case manager shall work with the REACH program to identify a community residence within 30 days of admission to the program including making a referral to RST when the system has been challenged to find an appropriate provider within this timeframe.
- a. a. If a waiver eligible individual is psychiatrically hospitalized, is a guest at a REACH CTH, or is residing at an Adult Transition Home and requires a waiver to obtain a community residence, the CSB shall submit an emergency waiver slot request. [S.A. Provision III.C.6.b.ii.A Filing reference 10.2]
- 17.) CSB emergency services shall be available 24 hours per day and seven days per week, staffed with clinical professionals who shall be able to assess crises by phone, assist callers in identifying and connecting with local services, and, where necessary, dispatch at least one mobile crisis team member adequately trained to address the crisis for individuals with developmental disabilities [section III.C.6.b.i.A, p. 9].
- a. The mobile crisis team shall be dispatched from the Regional Education Assessment Crisis Services Habilitation (REACH) program that is staffed 24 hours per day and seven days per week by qualified persons able to assess and assist individuals and their families during crisis situations and that has mobile crisis teams to address crisis situations and offer services and support on site to individuals and their families within one hour in urban areas and two hours in rural areas as measured by the average annual response time [section III.C.6.b.ii, pages 9 and 10].
- b. All Emergency services staff and their supervisors shall complete the REACH training, created and made available by DBHDS, that is part of the emergency services training curriculum.
- c. DBHDS shall create and update a REACH training for emergency staff and make it available through the agency training website.
- d. CSB emergency services shall notify the REACH program of any individual suspected of having a developmental disability who is experiencing a crisis and seeking emergency services as soon as possible, preferably prior to the initiation of a preadmission screening evaluation in order to allow REACH and emergency services to appropriately divert the individual from admission to psychiatric inpatient services when possible.
- e.
- f. If the CSB has an individual receiving services in the REACH Crisis Therapeutic Home (CTH) program with no plan for discharge to a community residence and a length of stay that shall soon exceed 30 concurrent days, the CSB Executive Director or his or her designee shall provide a weekly update describing efforts to achieve an appropriate discharge for the individual to the Director of Community Support Services in the Department's Division of Developmental Services or his/her designee.
- g. DBHDS shall notify the CSB Executive Director or designee when it is aware of a person at the REACH CTH who is nearing a 30-day concurrent stay.
- 18.) Comply with State Board Policy 1044 (SYS) 12-1 Employment First [section III.C.7.b, p. 11]. This policy supports identifying community-based employment in integrated work settings as the first and priority service option offered by case managers or support coordinators to individuals receiving day support or employment services.
- a. CSB case managers shall take the on-line case management training modules and review the case management manual.

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Department of Justice Settlement Agreement Requirements

- b. CSB case managers shall initiate meaningful employment conversations with individuals starting at the age of 14 until the age of retirement (65).
 - c. CSB case managers shall discuss employment with all individuals, including those with intense medical or behavioral support needs, as part of their ISP planning processes.
 - d. CSB case managers shall document goals for or toward employment for all individuals 18-64 or the specific reasons that employment is not being pursued or considered.
 - e. DBHDS shall create training and tools for case managers regarding meaningful conversation about employment, including for people with complex medical and behavioral support needs. The CSB shall utilize this training with its staff and document its completion.
- 19.) CSB case managers or support coordinators shall liaise with the Department's regional community resource consultants regarding responsibilities as detailed in the Performance Contract [section III.E.1, p. 14].
- 20.) Case managers or support coordinators shall participate in discharge planning with individuals' personal support teams (PSTs) for individuals in training centers and children in ICF/IIDs for whom the CSB is the case management CSB, pursuant to § 37.2-505 and § 37.2-837 of the Code that requires the CSB to develop discharge plans in collaboration with training centers [section IV.B.6, p. 16].
- 21.) In developing discharge plans, CSB case managers or support coordinators, in collaboration with facility PSTs, shall provide to individuals and, where applicable, their authorized representatives, specific options for types of community residences, services, and supports based on the discharge plan and the opportunity to discuss and meaningfully consider these options [section IV.B.9, p. 17].
- 22.) CSB case managers or support coordinators and PSTs shall coordinate with specific types of community providers identified in discharge to provide individuals, their families, and, where applicable, their authorized representatives with opportunities to speak with those providers, visit community residences (including, where feasible, for overnight visits) and programs, and facilitate conversations and meetings with individuals currently living in the community and their families before being asked to make choices regarding options [section IV.B.9.b, p. 17].
- 23.) CSB case managers or support coordinators and PSTs shall assist individuals and, where applicable, 24.) their authorized representatives in choosing providers after providing the opportunities described in subsection 13 above and ensure that providers are timely identified and engaged in preparing for individuals' transitions [section IV.B.9.c, p.17]. Case managers or support coordinators shall provide information to the Department about barriers to discharge for aggregation and analysis by the Department for ongoing quality improvement, discharge planning, and development of community-based services [IV.B.14, p. 19].
- 25.) In coordination with the Department's Post Move Monitor, the CSB shall conduct post-move monitoring visits within 30, 60, and 90 days following an individual's movement from a training center to a community setting [section IV.C.3, p.19]. The CSB shall provide information obtained in these post move monitoring visits to the Department within seven business days after the visit.
- 26.) If a CSB provides day support or residential services to individuals in the target population, the CSB shall implement risk management and quality improvement processes, including establishment of uniform risk triggers and thresholds that enable it to adequately address harms and risks of harms, including any physical injury, whether caused by abuse, neglect, or accidental causes [section V.C.1, p. 22].

Exhibit M - FY2022**Department of Justice Settlement Agreement Requirements**

- 27.) Using the protocol and the real-time, web-based incident reporting system implemented by the Department, the CSB shall report any suspected or alleged incidents of abuse or neglect as defined in § 37.2-100 of the Code, serious injuries as defined in 12 VAC 35- 115-30 of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services* or deaths to the Department within 24 hours of becoming aware of them [section V.C.2, p. 22].
- 28.) CSBs shall participate with the Department to collect and analyze reliable data about individuals receiving services under this Agreement from each of the following areas:
- a. safety and freedom from harm
 - b. physical, mental, and behavioral
 - c. avoiding crises
 - d. choice and self-determination
 - e. community inclusion, health and well-being
 - f. access to services
 - g. provider capacity
 - h. stability [section V.D.3, pgs. 24 & 25]
- 29.) CSBs shall participate in the regional quality council established by the Department that is responsible for assessing relevant data, identifying trends, and recommending responsive actions in its region [section V.D.5.a, p. 25].
- 30.) CSBs shall provide access to the Independent Reviewer to assess compliance with this Agreement. The Independent Reviewer shall exercise his access in a manner that is reasonable and not unduly burdensome to the operation of the CSB and that has minimal impact on programs or services to individuals receiving services under the Agreement [section VI.H, p. 30 and 31]
- 31.) CSBs shall participate with the Department and any third party vendors in the implementation of the National Core Indicators (NCI) Surveys and Quality Service Reviews (QSRs) for selected individuals receiving services under the Agreement. This includes informing individuals and authorized representatives about their selection for participation in the NCI individual surveys or QSRs; providing the access and information requested by the vendor, including health records, in a timely manner; assisting with any individual specific follow up activities; and completing NCI surveys [section V.I, p. 28].
- a. During FY22 the QSR process will be accelerated and will require the CSB to fully participate in the completion of QSR implementation twice during a nine-month period. This will ensure that the Commonwealth can show a complete improvement cycle intended by the QSR process by June 30, 2022. The attached GANTT details the schedule for the QSR reviews of 100% of providers, including support coordinators, for two review cycles.
- 32.) The CSB shall notify the community resource consultant (CRC) and regional support team (RST) in the following circumstances to enable the RST to monitor, track, and trend community integration and challenges that require further system development:
- a. within five calendar days of an individual being presented with any of the following residential options: an ICF, a nursing facility, a training center, or a group home/congregate setting with a licensed capacity of five beds or more;
 - b. if the CSB is having difficulty finding services within 30 calendar days after the individual's enrollment in the waiver; or
 - c. immediately when an individual is displaced from his or her residential placement for a second time [sections III.D.6 and III.E, p. 14].
- 33.) DBHDS shall provide data to CSBs on their compliance with the RST referral and implementation process.

Exhibit M - FY2022**Department of Justice Settlement Agreement Requirements**

- a. DBHDS shall provide information quarterly to the CSB on individuals who chose less integrated options due to the absence of something more integrated at the time of the RST review and semi-annually
 - b. DBHDS shall notify CSBs of new providers of more integrated services so that individuals who had to choose less integrated options can be made aware of these new services and supports.
 - c. CSBs shall offer more integrated options when identified by the CSB or provided by DBHDS.
 - d. CSBs shall accept technical assistance from DBHDS if the CSB is not meeting expectations.
- 34.) Case managers or support coordinators shall collaborate with the CRC to ensure that person-centered planning and placement in the most integrated setting appropriate to the individual's needs and consistent with his or her informed choice occur [section III.E.1- 3, p. 14].
- a. CSBs shall collaborate with DBHDS CRCs to explore community integrated options including working with providers to create innovative solutions for people.

The Department encourages the CSB to provide the Independent Reviewer with access to its services and records and to individuals receiving services from the CSB; however, access shall be given at the sole discretion of the CSB [section VI.G, p. 31].

35.) Developmental Case Management Services

- a. Case managers or support coordinators employed or contracted by the CSB shall meet the knowledge, skills, and abilities qualifications in the Case Management Licensing Regulations, 12 VAC 35-105-1250. During its inspections, the Department's Licensing Office may verify compliance as it reviews personnel records.
- b. Reviews of the individual support plan (ISP), including necessary assessment updates, shall be conducted with the individual quarterly or every 90 days and include modifications in the ISP when the individual's status or needs and desires change.
- c. During its inspections, the Department's Licensing Office may verify this as it reviews the ISPs including those from a sample identified by the CSB of individuals who discontinued case management services.
- d. The CSB shall ensure that all information about each individual, including the ISP and VIDES, is imported from the CSB's electronic health record (EHR) to the Department within five (5) business days through an electronic exchange mechanism mutually agreed upon by the CSB and the Department into the electronic waiver management system (WaMS).
- e. If the CSB is unable to submit via the data exchange process, it shall enter this data directly through WaMS, when the individual is entered the first time for services, or when his or her living situation changes, her or his ISP is reviewed annually, or whenever changes occur, including the individual's Race and the following information:

<ul style="list-style-type: none"> i. full name ii. social security number iii. Medicaid number iv. CSB unique identifier v. current physical residence address vi. living situation (e.g., group home vii. family home, or own home) 	<ul style="list-style-type: none"> viii. level of care information ix. change in status x. terminations xi. transfers xii. waiting list information xiii. bed capacity of the group home if that is chosen xiv. Current support coordinator's name
--	---
- f. Case managers or support coordinators and other CSB staff shall comply with the SIS[®] Administration Process and any changes in the process within 30 calendar days of notification of the changes.
- g. Case managers or support coordinators shall notify the Department's service authorization staff that an individual has been terminated from all DD waiver services within 10 business days of termination.

Exhibit M - FY2022**Department of Justice Settlement Agreement Requirements**

- h. Case managers or support coordinators shall assist with initiating services within 30 calendar days of waiver enrollment and shall submit Request to Retain Slot forms as required by the Department. All written denial notifications to the individual, and family/caregiver, as appropriate, shall be accompanied by the standard appeal rights (12VAC30-110).
- i. Case managers or support coordinators shall complete the level of care tool for individuals requesting DD Waiver services within 60 calendar days of application for individuals expected to present for services within one year.
- j. Case managers or support coordinators shall comply with the DD waitlist process and slot assignment process and implement any changes in the processes within 30 calendar days of written notice from the Department.

36.) Targeted Technical Assistance

- a. The CSB shall participate in technical assistance as determined by the Case Management Steering Committee. Technical assistance may be comprised of virtual or on-site meetings, trainings, and record reviews related to underperformance in any of the following areas monitored by the committee: Regional Support Team referrals, Support Coordination Quality Review results, Individual Support Plan entry completion, and case management contact data.
- b. DBHDS shall provide a written request that contains specific steps and timeframes necessary to complete the targeted technical assistance process.
- c. The CSB shall accommodate technical assistance when recommended within 45 days of the written request.
- d. CSB failure to participate in technical assistance as recommended or demonstrate improvement within 12 months may result in further actions under Exhibit I of this contract.

37.) CSB Quality Improvement Committees will review annually the DMAS-DBHDS Quality Review Team's End of Year report on the status of the performance measures included in the DD HCBS Waivers' Quality Improvement Strategy with accompanying recommendations to the DBHDS Quality Improvement Committee. CSB documentation of these reviews and resultant CSB-specific quality improvement activities will be reported to DBHDS within 30 days of receiving the report.

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Department of Justice Settlement Agreement Requirements

PLAN TO MEET COMPLIANCE BY JUNE 30, 2021					PERIOD:															
	MILESTONES	PLAN START	PLAN DURATION	COMPLETE DATE	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21		
					Phase 1	Vendor Contract	4/1/2020	1 Month	4/27/2020	█										
Tools/Definitions/ Methodology Refined and Delivered to	5/1/2020	1 Month	5/22/2020			█														
IR/Consultant Review and Approval	5/22/2020	2 Weeks	6/5/2020				█													
Finalize Tools and Train Reviewers	6/5/2020	4 Weeks	6/30/2020					█												
Group 1 Reviews Begin (290)	7/1/2020	45 Days	8/15/2020						█											
Group 2 Reviews (290)	8/15/2020	45 Days	9/30/2020						█											
Phase 2	Group 1 Data Analysis and Reports Developed and Delivered	8/16/2020	1 Month	9/15/2020				█												
	Group 1 Technical Assistance Developed and Delivered	7/1/2020	1 Month/ Ongoing	9/15/2020	█	█	█	█	█	█	█	█	█	█	█	█	█	█		
	Group 2 Data Analysis and Reports Developed and Delivered	10/1/2020	1 Month	10/31/2020							█									
	Group 2 Technical Assistance Developed and Delivered	9/16/2020	45 Days/ Ongoing	10/31/2020	█	█	█	█	█	█	█	█	█	█	█	█	█	█		
Phase 3	Group 1 Improvements Implemented	9/16/2020	2 Months	11/15/2020							█									
	Group 2 Improvements Implemented	11/1/2020	2 Months	12/31/2020								█								
Phase 4	Group 1 Re-Review	11/15/2020	45 Days	12/31/2020									█							
	Group 2 Re-Review	1/1/2021	45 Days	2/15/2021										█						
	Group 1 Data Analysis and Report Generation to Evaluate Impact	1/1/2021	1 Month	1/31/2021											█					
	Group 2 Data Analysis and Report Generation to Evaluate Impact	2/16/2021	1 Month	3/15/2021												█				
	Group 1 Report Delivered to IR	2/1/2021	N/A	2/1/2021													█			
	Group 2 Report Delivered to IR	3/16/2021	N/A	3/16/2021														█		

█ Specific Activity
 █ Ongoing Activity

Department of Behavioral and Developmental Services and Community Services Board

Addendum I

FY2022 and FY2023: Administrative Requirements and Processes and Procedures

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Addendum I

FY2022 and FY2023: Administrative Requirements and Processes and Procedures

I. Purpose

The Administrative Requirements and Processes and Procedures include statutory, regulatory, policy, process and procedures and other requirements that are not expected to change frequently. The CSB and the Department shall comply with these requirements and processes and procedures. This document is incorporated into and made a part of the Community Services Performance Contract (PC) by reference. The Department will work with the CSBs regarding any substantive changes to this document, with the exception of changes in statutory, regulatory, policy, or other requirements.

II. CSB Requirements

A. Financial Management Requirements, Policies, and Procedures

Generally Accepted Accounting Principles: The CSB's financial management and accounting system shall operate and produce financial statements and reports in accordance with Generally Accepted Accounting Principles. It shall include necessary personnel and financial records and a fixed assets system. It shall provide for the practice of fund accounting and adhere to cost accounting guidelines issued by the Department.

If it is an administrative policy CSB that is a city or county department or agency or is required to adhere to local government financial management requirements, policies, and procedures or it is the local government department with a policy-advisory CSB, the CSB shall comply with local government financial management requirements, policies, and procedures.

If the Department receives any complaints about the CSB's financial management operations, the Department will forward these complaints to the local government and any other appropriate authorities. In response to those complaints, the Department may conduct a review of that CSB's financial management activities.

1. **Accounting:** CSBs shall account for all service and administrative expenses accurately and submit timely reports to the Department to document these expenses.

2. **Annual Independent Audit:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, the CSB shall obtain an independent annual audit conducted by certified public accountants.
 - a. Audited financial statements shall be prepared in accordance with generally accepted accounting principles (GAAP). The appropriate GAAP basis financial reporting model is the Enterprise Fund in accordance with the requirements of Governmental Accounting Standards Board (GASB) Statement Number 34, *Basic Financial Statements- and Management's Discussion and Analysis- for State and Local Governments*. GASB 34 replaces the previous financial reporting model *Health Care Organizations Guide*, produced by the American Institute of Certified Public Accountants.
 - b. Copies of the audit and the accompanying management letter shall be provided to the Office of Budget and Financial Reporting in the Department and to each local government that established the CSB.
 - c. CSBs shall, to the extent practicable, obtain unqualified audit opinions. Deficiencies and exceptions noted in an audit or management letter shall be resolved or corrected within a reasonable period of time, mutually agreed upon by the CSB and the Department.
 - d. If it is an administrative policy CSB that is a city or county department or agency or is required to adhere to local government financial management requirements, policies, and procedures or it is the local government department with a policy-advisory CSB, the CSB shall be included in the annual audit of its local government.
 - i. Copies of the applicable portions of the accompanying management letter shall be provided to the Office of Budget and Financial Reporting in the Department.

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- ii. Deficiencies and exceptions noted in a management letter shall be resolved or corrected within a reasonable period of time, mutually agreed upon by the CSB, its local government(s), and the Department.
- e. If an administrative policy CSB that is a city or county department or agency or is required to adhere to local government financial management requirements, policies, and procedures or the local government department with a policy-advisory CSB obtains a separate independent annual audit conducted by certified public accountants, audited financial statements shall be prepared in accordance with generally accepted accounting principles.
 - i. The appropriate GAAP basis financial reporting model is the Enterprise Fund in accordance with the requirements of Governmental Accounting Standards Board (GASB) Statement Number 34, *Basic Financial Statements- and Management's Discussion and Analysis- for State and Local Governments*. The local government will determine the appropriate fund classification in consultation with its certified public accountant.
 - ii. Copies of the audit and the accompanying management letter shall be provided to the Office of Budget and Financial Reporting and to each local government that established the CSB.
 - iii. CSBs shall, to the extent practicable, obtain unqualified audit opinions.
 - iv. Deficiencies and exceptions noted in an audit or management letter shall be resolved or corrected within a reasonable period of time, mutually agreed upon by the CSB and the Department.
- 3. **Federal Audit Requirements:** When the Department subgrants federal grants to a CSB, the CSB shall satisfy all federal government audit requirements.
- 4. **Subcontractor Audits:** Every CSB shall obtain, review, and take any necessary actions on audits of any subcontractors that provide services that are procured under the Virginia Public Procurement Act and included in a CSB's performance contract. The CSB shall provide copies of these audits to the Office of Budget and Financial Reporting in the Department.
- 5. **Bonding:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, CSB employees with financial responsibilities shall be bonded in accordance with local financial management policies.
- 6. **Fiscal Policies and Procedures:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, a CSB's written fiscal policies and procedures shall conform to applicable State Board policies and Departmental policies and procedures.
- 7. **Financial Management Manual:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, a CSB shall be in material compliance with the requirements in the current Financial Management Standards for Community Services Boards issued by the Department.
- 8. **Local Government Approval:** CSBs shall submit their performance contracts to the local governments in their service areas for review and approval, pursuant to § 37.2-508 or § 37.2-608 of the Code of Virginia, which requires approval of the contracts by September 30.
 - a. CSBs shall submit their contracts to the local governing bodies of the cities and counties that established them in accordance with the schedules determined by those governing bodies or at least 15 days before meetings at which the governing bodies are scheduled to consider approval of their contracts.

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- b. Unless prohibited from doing so by its local government(s), a CSB may submit its contract to the Department before it is approved by its local government(s).
9. **Department Review:** If a CSB is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, the Department may conduct a review of the CSB's financial management activities at any time.
- a. While it does not conduct routine reviews of the CSB's financial management activities, the Department may conduct a review in response to significant deficiencies, irregularities, or problems identified in the CSB's audit or management letter or in response to complaints or information that it receives.
 - i. Such reviews shall be limited to sub-recipient monitoring responsibilities in 2 CFR Part 200.331 associated with receipt of federal funds by the CSB.
 - ii. CSBs shall submit formal plans of correction to the Office of Budget and Financial Reporting in the Department within 45 days of receipt of official reports of reviews.
 - iii. Minor compliance issues shall be corrected within 45 days of submitting a plan. Action to correct major compliance issues shall be initiated within 45 days and completed within 180 days of submitting a plan, unless the Department grants an extension.
 - b. If it is an administrative policy CSB that is a city or county department or agency or is required to adhere to local government financial management requirements, policies, and procedures or it is the local government department with a policy-advisory CSB, the Department may conduct a review of a CSB's financial management activities at any time in order to fulfill its responsibilities for federal sub-recipient (CSB) monitoring requirements under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR Part 200.331.

B. Procurement Requirements, Policies, and Procedures

1. **Procurement Policies and Procedures:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government procurement requirements, policies, and procedures, a CSB shall have written procurement policies and procedures in effect that address internal procurement responsibilities, small purchases and dollar thresholds, ethics, and disposal of surplus property. Written procurement policies and procedures relating to vendors shall be in effect that address how to sell to the CSB, procurement, default, and protests and appeals. All written policies and procedures shall conform to the Virginia Public Procurement Act.
- If it is an administrative policy CSB that is a city or county department or agency or is required to adhere to local government procurement requirements, policies, and procedures or it is the local government department with a policy-advisory CSB, a CSB shall comply with its local government's procurement requirements, policies, and procedures, which shall conform to the Virginia Public Procurement Act. If the Department receives any complaints about the CSB's procurement operations, the Department will forward these complaints to the local government and any other appropriate authorities. In response to those complaints, the Department may conduct a review of that CSB's procurement activities.
2. **Department Review:** If a CSB is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government procurement requirements, policies, and procedures, the Department may conduct a review of the CSB's procurement activities at any time. While it does not conduct routine reviews of the CSB's procurement activities, the Department may conduct a review in response to significant deficiencies, irregularities, or problems identified in the CSB's independent annual audit or management letter or in response to complaints or information that it receives. The review will include a sampling of CSB subcontracts. CSBs shall submit formal plans of correction to the Office of Administrative Services in the Department within 45 days of receipt of official reports of reviews. Minor compliance issues shall be corrected within 45 days of submitting a plan.

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Action to correct major compliance issues shall be initiated within 45 days and completed within 180 days of submitting a plan, unless the Department grants an extension.

C. Reimbursement Requirements, Policies, and Procedures

1. **Reimbursement System:** Each CSB's reimbursement system shall comply with § 37.2-504 and § 37.2-511 or § 37.2-605 and § 37.2-612 and with § 20-61 of the Code of Virginia and State Board Policy 6002 (FIN) 86-14. Its operation shall be described in organizational charts identifying all staff members, flow charts, and specific job descriptions for all personnel involved in the reimbursement system.
2. **Policies and Procedures:** Written fee collection policies and procedures shall be adequate to maximize fees from individuals and responsible third party payers.
3. **Schedule of Charges:** A schedule of charges shall exist for all services that are included in the CSB's performance contract, shall be related reasonably to the cost of the services, and shall be applicable to all recipients of the services.
4. **Ability to Pay:** A method, approved by a CSB's board of directors that complies with applicable state and federal regulations shall be used to evaluate the ability of each individual to pay fees for the services he or she receives.
5. **Department Review:** While it does not conduct routine reviews of the CSB's reimbursement activities, the Department may conduct a review at any time in response to significant deficiencies, irregularities, or problems identified in the CSB's independent annual audit or management letter or in response to complaints or information that it receives.
 - a. CSBs shall submit formal plans of correction to the Office of Cost Accounting and Reimbursement in the Department within 45 days of receipt of official reports of reviews.
 - b. Minor compliance issues shall be corrected within 45 days of submitting a plan. Action to correct major compliance issues shall be initiated within 45 days and completed within 180 days of submitting a plan, unless the Department grants an extension.
6. **Medicaid and Medicare Regulations:** CSBs shall comply with applicable federal and state Medicaid and Medicare regulations, policies, procedures, and provider agreements. Medicaid non-compliance issues identified by Department staff will be communicated to the Department of Medical Assistance Services.

D. Human Resource Management Requirements, Policies, and Procedures

1. **Statutory Requirements:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, a CSB shall operate a human resource management program that complies with state and federal statutes, regulations, and policies.
 - i. If it is an administrative policy CSB that is a city or county department or agency or is required to adhere to local government human resource management requirements, policies, and procedures or it is the local government department with a policy-advisory CSB, a CSB shall be part of a human resource management program that complies with state and federal statutes, regulations, and policies.
2. **Policies and Procedures:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, a CSB's written human resource management policies and procedures shall include a classification plan and uniform employee pay plan and, at a minimum, shall address:

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| a) nature of employment; | t) compliance with Immigration Reform and Control Act of 1986; |
| b) equal employment opportunity; | u) conflicts of interests and compliance with the Conflict of Interests Act; |
| c) recruitment and selection; | v) compliance with Fair Labor Standards Act, including exempt status, overtime, and compensatory leave; |
| d) criminal background and reference check requirements; | w) drug-free workplace and drug testing; |
| e) classification and compensation, including a uniform employee pay plan; | x) maintenance of a positive and respectful workplace environment; |
| f) employment medical examinations (e.g., TB); | y) prevention of sexual harassment; |
| g) nepotism (employment of relatives); | z) prevention of workplace violence; |
| h) probationary period; | aa) whistleblower protections; |
| i) initial employee orientation; | bb) smoking; |
| j) transfer and promotion; | cc) computer, internet, email, and other electronic equipment usage; |
| k) termination, layoff, and resignation; | dd) progressive discipline (standards of conduct); |
| l) benefits, including types and amounts of leave, holidays, and health, disability, and other insurances; | ee) employee performance evaluation; |
| m) hours of work; | ff) employee grievances; |
| n) outside employment; | gg) travel reimbursement and on-the-job expenses; |
| o) professional conduct; | hh) employee to executive director and board of directors contact protocol; and |
| p) employee ethics; | ii) communication with stakeholders, media, and government officials. |
| q) compliance with state Human Rights Regulations and the CSB's local human rights policies and procedures; | |
| r) HIPAA compliance and privacy protection; | |
| s) compliance with the Americans with Disabilities Act; | |

If it is an administrative policy CSB that is a city or county department or agency or is required to adhere to local government human resource management requirements, policies, and procedures or it is the local government department with a policy-advisory CSB, a CSB shall adhere to its local government's human resource management policies and procedures.

3. **Job Descriptions:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, a CSB shall have written, up-to-date job descriptions for all positions.

Job descriptions shall include identified essential functions, explicit responsibilities, and qualification statements, expressed in terms of knowledge, skills, and abilities as well as business necessity and bona fide occupational qualifications or requirements.

4. **Grievance Procedure:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government human resource management, policies, procedures, and requirements, a CSB's grievance procedure shall satisfy § 15.2-1507 of the Code of Virginia.
5. **Uniform Pay Plan:** If it is an operating CSB, a behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government human resource

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management requirements, policies, and procedures, a CSB shall adopt a uniform pay plan in accordance with § 15.2-1506 of the Code of Virginia and the Equal Pay Act of 1963.

6. **Department Review:** If it is an operating CSB, the behavioral health authority, or an administrative policy CSB that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, employee complaints regarding a CSB's human resource management practices will be referred back to the CSB for appropriate local remedies.
 - a) The Department may conduct a human resource management review to ascertain a CSB's compliance with performance contract requirements and assurances, based on complaints or other information received about a CSB's human resource management practices. If a review is done and deficiencies are identified, a CSB shall submit a formal plan of correction to the Office of Human Resource Management and Development in the Department within 45 days of receipt of an official report of a review.
 - b) Minor compliance issues shall be corrected within 45 days of submitting the plan. Action to correct major compliance issues shall be initiated within 45 days and completed within 180 days of submitting the plan, unless the Department grants an extension.
 - c) If it is an administrative policy CSB that is a city or county department or agency or is required to adhere to local government human resource management requirements, policies, and procedures or it is the local government department with a policy-advisory CSB, employee complaints regarding a CSB's human resource management practices will be referred back to the local government for appropriate local remedies. In response to complaints that it receives, the Department may conduct a review of the local government's human resource management practices at any time.

E. Comprehensive State Planning

1. **General Planning:** The CSB shall participate in collaborative local and regional service and management information systems planning with state facilities, other-CSBs, other public and private human services agencies, and the Department, as appropriate. In accordance with § 37.2-504 or § 37.2-605 of the Code of Virginia, the CSB shall provide input into long-range planning activities that are conducted by the Department.
2. **Participation in State Facility Planning Activities**
The CSB shall participate in collaborative planning activities with the Department to the greatest extent possible regarding the future role and structure of the state facilities.

F. Interagency Relationships

Pursuant to the case management requirements of § 37.2-500 or § 37.2-601 of the Code of Virginia, the CSB shall, to the extent practicable, develop and maintain linkages with other community and state agencies and facilities that are needed to assure that individuals it serves are able to access treatment, training, rehabilitative, and habilitative mental health, developmental, or substance abuse services and supports identified in their individualized services plans. The CSB shall comply with § 37.2-504 or § 37.2-605 of the Code of Virginia regarding interagency agreements.

The CSB also shall develop and maintain, in conjunction with the courts having jurisdiction in the cities or counties served by the CSB, cooperative linkages that are needed to carry out the provisions of § 37.2-805 through § 37.2-821 and related sections of the Code of Virginia pertaining to the involuntary admission process.

The CSB shall develop and maintain the necessary linkages, protocols, and interagency agreements to effect the provisions of the Comprehensive Services Act for At-Risk Youth and Families (§ 2.2-5200 through § 2.2-5214 of the Code of Virginia) that relate to services that it provides. Nothing in this provision shall be construed as requiring the CSB to provide services related to this act in the absence of sufficient funds and interagency agreements.

Department of Behavioral and Developmental Services and Community Services Board**Addendum I****FY2022 and FY2023: Administrative Requirements and Processes and Procedures****III. The Department Requirements****A. Comprehensive State Planning**

The Department shall conduct long-range planning activities related to state facility and community services, including the preparation and dissemination of the Comprehensive State Plan required by § 37.2-315 of the Code of Virginia.

B. Administrative Fee

The Department shall partner with the CSBs to establish administrative fee policies and procedures.

C. Information Technology

The Department shall operate and provide technical assistance and support, to the extent practicable, to the CSB about the Community Automated Reporting System (CARS), the Community Consumer Submission (CCS) software, the FIMS, and the prevention data system referenced in the performance contract and comply with State Board Policies 1030 and 1037.

1. Pursuant to § 37.2-504 and § 37.2-605 of the Code of Virginia, the Department shall implement procedures to protect the confidentiality of data accessed or received in accordance with the performance contract.
2. The Department shall ensure that any software application that it issues to the CSB for reporting purposes associated with the performance contract has been field tested in accordance with Appendix D by a reasonable number of CSBs to assure compatibility and functionality with the major IT systems used by CSBs, is operational, and is provided to the CSB sufficiently in advance of reporting deadlines to allow the it to install and run the software application.
3. The Department shall collaborate with the VACSB DMC in the implementation of any new data management or data warehousing systems to ensure appropriate interoperability and workflow management.

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Appendix A: CSB and Board of Directors Organization and Operations

I. These requirements apply to the CSB board of directors or staff and the services included in this agreement.

A. CSB Organization

The CSB's organization chart shall be consistent with the current board of directors and staff organization. The organization chart shall include the local governing body or bodies that established the CSB and the board's committee structure.

B. Board Bylaws

Board of directors (BOD) bylaws shall be consistent with local government resolutions or ordinances establishing the CSB, board policies, and the CSB's organization chart and shall have been reviewed and revised in the last two years.

C. CSB Name Change

If the name of an operating CSB changes, the CSB shall attach to this contract copies of the resolutions or ordinances approving the CSB's new name that were adopted by the boards of supervisors or city councils (local governing bodies) that established the CSB. If the number of appointments made to the CSB by its local governing bodies changes, the CSB shall attach to this contract copies of the resolutions or ordinances adopted by the local governing bodies that changed the number of appointments.

If the name of an administrative policy CSB that is not a local government department or that serves more than one city or county changes, the CSB shall attach to this contract copies of the resolutions or ordinances approving the CSB's new name that were adopted by the boards of supervisors or city councils (local governing bodies) that established the CSB. If the number of appointments made to the CSB by its local governing bodies changes, the CSB shall attach to this contract copies of the resolutions or ordinances adopted by the local governing bodies that changed the number of appointments.

D. BOD Member Job Description

The BOD and executive director shall develop a board member position description, including qualifications, duties and responsibilities, and time requirements that the CSB shall provide to its local governing bodies to assist them in board appointments.

E. BOD Member Training

The executive director shall provide new board members with training on their legal, fiduciary, regulatory, policy, and programmatic powers and responsibilities and an overview of the performance contract within one month of their appointment. New board members shall receive a board manual before their first board meeting with the information needed to be an effective board member.

F. BOD Policies

The BOD shall adopt policies governing its operations, including board- staff relationships and communications, local and state government relationships and communications, committee operations, attendance at board meetings, oversight and monitoring of CSB operations, quality improvement, conflict of interests, freedom of information, board member training, privacy, security, and employment and evaluation of and relationship with the executive director.

G. FOIA Compliance

The BOD shall comply with the Virginia Freedom of Information Act (FOIA) in the conduct of its meetings, including provisions governing executive sessions or closed meetings, electronic communications, and notice of meetings.

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H. BOD Meeting Schedule

The BOD shall adopt an annual meeting schedule to assist board member attendance.

I. Meeting Frequency

The BOD shall meet frequently enough (at least six times per year) and receive sufficient information from the staff to discharge its duties and fulfill its responsibilities. This information shall include quarterly reports on service provision, funds and expenditures, and staffing in sufficient detail and performance on the behavioral health and developmental performance measures and other performance measures in Exhibit B. Board members shall receive this information at least one week before a scheduled board meeting.

J. Reporting Fraud

1. Fraud is an intentional wrongful act committed with the purpose of deceiving or causing harm to another party. Upon discovery of circumstances suggesting a reasonable possibility that a fraudulent transaction has occurred, the CSB's executive director shall report this information immediately to any applicable local law enforcement authorities and the Department's Internal Audit Director.
2. All CSB financial transactions that are the result of fraud or mismanagement shall become the sole liability of the CSB, and the CSB shall refund any state or federal funds disbursed by the Department to it that were involved in those financial transactions.
3. The CSB shall ensure that new CSB board members receive training on their fiduciary responsibilities under applicable provisions of the Code and this contract and that all board members receive annual refresher training on their fiduciary responsibilities.

K. Financial Management

The CSB shall comply with the following requirements, as applicable.

1. To avoid any appearance of conflict or impropriety, the CSB shall provide complete annual financial statements to its Certified Public Accountant (CPA) for audit. If the CSB does not produce its annual financial statements internally, it should not contract production of the statements to the same CPA that conducts its annual independent audit.
2. Operating CSBs and the BHA shall rebid their CPA audit contracts at least every five (5) years once the current CPA contracts expire. If the firm performing the audit is more than 60 days late for two consecutive years, the CSB reserves the right to rebid for the services of an annual audit.
If the Department determines in its review of the CPA audit provided to it or during its financial review of the CSB that the CSB's CPA audit contains material omissions or errors and informs the CSB of this situation, this could be grounds for the CSB to cancel its audit contract with the CPA.
3. A designated staff person shall review all financial reports prepared by the CSB for the reliance of third parties before the reports are presented or submitted and the reviews shall be documented.
4. All checks issued by the CSB that remain outstanding after one year shall be voided.
5. All CSB bank accounts shall be reconciled regularly, and a designated staff person not involved in preparing the reconciliation shall approve it.
6. A contract administrator shall be identified for each contract for the purchase of services entered into by the CSB, and every contract shall be signed by a designated staff person and each other party to the contract, where applicable.
7. A designated staff person shall approve and document each write-off of account receivables for services to individuals. The CSB shall maintain an accounts receivable aging schedule, and debt that is deemed to be uncollectable shall be written off periodically. The CSB shall maintain a system of internal controls including separation of duties to safeguard accounts receivable assets. A designated staff person who does not enter or process the CSB's payroll shall certify each payroll.
8. The CSB shall maintain documentation and reports for all expenditures related to the federal Mental Health Block Grant and federal Substance Abuse Prevention and Treatment Block Grant funds contained in Exhibit

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FY2022 and FY2023: Administrative Requirements and Processes and Procedures

A sufficient to substantiate compliance with the restrictions, conditions, and prohibitions related to those funds.

9. The CSB shall maintain an accurate list of fixed assets as defined by the CSB. Assets that are no longer working or repairable or are not retained shall be excluded from the list of assets and written off against accumulated depreciation, and a designated staff person who does not have physical control over the assets shall document their disposition. The current location of or responsibility for each asset shall be indicated on the list of fixed assets.
10. Access to the CSB's information system shall be controlled and properly documented. Access shall be terminated in a timely manner when a staff member is no longer employed by the CSB to ensure security of confidential information about individuals receiving services and compliance with the Health Insurance Portability and Accountability Act of 1996 and associated federal or state regulations.
11. If it is an operating CSB or the BHA, the CSB shall maintain an operating reserve of funds sufficient to cover at least two months of personnel and operating expenses and ensure that the CSB's financial position is sound. An operating reserve consists of available cash, investments, and prepaid assets.
12. At any point during the term of this contract, if it determines that its operating reserve is less than two months, the CSB shall notify the Department within 10 calendar days of the determination and develop and submit a plan to the Department within 30 business days that includes specific actions and timeframes to increase the reserve to at least two months in a reasonable time.
13. Once it approves the plan, the Department shall incorporate it as an Exhibit
 - i. D of this contract and monitor the CSB's implementation of it.
14. The CSB's annual independent audit, required of the CSB Administrative Requirements, presents the CSB's financial position, the relationship between the CSB's assets and liabilities.
15. If its annual independent audit indicates that the CSB's operating reserve is less than two months, the CSB shall develop a plan that includes specific actions and timeframes to increase the reserve to at least two months in a reasonable time and submit the plan to the Department within 30 calendar days of its receipt of the audit for the Department's review and approval.
16. Once it approves the plan, the Department shall incorporate it as an Exhibit D of this contract and monitor the CSB's implementation of it.

L. Employment of a CSB Executive Director or Behavioral Health Authority (BHA) Chief Executive Officer (CEO) Position

1. When an operating CSB executive director or behavioral health authority (BHA) chief executive officer (CEO) position becomes vacant, the CSB or BHA board of directors (BOD) shall conduct a broad and thorough public recruitment process that may include internal candidates and acting or interim executive directors.
2. CSB or BHA may choose to work with the Department's Human Resources Department (HR) in its recruitment and selection process in order to implement applicable provisions of § 37.2-504 or § 37.2- 605 of the Code and to ensure selection of the most qualified candidate.
3. The CSB or BHA shall provide a current position description and salary and the advertisement for the position to the HR for review and approval prior to advertising the position.
4. The CSB or BHA BOD may choose to invite HR staff to meet with it to review the board's responsibilities and to review and comment on the board's screening criteria for applicants and its interview and selection procedures.
5. The CSB or BHA BOD shall follow the steps outlined in the current CSB Executive Director Recruitment Process Guidance issued by the Department, adapting the steps to reflect its unique operating environment and circumstances where necessary, to have a legally and professionally defensible recruitment and selection process. Department staff shall work with the BOD search committee to help it use the Guidance document in its process.
6. The CSB or BHA BOD may choose to include an HR staff as a voting member of its search committee to provide the Department's perspective and feedback directly to the committee.

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7. Prior to employing a new executive director or CEO, the CSB or BHA shall provide a copy of the application and resume of the successful applicant and the proposed salary to the HR for review and approval for adherence to minimum qualifications and the salary range established by the Department pursuant to § 37.2-504 or § 37.2-605 and contained in the current CSB Executive Director Recruitment Process Guidance.
8. If the CSB or BHA proposes employing the executive director or CEO above the middle of the salary range, the successful applicant shall meet the preferred qualifications in addition to the minimum qualifications in the Guidance. This review does not include Department approval of the selection or employment of a particular candidate for the position.
9. Section 37.2-504 or § 37.2-605 of the Code requires the CSB or BHA to employ its executive director or CEO under an annually renewable contract that contains performance objectives and evaluation criteria. The CSB or BHA shall provide a copy of this employment contract to the HR for review and approval prior to employment of the new executive director or CEO or before the contract is executed.

M. Administrative Policy CSB Executive Director Position

1. The CSB may choose to involve staff in the Department's HR in its recruitment and selection process in order to implement applicable provisions of § 37.2-504 or § 37.2-605 of the Code. The CSB shall provide a current position description and the advertisement for the position to the HR for review prior to the position being advertised pursuant to § 37.2-504 of the Code.
2. Prior to employing the new executive director, the CSB shall provide a copy of the application and resume of the successful applicant to the HR for review for adherence to minimum qualifications established by the Department pursuant to § 37.2-504. This review does not include Department approval of the selection or employment of a particular candidate for the position.
3. While § 37.2-504 of the Code does not require an administrative policy CSB to employ its executive director under an annually renewable contract that contains performance objectives and evaluation criteria, the CSB should follow this accepted human resource management practice.

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Appendix B: Disaster Response and Emergency Service Preparedness Requirements

- A.** The CSB agrees to comply with section 416 of Public Law 93-288 (the Stafford Act) and § 44-146.13 through § 44-146.28 of the Code regarding disaster response and emergency service preparedness. These Code sections authorize the Virginia Department of Emergency Management, with assistance from the Department, to execute the *Commonwealth of Virginia Emergency Operations Plan*, as promulgated through Executive Order 50 (2012).
- B.** Disaster behavioral health assists with mitigation of the emotional, psychological, and physical effects of a natural or man-made disaster affecting survivors and responders. Disaster behavioral health support is most often required by Emergency Support Function No. 6: Mass Care, Emergency Assistance, Temporary Housing, and Human Services; Emergency Support Function No. 8: Health and Medical Services; and Emergency Support Function No. 15: External Affairs. The CSB shall:
1. provide the Department with and keep current 24/7/365 contact information for disaster response points of contact at least three persons deep;
 2. report to the Department all disaster behavioral health recovery and response activities related to a disaster;
 3. comply with all Department directives coordinating disaster planning, preparedness, response, and recovery to disasters; and
 - 4.
- C.** The Disaster Behavioral Health Annex template shall address: listing behavioral health services and supports, internal to CSB and at other organizations in the community, available to localities during the preparedness, response, and recovery phases of a disaster or emergency event and designating staff to provide disaster behavioral health services and supports during emergency operations. To implement this plan, the CSB shall:
1. Develop protocols and procedures for providing behavioral health services and supports during emergency operations;
 2. Seek to participate in local, regional, and statewide planning, preparedness, response, and recovery training and exercises;
 3. Negotiate disaster response agreements with local governments and state facilities; and
 4. Coordinate with state facilities and local health departments or other responsible local agencies, departments, or units in preparing all hazards disaster plans.

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Appendix C: Unspent Balances Principles and Procedures

1. Unspent Balances Principles and Procedures

- a. **Unspent balances:** Means amounts of unexpended federal funds, unrestricted and restricted state general funds, hereafter referred to as state funds unless clarity requires more specificity, disbursed to CSBs that remain unexpended after the end of the fiscal year in which they were disbursed to the CSB by the Department.

These principles and procedures apply to all CSBs. These principles and procedures shall apply to all unspent balances of state funds present in a CSB's accounts and reflected in its financial management system and independent CPA audit.

b. **CSB Unspent Federal Funds**

Any unspent federal funds shall be returned to the Department at the end of the funding period in which they were allocated at the end of the appropriate period of performance identified in Exhibit F. Exhibit F provides explicit instructions for the expenditure of funds for unliquidated obligations and the procedures and dates by which unexpended federal funds must be returned to DBHDS.

- c. **CSB Allocations of State Funds:** Given provisions in State Board Policy 6005 and § 37.2-509 or § 37.2-611 of the Code of Virginia, the Department shall allocate funds in Grants to Localities in the Appropriation Act without applying estimated year-end balances of unspent state funds to the next year's awards to CSBs.

- d. **Calculation of Balances:** In order to identify the correct amounts of unspent state fund balances, the Department shall continue to calculate unspent balances for all types of funds sources, except for federal grants.

- i. The Department shall calculate balances for restricted and unrestricted state funds, local matching funds, and fees; based on the end of the fiscal year Community Automated Reporting System (CARS) reports submitted by all CSBs no later than the deadline in Exhibit E of the performance contract for the preceding state fiscal year. The Department shall continue to communicate information about individual balances to each CSB.
- ii. In calculating amounts of unspent state funds, the Department shall prorate balances of unexpended unrestricted funds after the close of the fiscal year among unrestricted state funds, local matching funds, and fees, based on the relative proportions of those funds received by the CSB. This normally will produce identified balances of unrestricted state funds, local matching funds, and fees, rather than just balances of unrestricted state funds. Restricted state funds shall be accounted for separately, given their restricted status, and the Department shall identify balances of unexpended restricted state funds separately.

- e. **Unspent Balances for Regional Programs:** While all unspent balances exist in CSB financial management systems, unspent balances for a regional program may be handled by the fiscal agent and CSBs participating in the regional program as they decide. All participating CSBs must review and approve how these balances are handled. Balances for regional programs may be prorated to each participating CSB for its own locally determined uses or allocated to a CSB or CSBs for regionally approved uses, or the CSB that functions as the regional program's fiscal agent may retain and expend the funds for purposes determined by all of the participating CSBs. Procedures for handling regional program balances of unspent funds should be included in the regional program memorandum of agreement for the program among the participating CSBs, and those procedures must be consistent with the principles and procedures in this Appendix and the applicable provisions of the current performance contract.

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- f. **Allowable Uses of Unspent State Fund Balances:** Consistent with the intent of the Grants to Localities item in the Appropriation Act and § 37.2-500 or § 37.2-601 of the Code of Virginia, CSBs may use unspent balances of state funds only for mental health, developmental, and substance use disorder services purposes. Any other uses of unspent state fund balances are not acceptable and are a violation of the CSB's performance contract with the Department.
 - g. **Collective Uses of Unspent Balances:** A group of CSBs may pool amounts of their unspent balances to address one-time issues or needs that are addressed more effectively or efficiently on a collective basis. The use of these pooled unspent balances shall be consistent with the principles and procedures in this Appendix.
2. **Reserve Funds:** A CSB shall place all unspent balances of unrestricted and restricted state funds that it has accumulated from previous fiscal years in a separate reserve fund. CSBs shall identify and account separately for unspent balances of each type of restricted state funds from previous fiscal years in the reserve fund. The CSB shall use this reserve fund only for mental health, developmental, and substance use disorder services purposes, as specified in these principles and procedures or by the Department.
 - a. Reserve funds must not be established using current fiscal year funds, which are appropriated, granted, and disbursed for the provision of services in that fiscal year. This is particularly relevant for funds earmarked or restricted by funding sources such as the General Assembly, since these funds cannot be used for another purpose during the biennium in which they are appropriated. Transferring current fiscal year state funds into a reserve fund or otherwise intentionally not expending them solely for the purpose of accumulating unspent state funds to create or increase a reserve fund is a violation of the legislative intent of the Appropriation Act and is not acceptable.
 - b. **Size of Reserve Funds:** The maximum acceptable amount of unspent state fund balances that a CSB may accumulate in a reserve fund shall be equal to 50 percent of the amount of all state funds received from the Department during the current fiscal year up to a maximum of \$7 million. If this amount of all state funds is less than 50 percent of the total amount of state funds received by the CSB during any one of the preceding five fiscal years, then 50 percent of that larger amount shall constitute the acceptable maximum amount of unspent state fund balances that may be accumulated in a reserve account.
 - i. If a CSB has accumulated more than this amount, it must expend enough of those reserve funds on allowable uses for mental health, developmental, or substance use disorder services purposes to reduce the amount of accumulated state fund balances to less than 50 percent of the amount of all state funds received from the Department during the current fiscal year.
 - ii. In calculating the amount of acceptable accumulated state fund balances, amounts of long term capital obligations incurred by a CSB shall be excluded from the calculation. If a CSB has a plan approved by its CSB board and reviewed and approved in advance by the Department to reserve a portion of accumulated balances toward an identified future capital expense such as the purchase, construction, renovation, or replacement of land or buildings used to provide mental health, developmental, or substance use disorder services; purchase or replacement of other capital equipment, including facility-related machinery or equipment; or purchase of information system equipment or software, the reserved amounts of state funds shall be excluded from the maximum acceptable amount of unspent state fund balances.
 3. **Effective Period of Restrictions on State General Funds**

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- a. Allowable uses of state funds for identified purposes (restricted funds) remain restricted as originally appropriated. After the end of the biennium in which the restricted funds were disbursed to CSB, any unexpended balances of those state funds shall be identified and shall remain restricted for permissible purpose. CSB must obtain approval from the Department to use these funds for other purposes.
- b. Allowable uses of state funds appropriated in the Grants to Localities item of the Appropriation Act for identified purposes (restricted funds) remain in effect for each fiscal year through the end of the biennium in which those restricted funds were originally appropriated. After the end of the biennium in which the restricted funds were disbursed to CSBs, any unexpended balances of these those state funds shall be identified as unrestricted state funds.
- c. From time to time, the Department may deem it necessary to maintain the restricted purpose beyond the biennium during which the funds were allocated. The Department will provide 60 days advance notification to the CSB of its intent to maintain restrictions on funds during subsequent bienniums.
- d. The Department may request an accounting of the total amount of accumulated unexpended restricted state funds per funding source. If necessary, the Department may direct the CSBs to repurpose the use of those funds or the Department may re-allocate those funds amongst other CSBs based on need.

4. Performance Contract Exhibit A Documentation

- a. All uses of unspent balances of state funds shall be documented in the CSB's performance contract for the year in which the unspent balances are expended. If the balances will be used to support operational costs, the funds shall be shown as state retained earnings in the performance contract and in the CARS mid-year report, if the expense occurs in the first two quarters, and in the end of the fiscal year CARS report.
- b. If the balances will be used for major capital expenses, such as the purchase, construction, major renovation, or replacement of land or buildings used to provide mental health, developmental, or substance use disorder services or the CSB's management and administrative operations or the purchase or replacement of information system equipment, these costs shall be shown as state retained earnings and shall be described separately on the Financial Comments page (AF-2) of the performance contract and the CARS reports.
- c. Balances used for major capital expenses shall be included on pages AF 1 and AF-3 through AF-8 as applicable but shall not be included in the service costs shown on Forms 11, 21, 31, or 01 of the performance contract or CARS reports because these expenses would distort the ongoing costs of the services in which the major capital expenses would be included. Differences between the funds shown on pages AF-1 through AF-8 related to the inclusion of unspent balances as retained earnings for major capital expenses and the costs shown on Forms 11 through 01 shall be explained on Form AF-10 Supplemental Information: Reconciliation of Projected Resources and Core Services Costs by Program Area. However, depreciation of those capital assets can be included in service costs shown on Forms 11 through 01.
- d. In either case, for each separate use of unspent balances of state funds, the amount expended and the category from those listed in the expenditure shall be shown on the Financial Comments page of the performance contract, if the expenditure was planned at the beginning of the contract term, and in the end of the fiscal year CARS report. The amount of unspent balances must be shown along with the specific sources of those balances, such as unrestricted state funds or particular

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restricted state funds. Uses of unspent balances of state funds shall be reviewed and approved by the Department in accordance with the principles and procedures in this document and the Performance Contract Process in Exhibit E of the performance contract.

- e. CSBs may maintain their accounting records on a cash or accrual basis for day-to-day accounting and financial management purposes; however its CARS reporting must be in compliance with Generally Accepted Accounting Principles (GAAP). CSBs may submit CARS reports to the Department on a cash or modified accrual basis, but they must report on a consistent basis; and the CARS reports must include all funds contained in the performance contract that are received by the CSB during the reporting period.

5. Department Review of Unspent Balances

In exercising its stewardship responsibility to ensure the most effective, prudent, and accountable uses of state funds, the Department may require CSBs to report amounts of unexpended state funds from previous fiscal years. The Department also may withhold current fiscal year disbursements of state funds from a CSB if amounts of unexpended state funds for the same purposes in the CSB's reserve account exceed the limits in this document. This action would not affect the allocation of those state funds in the following fiscal year. The Department also may review available unspent balances of state funds with a CSB that exhibits a persistent pattern of providing lower levels of services while generating significant balances of unspent state funds, and the Department may take actions authorized by State Board Policy 6005 to address this situation. Finally, the Department may establish other requirements in collaboration with CSBs for the identification, use, reporting, or redistribution of unexpended balances of state funds.

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1. User acceptance testing (UAT) is testing used to validate an application against the business requirements. It also provides the opportunity for the end user/client to determine if the application is acceptable or not. UAT is the last step in ensuring that the application is performing as expected and to minimize any future undue costs caused by unexpected errors and decreased data veracity.
2. By the time an application has reached the UAT process, the code is expected to work as determined in the business requirements. Unpredictability is one of the least desirable outcomes of using any application. Several factors make UAT necessary for any software development or modification project, especially for complex applications like CCS 3 or the Waiver Management System (WaMS) that interface with many IT vendor-supplied data files and are used by many different end users in different ways.
3. In the UAT process, end users test the business functionality of the application to determine if it can support day-to-day business practices and user case scenarios. The Community Service Boards (CSB) and Department of Behavioral Health and Developmental Services (DBHDS) will use the following UAT process for major new releases and/or upgrades of CCS 3, WaMS, or other applications that involve the addition of new data elements or reporting requirements or other functions that would require significant work by CSB IT staff and vendors.
4. Major changes in complex systems such as CCS or WaMS shall occur only once per year at the start of the fiscal year and in accordance with the testing process below. Critical and unexpected changes may occur outside of this annual process for business applications, under those circumstances DBHDS will follow the established UAT process to implement them. Smaller applications follow the process below at the discretion of the DBHDS and the VACSB DMC. (Virginia Community Service Board Data Management Committee).
5. Minor releases of CCS 3 or other applications will utilize shorter processes that will require a modification to the established UAT process. Minor releases can be described as small modifications of the application and that does not involve collecting new data elements. For example, bug fixes or correcting vendor or CSB names or adding values in existing look up tables may start at D-35.

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Appendix D: User Acceptance Testing Process

Department and CSB User Acceptance Testing Process	
Time Frame	Action
D Day	Date data must be received by the Department (e.g., 8/31 for CCS 3 monthly submissions and 7/1 for WaMS).
D - 15	The Department issues the final version of the new release to CSBs for their use.
D - 20	UAT is completed and application release is completed.
D - 35	UAT CSBs receive the beta version of the new release and UAT begins.
D - 50	CSBs begin collecting new data elements that will be in the new release. Not all releases will involve new data elements, so for some releases, this date would not be applicable.
D - 140	The Department issues the final revised specifications that will apply to the new release. The revised specifications will be accompanied by agreed upon requirements specifications outlining all of the other changes in the new release. CSBs use the revised specifications to modify internal business practices and work with their IT vendors to modify their EHRs and extracts.
Unknown	The time prior to D-150 in which the Department and CSBs develop and negotiate the proposed application changes. The time needed for this step is unknown and will vary for each new release depending on the content of the release.

**Time Frame is based on calendar days*

Department and CSB User Acceptance Testing Process	
Time Frame	Action
Variable	The time prior to D-150 in which DBHDS and CSBs develop and negotiate the proposed application changes. The time needed for this step is unknown and will vary for each new release depending on the content of the release
D - 140	The Department issues the final revised specifications that will apply to the new release. The revised specifications will be accompanied by agreed upon requirements specifications outlining all changes in the new release.
D - 50	CSBs begin collecting new data elements that will be in the new release. Not all releases will involve new data elements, so for some releases, this date would not be applicable.
D - 35	UAT testers (DBHDS & CSB representatives) receive the beta version of the new release and UAT begins.
D - 20	UAT is completed. Test outcomes are validated and identified errors are mitigated. The application release is completed.
D - 15	The Department issues the final version of the new release to CSBs for their use.
D Day	Initial date data must be received by the Department (e.g., 8/31 for CCS 3 monthly submissions and 7/1 for WaMS).

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Appendix E: INTENTIONALLY LEFT BLANK FOR FUTURE USE

Addendum II FY2022-23: Central Office, State Facility, and Community Services Board Partnership Agreement

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Addendum II FY2022-23: Central Office, State Facility, and Community Services Board Partnership Agreement

Section 1: Purpose

The Central Office of the Department of Behavioral Health and Developmental Services (Department), state hospitals and training centers (state facilities) operated by the Department, and community services boards (CSBs), which are entities of local governments, are the operational partners in Virginia's public system for providing mental health, developmental, and substance use disorder services. CSBs include operating CSBs, administrative policy CSBs, and policy-advisory CSBs to local government departments and the behavioral health authority that are established pursuant to Chapters 5 and 6, respectively, of Title 37.2 of the Code of Virginia.

Pursuant to State Board Policy 1034, the partners enter into this agreement to implement the vision statement articulated in State Board Policy 1036 and to improve the quality of care provided to individuals receiving services (individuals) and enhance the quality of their lives. The goal of this agreement is to establish a fully collaborative partnership process through which CSBs, the Central Office, and state facilities can reach agreements on operational and policy matters and issues. In areas where it has specific statutory accountability, responsibility, or authority, the Central Office will make decisions or determinations with the fullest possible participation and involvement by the other partners. In all other areas, the partners will make decisions or determinations jointly. The partners also agree to make decisions and resolve problems at the level closest to the issue or situation whenever possible. Nothing in this partnership agreement nullifies, abridges, or otherwise limits or affects the legal responsibilities or authorities of each partner, nor does this agreement create any new rights or benefits on behalf of any third parties.

The partners share a common desire for the system of care to excel in the delivery and seamless continuity of services for individuals and their families and seek similar collaborations or opportunities for partnerships with advocacy groups for individuals and their families and other system stakeholders. We believe that a collaborative strategic planning process helps to identify the needs of individuals and ensures effective resource allocation and operational decisions that contribute to the continuity and effectiveness of care provided across the public mental health, developmental, and substance use disorder services system. We agree to engage in such a collaborative planning process.

This partnership agreement also establishes a framework for covering other relationships that may exist among the partners. Examples of these relationships include regional initiatives such as the regional utilization management teams, regional crisis stabilization programs, regional discharge assistance programs, regional local inpatient purchases of services, and REACH programs.

Section 2: Roles and Responsibilities

Although this partnership philosophy helps to ensure positive working relationships, each partner has a unique role in providing public mental health, developmental, and substance use disorder services. These distinct roles promote varying levels of expertise and create opportunities for identifying the most effective mechanisms for planning, delivering, and evaluating services.

A. Central Office

1. Ensures through distribution of available state and federal funding that an individually focused and community-based system of care, supported by community and state facility resources, exists for the delivery of publicly funded services and supports to individuals with mental health or substance use disorders or developmental disabilities.
2. Promotes the public mental health, developmental, and substance use disorder service delivery system (including the Central Office) quality improvement efforts that focus on individual outcome and provider performance measures designed to enhance service quality, accessibility, and availability, and provides assistance to the greatest extent practicable with Department-initiated surveys and data requests.
3. Supports and encourages the maximum involvement to ensure that services are not imposed on individuals receiving services. The receiver of services should be an active participant in the planning, delivery, and documentation of services whenever practical participation of individuals receiving services and family members

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of individuals receiving services in policy formulation and services planning, delivery, monitoring, and evaluation.

4. Ensures fiscal accountability that is required in applicable provisions of the Code, relevant state and federal regulations, and policies of the State Board.
5. Promotes identification of state-of-the-art, best or promising practice, or evidence-based programming and resources that exist as models for consideration by other partners.
6. Seeks opportunities to affect regulatory, policy, funding, and other decisions made by the Governor, the Secretary of Health and Human Resources, the General Assembly, the Department of Medical Assistance Services and other state agencies, and federal agencies that interact with or affect the other partners.
7. Encourages and facilitates state interagency collaboration and cooperation to meet the service needs of individuals and to identify and address statewide interagency issues that affect or support an effective system of care.
8. Serves as the single point of accountability to the Governor and the General Assembly for the public system of mental health, developmental, and substance use disorder services.
9. Problem solves and collaborates with a CSB and state facility together on a complex or difficult situation involving an individual who is receiving services when the CSB and state facility have not been able to resolve the situation successfully at their level.

B. Community Services Boards

1. Pursuant to § 37.2-500 and 37.2-600 of the Code and State Board Policy 1035, serve as the single points of entry into the publicly funded system of individually focused and community-based services and supports for individuals with mental health or substance use disorders or developmental disabilities, including individuals with co-occurring disorders in accordance with State Board Policy 1015.
2. Serve as the local points of accountability for the public mental health, developmental, and substance use disorder service delivery system.
3. To the fullest extent that resources allow, promote the delivery of community-based services that address the specific needs of individuals, particularly those with complex needs, with a focus on service quality, accessibility, integration, and availability and on self-determination, empowerment, and recovery.
4. Support and encourage the maximum involvement and participation of individuals receiving services and family members of individuals receiving services in policy formulation and services planning, delivery, monitoring, and evaluation.
5. Establish services and linkages that promote seamless and efficient transitions of individuals between state facility and community services.
6. Promote sharing of program knowledge and skills with other partners to identify models of service delivery that have demonstrated positive outcomes for individuals receiving services.
7. Problem-solve and collaborate with state facilities on complex or difficult situations involving individuals receiving services.
8. Encourage and facilitate local interagency collaboration and cooperation to meet the other services and supports needs, including employment and stable housing, of individuals receiving services.

C. State Facilities

1. Provide psychiatric hospitalization and other services to individuals identified by CSBs as meeting statutory requirements for admission in § 37.2-817 of the Code and criteria in the Continuity of Care Procedures in the

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CSB Administrative Requirements, including the development of specific capabilities to meet the needs of individuals with co-occurring mental health and substance use disorders in accordance with State Board Policy 1015.

2. Within the resources available, provide residential, training, or habilitation services to individuals with developmental disabilities identified by CSBs as needing those services in a training center and who are certified for admission pursuant to § 37.2-806 of the Code.
3. To the fullest extent that resources allow, provide services that address the specific needs of individuals with a focus on service quality, accessibility, and availability and on self-determination, empowerment, and recovery.
4. Support and encourage the involvement and participation of individuals receiving services and family members of individuals receiving services in policy formulation and services planning, delivery, monitoring, and evaluation.
5. Establish services and linkages that promote seamless and efficient transitions of individuals
6. Promote sharing of program knowledge and skills with other partners to identify models of service delivery that have demonstrated positive outcomes for individuals.
7. Problem-solve and collaborate with CSBs on complex or difficult situations involving individuals receiving services.

Section 3: Vision and Core Values

The Central Office, state facilities, and CSBs share a common desire for the public system of care to excel in the delivery and seamless continuity of services to individuals receiving services and their families. While they are interdependent, each partner works independently with both shared and distinct points of accountability, such as state, local, or federal governments, other funding sources, individuals receiving services, and families. The partners embrace a common vision and core values that guide the Central Office, state facilities, and CSBs in developing and implementing policies, planning services, making decisions, providing services, and measuring the effectiveness of service delivery.

A. Vision Statement

The vision, as articulated in State Board Policy 1036, is of a system of quality recovery-oriented services and supports that respects the rights and values of individuals with mental illnesses, intellectual disability, other developmental disabilities who are eligible for or are receiving Medicaid developmental disability waiver services, or substance use disorders, is driven by individuals receiving services, and promotes self-determination, empowerment, recovery, resilience, health and overall wellness, and the highest possible level of participation by individuals receiving services in all aspects of community life, including work, school, family, and other meaningful relationships. This vision also includes the principles of inclusion, participation, and partnership.

B. Core Values

1. Underpinning the vision are the core values of accountability, responsiveness, accessibility and localized solution meaning:
2. The Central Office, state facilities, and CSBs are working in partnership; we hold each other accountable for adhering to our core values.
3. As partners, we will focus on fostering a culture of responsiveness and striving for continuous quality improvement.
4. All services should be designed to be welcoming, accessible, and capable of providing interventions properly matched to the needs of individuals with co-occurring disorders.

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5. As partners, we will make decisions and resolve problems at the level closest to the issue or situation whenever possible.

Section 4: Indicators Reflecting Core Values

The public system of care in Virginia is guided by simple, cost-effective measures reflecting the core values and expectations identified by the Central Office, state facilities, and CSBs. Subsequently, any indicators or measures should reflect the core values listed in the preceding section. The partners agree to identify, prioritize, collect, and utilize these measures as part of the quality assurance systems mentioned in Section 6 of this agreement and in the quality improvement plan described in Section 6.b of the community services performance contract.

Section 5: Advancing the Vision

The partners agree to engage in activities to advance the achievement of the Vision Statement contained in State Board Policy 1036 and Section 3 of this agreement, including these activities.

1. **Recovery:** The partners agree, to the greatest extent possible, to:
 - a. provide more opportunities for individuals receiving services to be involved in decision making,
 - b. increase recovery-oriented, peer-provided, and consumer-run services,
 - c. educate staff and individuals receiving services about recovery, and
 - d. assess and increase the recovery orientation of CSBs, the Central Office, and state hospitals.
2. **Integrated Services:** The partners agree to advance the values and principles in the Charter Agreement signed by the CSB and the Central Office and to increase effective screening and assessment of individuals for co-occurring disorders to the greatest extent possible.
3. **Person-Centered Planning:** The partners agree to promote awareness of the principles of person-centered planning, disseminate and share information about person-centered planning, and participate on work groups focused on implementing person-centered planning.

Section 6: Critical Success Factors

The partners agree to engage in activities that will address the following seven critical success factors. These critical success factors are required to transform the current service system's crisis response orientation to one that provides incentives and rewards for implementing the vision of a recovery and resilience-oriented and person-centered system of services and supports. Successful achievement of these critical success factors will require the support and collective ownership of all system stakeholders.

1. Virginia successfully implements a recovery and resilience-oriented and person-centered system of services and supports.
2. Publicly funded services and supports that meet growing mental health, developmental, and substance use disorder services needs are available and accessible across the Commonwealth.
3. Funding incentives and practices support and sustain quality care focused on individuals receiving services and supports, promote innovation, and assure efficiency and cost effectiveness.
4. State facility and community infrastructure and technology efficiently and appropriately meet the needs of individuals receiving services and supports.
5. A competent and well-trained mental health, developmental, and substance use disorder services system workforce provides needed services and supports.

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6. Effective service delivery and utilization management assures that individuals and their families receive services and supports that are appropriate to their needs.
7. Mental health, developmental, and substance use disorder services and supports meet the highest standards of quality and accountability.

Section 7: Accountability

The Central Office, state facilities, and CSBs agree that it is necessary and important to have a system of accountability. The partners also agree that any successful accountability system requires early detection with faithful, accurate, and complete reporting and review of agreed-upon accountability indicators. The partners further agree that early detection of problems and collaborative efforts to seek resolutions improve accountability. To that end, the partners commit themselves to a problem identification process defined by open sharing of performance concerns and a mutually supportive effort toward problem resolution. Technical assistance, provided in a non-punitive manner designed not to “catch” problems but to resolve them, is a key component in an effective system of accountability.

Where possible, joint work groups, representing CSBs, the Central Office, and state facilities, shall review all surveys, measures, or other requirements for relevance, cost benefit, validity, efficiency, and consistency with this statement prior to implementation and on an ongoing basis as requirements change. In areas where it has specific statutory accountability, responsibility, or authority, the Central Office will make decisions or determinations with the fullest possible participation and involvement by the other partners. In all other areas, the partners will make decisions or determinations jointly.

The partners agree that when accreditation or another publicly recognized independent review addresses an accountability issue or requirement, where possible, compliance with this outside review will constitute adherence to the accountability measure or reporting requirement. Where accountability and compliance rely on affirmations, the partners agree to make due diligence efforts to comply fully. The Central Office reserves the powers given to the department to review and audit operations for compliance and veracity and upon cause to take actions necessary to ensure accountability and compliance.

Section 8: Involvement and Participation of Individuals Receiving Services and Their Family Members

1. **Involvement and Participation of Individuals Receiving Services and Their Family Members:** CSBs, state facilities, and the Central Office agree to take all necessary and appropriate actions in accordance with State Board Policy 1040 to actively involve and support the maximum participation of individuals receiving services and their family members in policy formulation and services planning, delivery, monitoring, and evaluation.
2. **Involvement in Individualized Services Planning and Delivery by Individuals Receiving Services and Their Family Members:** CSBs and state facilities agree to involve individuals receiving services and, with the consent of individuals where applicable, family members, authorized representatives, and significant others in their care, including the maximum degree of participation in individualized services planning and treatment decisions and activities, unless their involvement is not clinically appropriate.
3. **Language:** CSBs and state facilities agree that they will endeavor to deliver services in a manner that is understood by individuals receiving services. This involves communicating orally and in writing in the preferred languages of individuals, including Braille and American Sign Language when applicable, and at appropriate reading comprehension levels.
4. **Culturally Competent Services:** CSBs and state facilities agree that in delivering services they will endeavor to address to a reasonable extent the cultural and linguistic characteristics of the geographic areas and populations that they serve.

Section 9: Communication

CSBs, state facilities, and the Central Office agree to communicate fully with each other to the greatest extent possible. Each partner agrees to respond in a timely manner to requests for information from other partners, considering the type, amount, and availability of the information requested.

Addendum II FY2022-23: Central Office, State Facility, and Community Services Board Partnership Agreement

Section 10: Quality Improvement

On an ongoing basis, the partners agree to work together to identify and resolve barriers and policy and procedural issues that interfere with the most effective and efficient delivery of public mental health, developmental, and substance use disorder services.

Section 11: Reviews, Consultation, and Technical Assistance

CSBs, state facilities, and the Central Office agree, within the constraints of available resources, to participate in review, consultation, and technical assistance activities to improve the quality of services provided to individuals and to enhance the effectiveness and efficiency of their operations.

Section 12: Revision

This is a long-term agreement that should not need to be revised or amended annually. However, the partners agree that this agreement may be revised at any time with the mutual consent of the parties. When revisions become necessary, they will be developed and coordinated through the System Leadership Council. Finally, either party may terminate this agreement with six months written notice to the other party and to the System Leadership Council.

Section 13: Relationship to the Community Services Performance Contract

This partnership agreement by agreement of the parties is hereby incorporated into and made a part of the current community services performance contract by reference.

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**Effective July 1, 2014 for FY 2015 and
Subsequent Fiscal Years Until Superseded.**

June 30, 2014

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Introduction

The idea of core services emerged from the General Assembly's Commission on Mental Health and Mental Retardation, chaired by Richard M. Bagley, in 1980. The first list of core services, developed in response to a Commission recommendation, contained five categories of services: emergency, inpatient, outpatient and day support, residential, and prevention and early intervention. The State Board of Behavioral Health and Developmental Services (State Board) approved the original core services definitions in 1981. The General Assembly accepted general definitions of these services and amended § 37.1-194 of the Code of Virginia in 1984 to list the services, requiring the provision of only emergency services. In 1998, the legislature required the provision of case management services, subject to the availability of funds appropriated for them.

The initial description of core services established a useful conceptual framework for Virginia's network of community services board (CSB) and state hospital and training center (state facility) services. However, this description was too general and not sufficiently quantifiable for meaningful data collection and analysis. The initiation of performance contracting in Fiscal Year (FY) 1985 revealed the need for detailed, consistent, and measurable information about services and individuals receiving services. Experience with the first round of contracts reinforced the need for core services definitions that were sufficiently differentiated to reflect the variety of programs and services and yet were general enough to encompass the broad diversity of service modalities and the need for basic, quantified data about services, collected and reported uniformly.

The Virginia Department of Behavioral Health and Developmental Services (Department) and the Virginia Association of Community Services Boards (VACSB) developed the first core services taxonomy, a classification and definition of services, in 1985 to address these needs. The original version of the taxonomy was used with the FY 1986 and 1987 community services performance contracts. State Board Policy 1021 (SYS) 87-9 on core services, adopted in 1987, states that the current version of the taxonomy shall be used to classify, describe, and measure the services delivered directly or through contracts with other providers by all CSBs and state facilities. The Department and the VACSB have revised the core services taxonomy seven times since 1985.

Core Services Taxonomy 7, used in FY 2006 and 2007, added a new core services category, limited services, separated outpatient and case management services into two categories to provide more visibility for case management services, and split day support services into day support services and employment services to reflect the clear differences between them. The limited services category allowed CSBs to capture less information about services that are typically low intensity, infrequent, or short-term (e.g., less than 30 days or four to eight sessions in duration) services. As a result, Taxonomy 7 had nine categories of core services: emergency, inpatient, outpatient, case management, day support, employment, residential, prevention and early intervention, and limited services.

Core Services Taxonomy 7.1, used in FY 2008 and 2009, incorporated changes in the Community Consumer Submission 3 (CCS 3), the new admission and discharge paradigm, and new system transformation initiative services. It reordered core services categories to reflect the new paradigm. Some services were grouped under services available outside of a program area (SAOPA), but most were under services available at admission to a program area. It added a tenth core services category, consumer-run services, and two subcategories, ambulatory crisis stabilization services and residential crisis stabilization services, and separated prevention and infant and toddler intervention into separate categories.

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Core Services Taxonomy 7.2, used in FY 2010 through FY 2014, incorporated two new concepts: service subtype, used only for emergency and case management services, and service location to provide more specific information about core services; these changes are reflected in the CCS. It replaced consumer with individual or individual receiving services unless the context requires the use of consumer (e.g., the CCS). It retained infant and toddler services for descriptive purposes only. Information about these services is collected through a separate information system instead of the CCS, and the services are funded through a separate contract. Taxonomy 7.2 added two appendices on regional programs that were previously in the performance contract. It replaced SAOPA with emergency services and ancillary services. Finally, mental health or substance use disorder or intellectual disability were used to refer to a condition experienced by an individual, while mental health, substance abuse, or developmental services referred respectively to the services that address these conditions.

Core Services Taxonomy 7.3, effective for FY 2015 and subsequent years, incorporates all revisions of Taxonomy 7.2 issued since July 1, 2009. It adds a new outpatient services subcategory for intensive outpatient and clarifies that consumer designation code 920 includes all individuals receiving intellectual disability home and community-based Medicaid waiver services.

Taxonomy categories and subcategories are inclusive rather than narrowly exclusive; they are not meant to capture every detail about everything a CSB or state facility does. Categories and subcategories allow meaningful and accurate descriptions and measurements of service delivery activities; this can help produce valid and informative analyses and comparisons of CSBs, state facilities, and regions. Given the diversity and variety of Virginia's localities and the mix and availability of resources and services from other public and private providers, each CSB may not need to provide every subcategory in the taxonomy. The categories and subcategories do not create additional mandates for CSBs; only emergency and case management services are now required.

The relationship of taxonomy core services categories and subcategories to the more traditional community services organizational structure is represented below.

Community Services Board or Behavioral Health Authority (CSB)

Program Area (all mental health, developmental, or substance abuse services)

Core Service Category (e.g., residential services)

Core Service Subcategory (e.g., intensive residential services)

Service Subtype (for emergency and case management services) and

Service Location (for all services)

Services in a Subcategory (e.g. in-home respite in supportive residential)

Individual Program (e.g., a particular group home)

Discrete Service Activity (e.g., meal preparation)

The numbers after some core services categories and all core service subcategories in the definitions section and the matrix are the Community Automated Reporting System (CARS) and CCS codes for those services. Core services categories with subcategories, such as inpatient services, do not have codes because they have subcategories with codes. However, core services categories with no subcategories, such as emergency services, do have codes. Services that have moved to different categories, such as individual supported employment moving from the day support services to the employment services category, retain the same code numbers that they had in Taxonomy 7 and the original CCS for historical data base continuity purposes. The CARS and CCS do not include details of the bottom three levels (*services in a subcategory*, individual program and discrete service activity) above.

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Types of Community Services Boards (CSBs)

A particularly meaningful classification of CSBs is the relationship between the CSB and its local government or governments. While CSBs are agents of the local governments that established them, most CSBs are not city or county government departments. Section 37.2-100 of the Code of Virginia defines three types of CSBs, and Chapter 6 of Title 37.2 authorizes behavioral health authorities (BHAs) to provide community services. Throughout the taxonomy, community services board or CSB refers to all of the following organizations.

Administrative policy CSB or administrative policy board means the public body organized in accordance with the provisions of Chapter 5 (§ 37.2-500 et seq.) that is appointed by and accountable to the governing body of each city and county that established it to set policy for and administer the provision of mental health, developmental, and substance abuse services. The administrative policy CSB or administrative board denotes the board, the members of which are appointed pursuant to § 37.2-501 with the powers and duties enumerated in subsection A of § 37.2-504 and § 37.2-505. An administrative policy CSB includes the organization that provides mental health, developmental, and substance abuse services through local government staff or contracts with other organizations and providers, unless the context indicates otherwise. An administrative policy CSB does not employ its staff. There are 11 administrative policy CSBs; nine are city or county government departments; two are not, but use local government staff to provide services.

Behavioral health authority (BHA) or authority means a public body and a body corporate organized in accordance with the provisions of Chapter 6 (§ 37.2-600 et seq.) that is appointed by and accountable to the governing body of the city or county that established it for the provision of mental health, developmental, and substance abuse services. BHA or authority also includes the organization that provides these services through its own staff or through contracts with other organizations and providers, unless the context indicates otherwise. Chapter 6 authorizes Chesterfield County and the cities of Richmond and Virginia Beach to establish a BHA; only Richmond has done so. In many ways, a BHA most closely resembles an operating CSB, but it has several powers or duties in § 37.2-605 of the Code of Virginia that are not given to CSBs.

Operating CSB or operating board means the public body organized in accordance with the provisions of Chapter 5 (§ 37.2-500 et seq.) that is appointed by and accountable to the governing body of each city and county that established it for the direct provision of mental health, developmental, and substance abuse services. The operating CSB or operating board denotes the board, the members of which are appointed pursuant to § 37.2-501 with the powers and duties enumerated in subsection A of § 37.2-504 and § 37.2-505. Operating CSB or operating board also includes the organization that provides such services, through its own staff or through contracts with other organizations and providers, unless the context indicates otherwise. The 27 operating CSBs employ their own staff and are not city or county government departments.

Policy-Advisory CSB or policy-advisory board means the public body organized in accordance with the provisions of Chapter 5 that is appointed by and accountable to the governing body of each city and county that established it to provide advice on policy matters to the local government department that provides mental health, developmental, and substance abuse services directly or through contracts with other organizations and providers pursuant to subsection A of § 37.2-504 and § 37.2-505. The policy-advisory CSB or policy-advisory board denotes the board, the members of which are appointed pursuant to § 37.2-501 with the powers and duties enumerated in subsection B of § 37.2-504. The CSB has no operational powers or duties; it is an advisory board to a local government department. There is one local government department with a policy-advisory CSB, the Portsmouth Department of Behavioral Healthcare Services.

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Core Services Definitions: Categories and Subcategories of Services

Emergency and Ancillary Services (400): If a CSB determines that it can serve a person who is seeking or has been referred for services, the CSB opens a case for the person. Persons needing these services may access them without being admitted to a program area (all mental health, developmental, or substance abuse services). However, individuals who have been admitted to a program area may still access the following services if they need them. These services do not require collecting as many CCS data elements or as much individual service record information as admission to a program area does. If a person receives any of the following services and is subsequently admitted to a program area, the additional CCS program area admission data elements must be collected. The 400 is a pseudo program area code for CCS service file purposes, since this group of services is not a program area. If individuals receive any of the following services after they are admitted to a program area, these services still must be coded with the 400 code, rather than the program area code (100, 200, or 300) to which they have been admitted.

1. **Emergency Services (100)** are unscheduled and sometimes scheduled crisis intervention, stabilization, and referral assistance provided over the telephone or face-to-face, if indicated, 24 hours per day and seven days per week to people seeking such services for themselves or others. Services also may include walk-ins, home visits, and jail interventions. Emergency services include preadmission screening activities associated with admission to a state hospital or training center or other activities associated with the judicial admission process. This category also includes Medicaid crisis intervention and short-term crisis counseling and intellectual disability home and community-based (ID HCB) waiver crisis stabilization and personal emergency response system services. Persons receiving critical incident stress debriefing services are not counted as individuals receiving services, and service units are identified and collected through the z-consumer function in the CCS.

Service Subtype is a specific activity associated with a particular core service category or subcategory for which a service.txt file is submitted in the CCS. Currently, service subtypes are defined only for emergency services and case management services. The emergency services subtype is collected at every emergency services encounter and reported in the service file; every emergency service encounter is coded with one of these six subtypes in the CCS.

- a. **Crisis Intervention** is provided in response to an acute crisis episode. This includes counseling, short term crisis counseling, triage, or disposition determination and all emergency services not included in the following service subtypes.
- b. **Crisis Intervention Provided Under an Emergency Custody Order** is clinical intervention and evaluation provided by a certified preadmission screening evaluator in response to an emergency custody order (ECO) issued by a magistrate.
- c. **Crisis Intervention Provided Under Law Enforcement Custody (paperless ECO)** is clinical intervention and evaluation provided by a certified preadmission screening evaluator to an individual under the custody of a law enforcement officer without an ECO issued by a magistrate.
- d. **Independent Examination** is an examination provided by an independent examiner who satisfies the requirements in and who conducts the examination in accordance with § 37.2-815 of the Code of Virginia in preparation for a civil commitment hearing.

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- e. **Commitment Hearing** is attendance of a certified preadmission screening evaluator at a civil commitment or recommitment hearing conducted pursuant to § 37.2-817.
 - f. **MOT Review Hearing** is attendance at a review hearing conducted pursuant to §§ 37.2-817.1 through 37.2-817.4 for a person under a mandatory outpatient treatment (MOT) order.
2. **Ancillary Services** consist of the following activities that typically are short term (less than 30 days or four to eight sessions in duration), infrequent, or low-intensity services.
- a. **Motivational Treatment Services** (318) are generally provided to individuals on an hourly basis, once per week, through individual or group counseling in a clinic. These services are structured to help individuals resolve their ambivalence about changing problematic behaviors by using a repertoire of data gathering and feedback techniques. Motivational treatment services are not a part of another service; they stand alone. Their singular focus on increasing the individual's motivation to change problematic behaviors, rather than on changing the behavior itself, distinguishes motivational treatment services from outpatient services. A course of motivational treatment may involve a single session, but more typically four to eight sessions; and it may be repeated, if necessary, as long as repetition is clinically indicated. Prior to placement in motivational treatment, the individual's level of readiness for change is usually assessed, based on clinical judgment, typically supported by standardized instruments. An assessment may follow a course of motivational treatment to ascertain any changes in the individual's readiness for change. Psycho-educational services are included in this subcategory.
 - b. **Consumer Monitoring Services** (390) are provided to individuals who have not been admitted to a program area but have had cases opened by the CSB. For example, this includes individuals with opened cases whom the CSB places on waiting lists for other services, for example, Medicaid ID waiver services. Individuals receive no interventions or face-to-face contact, but they receive consumer monitoring services that typically consist of service coordination or intermittent emergency contacts. Other examples of consumer monitoring services include individuals who receive only outreach services, such as outreach contacts through projects for assistance in transition from homelessness (PATH), individuals in waiting list groups, and outreach by peers to individuals who are in need of services or have been referred for services.
 - c. **Assessment and Evaluation Services** (720) include court-ordered or psychological evaluations; initial assessments for screening, triage, and referral for individuals who probably will not continue in services; and initial evaluations or assessments that result in placement on waiting lists without receiving other services. An abbreviated individualized services plan and services record may be required.
 - d. **Early Intervention Services** (620) are intended to improve functioning or change behavior in individuals who have been identified as beginning to experience problems, symptoms, or behaviors that, without intervention, are likely to result in the need for treatment. Outpatient service activities should not be included here merely to avoid record keeping or licensing requirements since this is not clinically appropriate and could expose the CSB to increased liability. Services are generally targeted to identified individuals or groups and include case consultation, groups for adolescents who have been suspended for use of alcohol or tobacco, and programs for children or adults exhibiting behavior changes following loss such as divorce, death of a loved one, and job loss. School-based interventions should be included in prevention, early intervention, or outpatient services, as appropriate.

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3. **Consumer-Run Services (730)** are self-help programs designed, governed, and led by and for people in recovery. Consumer-run services employ peers as staff and volunteers and are often open on weekends and evenings beyond the usual hours traditional services operate. Services are usually open door or drop in, with no required applications, waiting times, or appointments. Services include networking, advocacy, and mutual support groups; drop-in centers; supported housing; hospital liaison; recreation and social activities; arts and crafts and exercise groups; peer counseling, mentorship, and one-on-one consultations; information and referrals; and knowledge and skill-building classes such as employment training, computer training, and other seminars and workshops. Consumer-run centers also may offer the use of washers and dryers, showers, telephones for business calls, mailboxes, and lending libraries. Because of their nature, no information is collected in the CCS about consumer-run services or the individuals participating in them. Instead, the number of persons participating in consumer-run services is reported in the CARS management report. However, core services provided by peers are included and reported where they are delivered, e.g., in outpatient, rehabilitation, or residential services, rather than in consumer-run services; see Appendix G for more information.

Services Available at Admission to a Program Area: If an individual needs other services beyond emergency or ancillary services, the CSB admits the individual to a program area: all mental health (100), developmental (200), or substance abuse (300) services. Depending on his or her needs, the individual may be admitted to two or even three program areas. An individual may be admitted directly to a program area, bypassing case opening, but CCS data elements collected at case opening must still be obtained. Even after admission to a program area, an individual may still receive emergency or ancillary services if he or she needs them.

4. **Inpatient Services** deliver services on a 24-hour-per-day basis in a hospital or training center.
- a. **Medical/Surgical Care** provides acute medical treatment or surgical services in state facilities. These services include medical detoxification, orthopedics, oral surgery, urology, care for pneumonia, post-operative care, ophthalmology, ear, nose and throat care, and other intensive medical services.
 - b. **Skilled Nursing Services** deliver medical care, nursing services, and other ancillary care for individuals with mental disabilities who are in state facilities and require nursing as well as other care. Skilled nursing services are most often required by individuals who are acutely ill or have significant intellectual disability and by older adults with mental health disorders who suffer from chronic physical illnesses and loss of mobility. Services are provided by professional nurses, licensed practical nurses, and qualified paramedical personnel under the general direction and supervision of a physician.
 - c. **Intermediate Care Facility for Individuals with Intellectual Disability (ICF/ID) Services** are provided in state training centers for individuals with intellectual disability who require active habilitative and training services, including respite and emergency care, but not the degree of care and treatment provided in a hospital or skilled nursing home.
 - d. **Intermediate Care Facility/Geriatric Services** are provided in state geriatric facilities by interdisciplinary teams to individuals who are 65 years of age and older. Services include psychiatric treatment, medical treatment, personal care, and therapeutic programs appropriate to the facility and to the individual's needs.
 - e. **Acute Psychiatric or Substance Abuse Inpatient Services (250)** provide intensive short-term psychiatric treatment in state hospitals or intensive short-term psychiatric treatment,

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including services to individuals with intellectual disability, or substance abuse treatment, except medical detoxification, in local hospitals. Services include intensive stabilization, evaluation, psychotropic medications, psychiatric and psychological services, and other supportive therapies provided in a highly structured and supervised setting.

- f. **Community-Based Substance Abuse Medical Detoxification Inpatient Services** (260) use medication under the supervision of medical personnel in local hospitals to systematically eliminate or reduce the effects of alcohol or other drugs in the body.
 - g. **Extended Rehabilitation Services** offer intermediate or long-term treatment in a state hospital for individuals with severe psychiatric impairments, emotional disturbances, or multiple disabilities (e.g., individuals with mental health disorders who also are deaf). Services include rehabilitation training, skills building, and behavioral management for people who are beyond the crisis stabilization and acute treatment stages.
5. **Outpatient Services** provide clinical treatment services, generally in sessions of less than three consecutive hours, to individuals and groups.

- a. **Outpatient Services** (310) are generally provided to individuals on an hourly schedule, on an individual, group, or family basis, and usually in a clinic or similar facility or in another location, including a jail or juvenile detention center. Outpatient services may include diagnosis and evaluation, screening and intake, counseling, psychotherapy, behavior management, psychological testing and assessment, laboratory and other ancillary services, medical services, and medication services. Medical services include the provision of psychiatric, medical, psychiatric nursing, and medical nursing services by licensed psychiatrists, physicians, and nurses and the cost of medications purchased by the CSB and provided to individuals. Medication services include prescribing and dispensing medications, medication management, and pharmacy services. Medication only visits are provided to individuals who receive only medication monitoring on a periodic (monthly or quarterly) basis from a psychiatrist, other physician, psychiatric nurse, or physician's assistant. These visits are included in outpatient services. The Department has identified a minimum set of information for licensing purposes that would be needed to constitute an individualized services plan (ISP) for individuals receiving only medication visits.

Outpatient services also include *intensive in-home services* that are time-limited, usually between two and six months, family preservation interventions for children and adolescents with or at risk of serious emotional disturbance, including such individuals who also have a diagnosis of intellectual disability. In-home services are provided typically but not solely in the residence of an individual who is at risk of being moved into or is being transitioned to home from an out-of-home placement. The services provide crisis treatment; individual and family counseling; life, parenting, and communication skills; case management activities and coordination with other required services; and 24 hour per day emergency response.

Outpatient services also include *jail-based habilitation services* that involve daily group counseling, individual therapy, psycho-educational services, 12 step meetings, discharge planning, and pre-employment and community preparation services.

Finally, outpatient services also include Medicaid ID HCB waiver skilled nursing services and therapeutic consultation services. Probation and parole and community corrections day reporting centers also are included in outpatient services, rather than in ancillary services.

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- b. **Intensive Outpatient Services** (313) provide substance abuse treatment in a concentrated manner for two or more consecutive hours per day to groups of individuals in nonresidential settings multiple times per week. This service is provided over a period of time for individuals requiring more intensive services than outpatient services can provide. Intensive substance abuse outpatient services include multiple group therapy sessions during the week, individual and family therapy, individual monitoring, and case management.
- c. **Medication Assisted Treatment** (335) combines outpatient treatment with administering or dispensing synthetic narcotics, such as methadone or buprenorphine (suboxone), approved by the federal Food and Drug Administration for the purpose of replacing the use of and reducing the craving for opioid substances, such as heroin or other narcotic drugs.
- d. **Assertive Community Treatment** (350) consists of two modalities: intensive community treatment (ICT) and program of assertive community treatment (PACT). Individuals served by either modality have severe symptoms and impairments that are not effectively remedied by available treatments or, because of reasons related to their mental health disorders, resist or avoid involvement with mental health services. This could include individuals with severe and persistent mental illnesses who also have co-occurring diagnoses of intellectual disability. Assertive community treatment provides an array of services on a 24-hour per day basis to these individuals in their natural environments to help them achieve and maintain effective levels of functioning and participation in their communities. Services may include case management, supportive counseling, symptom management, medication administration and compliance monitoring, crisis intervention, developing individualized community supports, psychiatric assessment and other services, and teaching daily living, life, social, and communication skills.

ICT is provided by a self-contained, interdisciplinary team of at least five full-time equivalent clinical staff, a program assistant, and a psychiatrist. This team (1) assumes responsibility for directly providing needed treatment, rehabilitation, and support services to identified individuals with severe and persistent mental illnesses, (2) minimally refers individuals to outside service providers, (3) provides services on a long-term care basis with continuity of caregivers over time, (4) delivers 75 percent or more of the services outside of the program's offices, and (5) emphasizes outreach, relationship building, and individualization of services. PACT is provided by a self-contained, inter-disciplinary team of at least 10 full-time equivalent clinical staff, a program assistant, and a psychiatrist, and this team meets the five criteria contained in the definition of ICT.

- 6. **Case Management Services** (320) assist individuals and their family members to access needed services that are responsive to the individual's needs. Services include: identifying and reaching out to individuals in need of services, assessing needs and planning services, linking the individual to services and supports, assisting the individual directly to locate, develop, or obtain needed services and resources, coordinating services with other providers, enhancing community integration, making collateral contacts, monitoring service delivery, and advocating for individuals in response to their changing needs.

Service Subtype is a specific activity associated with a particular core service category or subcategory for which a service.txt file is submitted in the CCS. Currently, service subtypes are defined only for emergency and case management services. The case management services subtype is collected at every developmental case management services encounter and reported in the service file with one of the two subtypes in the CCS. CSBs may report these service subtypes for mental health or substance abuse case management services, but this is optional.

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- a. **Face-to-Face Case Management Services:** These are case management services received by an individual and provided by a case manager during a face-to-face encounter in a case management service licensed by the Department. Examples of service hour activities applicable to face-to-face case management services include case management, individual present and discharge planning, individual present. All other case management services must be reported using non-face-to-face case management.
 - b. **Non-Face-to-Face Case Management Services:** These are all other case management services provided to or on behalf of an individual by a case manager in a case management service licensed by the Department. This includes telephone contacts with the individual, any contacts (face-to-face or otherwise) with the individual's family members or authorized representative, or any contacts (face-to-face or otherwise) about the individual with other CSB staff or programs or other providers or agencies. Examples of service hour activities applicable to non-face-to-face case management services include:
 - case management, individual not present;
 - phone consultation with individual;
 - report writing re: individual;
 - individual-related staff travel; and
 - discharge planning, individual not present.
7. **Day Support Services** provide structured programs of treatment, activity, or training services, generally in clusters of two or more continuous hours per day, to groups or individuals in non-residential settings.
- a. **Day Treatment or Partial Hospitalization** (410) is a treatment program that includes the major diagnostic, medical, psychiatric, psychosocial, and prevocational and educational treatment modalities designed for adults with serious mental health, substance use, or co-occurring disorders who require coordinated, intensive, comprehensive, and multi-disciplinary treatment that is provided several hours per day for multiple days each week and is not provided in outpatient services.

This subcategory also includes *therapeutic day treatment for children and adolescents*, a treatment program that serves children and adolescents (birth through age 17) with serious emotional disturbances or substance use or co-occurring disorders or children (birth through age 7) at risk of serious emotional disturbance in order to combine psychotherapeutic interventions with education and mental health or substance abuse treatment. Services include: evaluation, medication education and management, opportunities to learn and use daily living skills and to enhance social and interpersonal skills, and individual, group, and family counseling.
 - b. **Ambulatory Crisis Stabilization Services** (420) provide direct care and treatment to non-hospitalized individuals experiencing an acute crisis related to mental health, substance use, or co-occurring disorders that may jeopardize their current community living situation. The goals are to avert hospitalization or re-hospitalization, provide normative environments with a high assurance of safety and security for crisis intervention, stabilize individuals in crisis, and mobilize the resources of the community support system, family members, and others for ongoing rehabilitation and recovery. Ambulatory crisis stabilization services may be provided in an individual's home or in a community-based program licensed by the Department. These services are planned for and provide services for up to 23 hours per day. Services that are integral to and provided in ambulatory crisis stabilization programs, such as outpatient or case management services, should not be reported separately in those core services since they are included in the ambulatory crisis stabilization day support hours.

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- c. **Rehabilitation or Habilitation** (425) consists of training services in two modalities.
- Psychosocial rehabilitation provides assessment, medication education, opportunities to learn and use independent living skills and to enhance social and interpersonal skills, family support and education, vocational and educational opportunities, and advocacy to individuals with mental health, substance use, or co-occurring disorders in a supportive community environment focusing on normalization. It emphasizes strengthening the individual's abilities to deal with everyday life rather than focusing on treating pathological conditions.
- Habilitation provides planned combinations of individualized activities, supports, training, supervision, and transportation to individuals with intellectual disability to improve their condition or maintain an optimal level of functioning. Specific components of this service develop or enhance the following skills: self-care and hygiene, eating, toileting, task learning, community resource utilization, environmental and behavioral skills, medication management, and transportation. Habilitation also includes Medicaid ID HCB waiver day support (center-based and non-center-based) and prevocational services.
8. **Employment Services** provide work and support services to groups or individuals in non-residential settings.
- a. **Sheltered Employment** (430) programs provide work in a non-integrated setting that is compensated in accordance with the Fair Labor Standards Act for individuals with disabilities who are not ready, are unable, or choose not to enter into competitive employment in an integrated setting. This service includes the development of social, personal, and work-related skills based on an individualized services plan.
- b. **Group Supported Employment** (465) provides work to small groups of three to eight individuals at job sites in the community or at dispersed sites within an integrated setting. Integrated setting means opportunities exist for individuals receiving services in the immediate work setting to have regular contact with non-disabled persons who are not providing support services. The employer or the vendor of supported employment services employs the individuals. An employment specialist, who may be employed by the employer or the vendor, provides ongoing support services. Support services are provided in accordance with the individual's written rehabilitation plan. Models include mobile and stationary crews, enclaves, and small businesses. Group supported employment includes Medicaid ID HCB waiver supported employment - group model.
- c. **Individual Supported Employment** (460) provides paid employment to an individual placed in an integrated work setting in the community. The employer employs the individual. Ongoing support services that may include transportation, job-site training, counseling, advocacy, and any other supports needed to achieve and to maintain the individual in the supported placement are provided by an employment specialist, co-workers of the supported employee, or other qualified individuals. Support services are provided in accordance with the individual's written rehabilitation plan. Individual supported employment includes Medicaid ID HCB waiver supported employment - individual model.
9. **Residential Services** provide overnight care with an intensive treatment or training program in a setting other than a hospital or training center, overnight care with supervised living, or other supportive residential services.

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- a. **Highly Intensive Residential Services** (501) provide overnight care with intensive treatment or training services. These services include:

Mental Health Residential Treatment Centers such as short term intermediate care, residential alternatives to hospitalization such as community gero-psychiatric residential services¹, and residential services for individuals with co-occurring diagnoses (e.g., mental health and substance use disorders, intellectual disability and mental health disorders) where intensive treatment rather than just supervision occurs;

Community Intermediate Care Facilities for Individuals With Intellectual Disability (ICF/ID) that provide care to individuals who have intellectual disability and need more intensive training and supervision than may be available in an assisted living facility or group home, comply with Title XIX of the Social Security Act standards and federal certification requirements, provide health and habilitation services, and provide active treatment to individuals receiving services toward the achievement of a more independent level of functioning or an improved quality of life; and

Substance Abuse Medically Managed Withdrawal Services that provide detoxification services with physician services available when required to eliminate or reduce the effects of alcohol or other drugs in the individual's body and that normally last up to seven days, but this does not include medical detoxification services provided in community-based substance abuse medical detoxification inpatient services (260) or social detoxification services.

- b. **Residential Crisis Stabilization Services** (510) provide direct care and treatment to non-hospitalized individuals experiencing an acute crisis related to mental health, substance use, or co-occurring disorders that may jeopardize their current community living situation. The goals are to avert hospitalization or re-hospitalization, provide normative environments with a high assurance of safety and security for crisis intervention; stabilize individuals in crisis, and mobilize the resources of the community support system, family members, and others for ongoing rehabilitation and recovery. Residential crisis stabilization services are provided in a community-based program licensed by the Department. These services are planned for and provide overnight care; the service unit is a bed day. Services that are integral to and provided in residential crisis stabilization programs, such as outpatient and case management services, should not be reported separately in those core services since they are included in the bed day.
- c. **Intensive Residential Services** (521) provide overnight care with treatment or training that is less intense than highly intensive residential services. It includes the following services and Medicaid ID HCB waiver congregate residential support services.

Group homes or *halfway houses* provide identified beds and 24 hour supervision for individuals who require training and assistance in basic daily living functions such as meal preparation, personal hygiene, transportation, recreation, laundry, and budgeting. The expected length of stay normally exceeds 30 days.

¹ Community gero-psychiatric residential services that provide 24-hour non-acute care with treatment in a setting that offers less intensive services than a hospital, but more intensive mental health services than a nursing home or group home. Individuals with mental health disorders, behavioral problems, and concomitant health problems, usually age 65 and older, who are appropriately treated in a geriatric setting, receive intensive supervision, psychiatric care, behavioral treatment planning, nursing, and other health-related services.

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Primary care offers substance abuse rehabilitation services that normally last no more than 30 days. Services include intensive stabilization, daily group therapy and psycho-educational services, consumer monitoring, case management, individual and family therapy, and discharge planning.

Intermediate rehabilitation is a substance abuse psychosocial therapeutic milieu with an expected length of stay up to 90 days. Services include supportive group therapy, psycho-education, consumer monitoring, case management, individual and family therapy, employment services, and community preparation services.

Long-term habilitation is a substance abuse psychosocial therapeutic milieu with an expected length of stay of 90 or more days that provides a highly structured environment where residents, under staff supervision, are responsible for daily operations of the facility. Services include intensive daily group and individual therapy, family counseling, and psycho-education. Daily living skills and employment opportunities are integral components of the treatment program. Jail-based habilitation services, previously reported here, should be reported in outpatient services (310).

- d. ***Supervised Residential Services*** (551) offer overnight care with supervision and services. This subcategory includes the following services and Medicaid ID HCB waiver congregate residential support services.

Supervised apartments are directly-operated or contracted, licensed residential programs that place and provide services to individuals in apartments or other residential settings. The expected length of stay normally exceeds 30 days.

Domiciliary care provides food, shelter, and assistance in routine daily living but not treatment or training in facilities of five or more beds. This is primarily a long-term setting with an expected length of stay exceeding 30 days. Domiciliary care is less intensive than a group home or supervised apartment; an example would be a licensed assisted living facility (ALF) operated, funded, or contracted by a CSB.

Emergency shelter or *residential respite* programs provide identified beds, supported or controlled by a CSB, in a variety of settings reserved for short term stays, usually several days to no more than 21 consecutive days.

Sponsored placements place individuals in residential settings and provide substantial amounts of financial, programmatic, or service support. Examples include individualized therapeutic homes, specialized foster care, family sponsor homes, and residential services contracts for specified individuals. The focus is on individual residential placements with expected lengths of stay exceeding 30 days rather than on organizations with structured staff support and set numbers of beds.

- e. ***Supportive Residential Services*** (581) are unstructured services that support individuals in their own housing arrangements. These services normally do not involve overnight care delivered by a program. However, due to the flexible nature of these services, overnight care may be provided on an hourly basis. It includes the following services and Medicaid ID HCB waiver supported living/in-home supports, respite (agency and consumer-directed) services, companion services (agency and consumer-directed), and personal assistance services (agency and consumer-directed).

In-Home respite provides care in the homes of individuals with mental disabilities or in a setting other than that described in residential respite services above. This care may last

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from several hours to several days and allows the family member care giver to be absent from the home.

Supported living arrangements are residential alternatives that are not included in other types of residential services. These alternatives assist individuals to locate or maintain residential settings where access to beds is not controlled by a CSB and may provide program staff, follow along, or assistance to these individuals. The focus may be on assisting an individual to maintain an independent residential arrangement. Examples include homemaker services, public-private partnerships, and non-CSB subsidized apartments (e.g., HUD certificates).

Housing subsidies provide cash payments only, with no services or staff support, to enable individuals to live in housing that would otherwise not be accessible to them. These cash subsidies may be used for rent, utility payments, deposits, furniture, and other similar payments required to initiate or maintain housing arrangements for individuals. This is used only for specific allocations of funds from the Department earmarked for housing subsidies. Numbers of individuals receiving services and expense information should be included in supportive residential services in performance contract reports. Information associated with other housing subsidies should be included in the services of which they are a part.

10. **Prevention Services (610)** are designed to prevent mental health or substance use disorders. Activities that are really outpatient services should not be included in prevention services to avoid record keeping or licensing requirements, since this exposes the CSB to increased liability, is not clinically appropriate, and violates the regulatory requirements of the federal Substance Abuse Prevention and Treatment block grant. Prevention services promote mental health through individual, community, and population-level change strategies. Prevention services are identified through the implementation of the Strategic Prevention Framework, an evidenced-based and community-based needs assessment-focused planning model. This model involves data-driven needs assessment, planning and evaluation, capacity building, and implementation of evidenced-based programs, strategies, and practices. Overlaying all these components are cultural competence and sustainability of effective outcomes. To achieve community level strategies, CSBs must be a part of a community coalition. Emphasis is on enhancement of protective factors and reduction of risk factors in individuals and the community. Information on substance abuse prevention services is collected and reported separately through the Department's contracted prevention services information system, instead of being included in the CCS. The following six strategies comprise prevention services.

Information Dissemination provides awareness and knowledge of the nature and extent of mental health and substance use disorders and intellectual disability. It also provides awareness and knowledge of available prevention programs and services. Examples of information dissemination include media campaigns, public service announcements, informational brochures and materials, community awareness events, and participation on radio or TV talk shows. Information dissemination is characterized by one-way communication from the source to the audience.

Prevention Education aims to affect critical life and social skills, including general competency building, specific coping skills training, support system interventions, strengthening caregivers, and decision-making skills training. Prevention education is characterized by two-way communication with close interaction between the facilitator or educator and program

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participants. Examples of prevention education include children of alcoholics groups and parenting classes.

Alternatives provide for the participation of specific populations in activities that are constructive, promote healthy choices, and provide opportunities for skill building. Examples of prevention alternatives include leadership development, community service projects, alcohol, tobacco, and other drug free activities, and youth centers.

Problem Identification and Referral aims at the identification of those individuals who are most at risk of developing problematic behaviors in order to assess if their behaviors can be changed through prevention education. Examples include student and employee assistance programs.

Community-Based Process aims at enhancing the ability of the community to provide prevention and treatment services more effectively. Activities include organizing, planning, enhancing efficiency and effectiveness of service implementation, interagency collaboration, coalition building, and networking. Examples include community and volunteer training, multi-agency coordination and collaboration, accessing services and funding, and community team-building.

Environmental Prevention Activities establish or change written and unwritten community standards, codes, and attitudes, thereby influencing the development of healthy living conditions. Examples include modifying advertising practices and promoting the establishment and review of alcohol, tobacco, and other drug use policies.

11. **Infant and Toddler Intervention Services** (625) provides family-centered, community-based early intervention services designed to meet the developmental needs of infants and toddlers and the needs of their families as these needs relate to enhancing the child's development. These services prevent or reduce the potential for developmental delays in infants and toddlers and increase the capacity of families to meet the needs of their at-risk infants and toddlers. Infant and toddler intervention is delivered through a comprehensive, coordinated, interagency, and multidisciplinary services system. Infant and toddler intervention includes:
- | | |
|---|---------------------------------|
| a. assistive technology, | j. special instruction, |
| b. audiology, | k. psychological services, |
| c. family training, counseling, and home visits, | l. service coordination, |
| d. health services, | m. social work services, |
| e. nursing services, | n. speech-language pathology, |
| f. nutrition services, | o. transportation services, and |
| g. occupational therapy, | p. vision services. |
| h. physical therapy, | |
| i. medical services (for diagnostic or evaluation purposes only), | |

The identified individual receiving services is the infant or toddler. Information about infant and toddler intervention services, including funds, expenditures, costs, service units, and the individuals receiving them is collected and reported to the Department through a separate contract and automated information system, rather than through CARS reports and the CCS. Consequently, this service is not included in the Core Services Category and Subcategory Matrix in the taxonomy. This infant and toddler intervention services definition is included in the taxonomy for information and reference purposes.

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Community Consumer Submission (CCS) Consumer Designation Codes

The CCS consumer designation codes for specialized initiatives or projects (consumer designation codes for short) identify individuals who are served in certain specific initiatives or projects; these codes are not service codes *per se*, like 310 is the core services code for Outpatient Services, instead, these codes reflect a particular status of those individuals. Consumer designation codes may encompass more than special projects or initiatives.

The component services of these projects or initiatives are included in the appropriate core services and numbers of individuals in these initiatives are counted in the CCS in the following manner. When an individual receives services in any of the following initiatives, the consumer designation code for the initiative will be entered in the type of care file for the individual. Units of service for these initiatives will be recorded and accumulated in the applicable core services associated with the initiative, such as outpatient, case management, day treatment or partial hospitalization, rehabilitation or habilitation, or various residential services.

905 - Mental Health Mandatory Outpatient Treatment (MOT) Orders

910 - Discharge Assistance Program (DAP)

915 - Mental Health Child and Adolescent Services Initiative,

916 - Mental Health Services for Children and Adolescents in Juvenile Detention Centers

918 - Program of Assertive Community Treatment (PACT),

919 - Projects for Assistance in Transition from Homelessness (PATH), and

920 - Medicaid Intellectual Disability (ID) Home and Community-Based Waiver Services.

933 - Substance Abuse Medication Assisted Treatment

935 - Substance Abuse Recovery Support Services

Additional CCS consumer designation codes may be used to identify individuals involved in special projects and to gather information about those individuals and the services associated with those projects. The Department and the VACSB Data Management Committee will designate and approve additional consumer designation codes for such purposes.

Descriptions of Some Consumer Designation Codes

Consumer Designation Code 905 - Mental Health Mandatory Outpatient Treatment (MOT) Orders is used only for individuals for whom a judge or special justice has issued a mandatory outpatient treatment order pursuant to § 37.2-817.D of the Code of Virginia and for whom the CSB has developed an initial mandatory outpatient treatment plan pursuant to § 37.2-817.F and a comprehensive mandatory outpatient treatment plan pursuant to § 37.2-817.G. Individuals receiving services from the CSB as a result of any other court orders (e.g., court-ordered evaluations, forensic evaluations, or competency restoration services) shall not be assigned this consumer designation code. If an individual who is the subject of an MOT order will be receiving mental health services under that order from or through the CSB and has not been admitted to the mental health services program area (100) previously, the individual must be admitted to that program area, with two CCS TypeOfCare records submitted in the next monthly CCS extract file submission: first, one record for the admission, and second, one record for the 905 consumer designation code. The ServiceFromDate on the second record must be the date of the MOT order and must be the same or a later date than the ServiceFromDate on the TypeOfCare record for the admission to the mental health services program area. When the MOT order expires or is rescinded, the date of that expiration or rescission must be entered as the ServiceThroughDate on a TypeOfCare record to end the MOT consumer designation code.

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If an individual who is the subject of an MOT order will not be receiving mental health services under that order from or through the CSB, for example, the individual will receive services from non-contracted private providers and the CSB will only be monitoring the individual's compliance with the comprehensive MOT plan, then admission to the mental health services program area (100) is not necessary. The CSB's monitoring of compliance with the MOT plan should be recorded as consumer monitoring services (390), an ancillary service, and, if the CSB did not perform the preadmission screening or provide emergency services to the individual, the CSB still must open a case on the individual, collecting the applicable CCS 3 data elements associated with case opening. A TypeOfCare record for the initiation of the MOT must still be submitted by the CSB to start the MOT consumer designation code. When the MOT order expires or is rescinded, the date of that expiration or rescission must be entered as the ServiceThroughDate on a TypeOfCare record to end the MOT consumer designation code.

The duration of the MOT order is specified in the order, per § 37.2-817.E of the Code of Virginia. The clerk of the court must provide a copy of the order, per § 37.2-817.I, to the person who is the subject of the order and to the CSB that is required to monitor the individual's compliance with the MOT plan pursuant to § 37.2-817.1. Sections 37.2-817.3 and 37.2-817.4 contain provisions for the rescission or continuation of MOT orders.

Consumer Designation Code 910 - Discharge Assistance Program (DAP) is used for individuals receiving services supported with mental health state DAP funds. Since the state hospital discharge date and related DAP TypeOfCareFromDate may precede the TypeOfCareFromDate for admission to the mental health services program area, the individual does not have to be admitted to the mental health services program area (100) before being given a 910 consumer designation code.

Consumer Designation Code 915 - Mental Health Child and Adolescent Services Initiative is used for children and adolescents with serious emotional disturbance (SED) or related disorders who are not mandated to receive services funded through the Comprehensive Services Act. Initiative services are funded with restricted mental health state funds that are used exclusively for this purpose. Related disorders are not defined in the Appropriations Act, but the term allows sufficient flexibility to serve children with mental health or co-occurring mental health and substance use disorders who may not fit the definition of SED but may need services that can only be provided with these Initiative funds.

Consumer Designation Code 916 - Mental Health Services for Children and Adolescents in Juvenile Detention Centers is used for children and adolescents in juvenile detention centers receiving CSB services that are funded with restricted mental health state funds identified for this purpose. The use of this consumer designation code will eliminate the separate paper reporting mechanism for these services by CSBs maintained by the Department's Office of Child and Family Services. A CSB's primary role in a juvenile detention center is providing short-term services to juveniles with mental health disorders or co-occurring mental health and substance use disorders who are incarcerated in the center. As part of this role, a CSB also consults with juvenile detention center staff on the needs and treatment of these juveniles. Since the juveniles have been court ordered to the center, they are under the jurisdiction of the center for care. A CSB provides consultation and behavioral health services in support of the center's care of these juveniles. If the CSB provides consultation to the center's staff about groups of children, rather than about specific individuals, the CSB should report the service hours using the z-consumer function in the CCS.

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A CSB typically provides the following core services to most of the juveniles it serves in juvenile detention centers: emergency, consumer monitoring, assessment and evaluation, or early intervention services. Since these services are being provided in a consultative mode within the juvenile detention center and the CSB will not have an ongoing clinical relationship with most of these juveniles once they are released, CSB staff should enter information about these services in the juvenile's record at the detention center, rather than initiating an individualized services plan (ISP) or service record at the CSB. Less frequently, a CSB may provide outpatient services to juveniles whose needs and lengths of stay warrant them and case management services for juveniles who are near discharge to their home CSBs. These services are typically more intensive and of longer duration, and staff must initiate ISPs at the CSB for juveniles receiving them. Except for outpatient and case management services, the other services that can be provided are emergency or ancillary services and, therefore, require limited CCS 3 data to be collected. However, if it provides outpatient or case management services, a CSB must admit the juvenile to the mental health services program area with a Type Of Care record prior to assigning a 916 consumer designation code, according to instructions in the CCS 3 Extract Specifications. The CSB must collect a full data set consistent with the CCS 3 requirements, as well as conform to the licensing requirements for the provision of those services.

A CSB must assign a 916 consumer designation code to each juvenile served in a juvenile detention center when his or her case is opened for CCS 3 purposes, so the services that he or she receives while in the juvenile detention center and upon discharge from it can be identified with this initiative. Normally, an individual must be admitted to a program area in order to assign a consumer designation code. However, an exception exists in the CCS 3 Extract Specifications for juveniles who receive only emergency or ancillary services; the CSB can submit a TypeOfCare record to assign the 916 consumer designation code without an admission to a program area. Refer to the *Revised Guidance for CSB Services in Juvenile Detention Centers*, March 3, 2008, for further information about collecting and reporting information about these services.

Consumer Designation Code 920 - Medicaid ID Home and Community-Based (HCB) Waiver Services is used only for individuals who have been admitted to the developmental services program area (200) and are receiving any Medicaid ID HCB waiver services from a CSB, directly or through CSB contracts with other agencies or individuals where the CSB remains the provider for DMAS purposes, or from any other provider of Medicaid ID HCB waiver services. Admission to the developmental services program area (200) is a prerequisite for assigning this consumer designation code. Assigning the 920 consumer designation code to individuals who do not receive Medicaid ID HCB waiver services from the CSB should not be a problem since the CSB provides case management services, a non-waiver service, to all individuals receiving Medicaid ID HCB waiver services, even if the CSB does not provide those waiver services.

Consumer Designation Code 933 - Substance Abuse Medication Assisted Treatment is used only for individuals who have been admitted to the substance abuse services program area (300) and are receiving buprenorphine (suboxone) that is provided by the CSB or prescribed by a private physician who has a formal agreement with the CSB to provide medical oversight for medication assisted treatment to individuals for whom the CSB is providing support services, including counseling and case management. Medication assisted treatment is reported in outpatient services. Admission to the substance abuse services program area (300) is a prerequisite for assigning this consumer designation code.

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Consumer Designation Code 935 – Substance Abuse Recovery Support Services is used only for individuals receiving recovery support at a program funded specifically for this purpose by the Department. Because of the mix of services (some emergency or ancillary services) that individuals will receive, admission to the substance abuse services program area (300) is not a prerequisite for assigning this consumer designation code.

Recovery support services are designed and delivered by peers in recovery and in coordination with clinical staff. However, recovery support services are designed and provided primarily by individuals in recovery; although supportive of formal treatment, recovery support services are not intended to replace treatment services in the commonly understood clinical sense of that term.

Recovery support services include:

1. **emotional support** that offers demonstrations of empathy, caring, and concern that bolster one's self-esteem and confidence and include peer mentoring, peer coaching, and peer-led support groups;
2. **informational support** that involves assistance with knowledge, information, and skills and includes peer-led life skills training, job skills training, citizenship restoration, educational assistance, and health and wellness information;
3. **instrumental support** that provides concrete assistance in helping others do things or get things done, especially stressful or unpleasant tasks, and includes connecting people to treatment services, providing transportation to get to support groups, child care, clothing closets, and filling out applications or helping people obtain entitlements; and
4. **affiliational support** that offers the opportunity to establish positive social connections with other recovering people.

CSB services associated with recovery support include emergency, motivational treatment, and assessment and evaluation services in addition to needed substance abuse services.

Core Services Category and Subcategory Matrix

Emergency and Ancillary Services

	Unit of Service	Capacity
1. Emergency Services (100)	Service Hour	NA
2. Ancillary Services		
a. Motivational Treatment Services (318)	Service Hour	NA
b. Consumer Monitoring Services (390)	Service Hour	NA
c. Assessment and Evaluation Services (720)	Service Hour	NA
d. Early Intervention Services (620)	Service Hour	NA
3. Consumer-Run Services (730)	NA	NA

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Core Services Category and Subcategory Matrix

Services Available at Admission to a Program Area

	MH	DV	SA	Unit of Service	Capacity
4. Inpatient Services					
a. Medical/Surgical Care (State Facility)	x	x	NA	Bed Day	Bed
b. Skilled Nursing Services (State Facility)	x	x	NA	Bed Day	Bed
c. ICF/ID Services (State Facility)	NA	x	NA	Bed Day	Bed
d. ICF/Geriatric Services (State Facility)	x	x	NA	Bed Day	Bed
e. Acute Psychiatric or Substance Abuse Inpatient Services (250)	x	NA	x	Bed Day	Bed
f. Community-Based Substance Abuse Medical Detoxification Inpatient Services (260)	NA	NA	x	Bed Day	Bed
g. Extended Rehabilitation Services (St. Facility)	x	NA	NA	Bed Day	Bed
5. Outpatient Services					
a. Outpatient Services (310)	x	x	x	Service Hour	NA
b. Intensive Outpatient (313)	NA	NA	x	Service Hour	NA
c. Medication Assisted Treatment (335)	NA	NA	x	Service Hour	NA
d. Assertive Community Treatment (350)	x	NA	NA	Service Hour	NA
6. Case Management Services (320)	x	x	x	Service Hour	NA
7. Day Support Services					
a. Day Treatment or Partial Hospitalization (410)	x	NA	x	Day Support Hour	Slot
b. Ambulatory Crisis Stabilization Services (420)	x	x	x	Day Support Hour	Slot
c. Rehabilitation (MH, SA) or Habilitation (425)	x	x	x	Day Support Hour	Slot
8. Employment Services					
a. Sheltered Employment (430)	x	x	x	Day of Service	Slot
b. Group Supported Employment (465)	x	x	x	Day of Service	Slot
c. Individual Supported Employment (460)	x	x	x	Service Hour	NA
9. Residential Services					
a. Highly Intensive Residential Services (501)	x	x	x	Bed Day	Bed
b. Residential Crisis Stabilization Services (510)	x	x	x	Bed Day	Bed
c. Intensive Residential Services (521)	x	x	x	Bed Day	Bed
d. Supervised Residential Services (551)	x	x	x	Bed Day	Bed
e. Supportive Residential Services (581)	x	x	x	Service Hour	NA
10. Prevention Services (610)	x	x	x	Service Hour	NA

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Core Services Definitions: Units of Service

There are four kinds of service units in this core services taxonomy: service hours, bed days, day support hours, and days of service. These units are related to different kinds of core services and are used to measure and report delivery of those services. The unit of service for each core service category or subcategory is shown in the Core Services Category and Subcategory Matrix on the preceding pages. Units of service are collected and reported in the Community Consumer Submission (CCS) for all services provided by CSBs directly or through contracts with other providers.

1. *Service Hours*

A service hour is a continuous period measured in fractions or multiples of an hour during which an individual or a family member, authorized representative, care giver, health care provider, or significant other through in-person or electronic (audio and video or telephonic) contact on behalf of the individual receiving services or a group of individuals participates in or benefits from the receipt of services. This definition also includes significant electronic contact with the individual receiving services and activities that are reimbursable by third party payers. The following table, developed by the Department and the VACSB Data Management Committee, contains examples of activities received during service hour services directly by or on behalf of individuals or groups of individuals.

<i>Examples of Service Hour Activities</i>	
Individual, group, family, or marital, counseling or therapy	Phone consultation with individual
Psychological testing and evaluations	Follow up and outreach
Medication visit or physician visit	Social security disability evaluation
Crisis intervention	Case management, individual present
Intake, psychiatric, forensic, court, and jail evaluations	Case management, individual not present
Emergency telephone contacts with individual	Peer self help or support
Preadmission screening evaluations	Individual or group training
Independent examinations	Job development for individuals
Commitment and MOT hearings	Report writing re: individual
Attending court with the individual	Individual-related staff travel
Discharge planning, individual present	Activity or recreation therapy
Discharge planning, individual not present	Education of individuals
	Early intervention activities

Service hours measure the amounts of services received by or on behalf of individuals or groups of individuals. For example, if nine individuals received one hour of group therapy, one service hour of outpatient services would be reported for each individual in a service.txt record in the CCS. Service hours are reported in the CCS service file only for the following core services:

- Emergency services,
- Motivational treatment services,
- Consumer monitoring services,
- Assessment and evaluation services,
- Early intervention services,
- Outpatient services,
- Intensive outpatient services,
- Medication assisted treatment,
- Assertive community treatment,
- Case management services,
- Individual supported employment, and
- Supportive residential services.

Mental health and developmental prevention services are discussed on the next page.

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Z-Consumers: Service hours that are not received by or associated directly with individuals or groups of individuals also are collected and reported for the core services listed at the bottom of the previous page through the CCS using the z-consumer (unidentified individual receiving services) function (NC Service file). In addition, mental health and developmental prevention services are collected and reported using the z-consumer function, since individuals receiving services are not counted for prevention services. All information about Substance Abuse Prevention Services is collected and reported through the KIT Prevention System. Examples of z-consumer activities are listed below.

<i>Examples of Z-Consumer Activities for Service Hours</i>	
Case-specific clinical supervision	Employee, student, or peer assistance
Record charting	Staff preparation for individual, group, family, or marital counseling or therapy
Case consultation	Healthy pregnancies and fetal alcohol syndrome education
Treatment planning conference	Child abuse and neglect prevention and positive parenting programs
Phone Calls in emergency services	Neighborhood-based high risk youth programs
Participation in FAPT	Competency building programs
Coordination of multidisciplinary teams	Skill-building group training
Consultation to service providers	
Application for admission to facility	
Preparing for workshops and training	

Service hours received by groups of identifiable individuals (e.g., individuals participating in group outpatient services) must not be reported using the z-consumer function (NC service file); they must be reported in the service file as service hours received by each individual participating in the group. Similarly, service hours directly associated with individuals, such as case management without the individual present, discharge planning without the individual present, phone consultation with the individual, or report writing re: individual, must not be reported using the z-consumer function. Finally, units of service for core services measured with bed days, days of service, or day support hours must not be reported in the CCS using the z-consumer function (NC service file).

2. *Bed Days*

A bed day involves an overnight stay by an individual in a residential or inpatient program, facility, or service. Given the unique nature of residential SA medically managed withdrawal services, CSBs may count partial bed days for this service. If an individual is in this program for up to six hours, this would equal $\frac{1}{4}$ bed day, six to 12 hours would equal $\frac{1}{2}$ bed day, 12 to 18 hours would equal $\frac{3}{4}$ bed day, and 18 to 24 hours would equal one bed day.

3. *Day Support Hours*

Many day support services provided to groups of individuals are offered in sessions of two or more consecutive hours. However, Medicaid billing units for State Plan Option and ID waiver services vary by service. Therefore, counting service units by the smallest reasonable unit, a day support hour, is desirable and useful. Medicaid service units, if different from taxonomy units of service, need to be converted to taxonomy units for Medicaid services included in the CCS. The day support hour is the unit of service for day treatment or partial hospitalization, ambulatory crisis stabilization, and rehabilitation or habilitation and measures hours received by individuals in those services.

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This unit allows the collection of more accurate information about services and will facilitate billing various payors that measure service units differently. At a minimum, day support programs that deliver services on a group basis must provide at least two consecutive hours in a session to be considered a day support program.

4. *Days of Service*

Two employment services provided to groups of individuals are offered in sessions of three or more consecutive hours. Day of service is the unit of service for sheltered employment and group supported employment. A day of service equals five or more hours of service received by an individual. If a session lasts three or more but less than five hours, it should be counted as a half day. Since the unit of service is a day, fractional units should be aggregated to whole days in the CCS. Also, Medicaid service units, if different from taxonomy units, need to be converted to taxonomy units for Medicaid services included in the CCS.

Core Services Definitions: Static Capacities

Static capacities are reported through performance contract reports in the Community Automated Reporting System (CARS) for those services shown in the Core Services Category and Subcategory Matrix with a static capacity that are provided by CSBs directly or through contracts with other providers.

1. *Number of Beds*

The number of beds is the total number of beds for which the facility or program is licensed and staffed or the number of beds contracted for during the performance contract period. If the CSB contracts for bed days without specifying a number of beds, convert the bed days to a static capacity by dividing the bed days by the days in the term of the CSB's contract (e.g., 365 for an annual contract, 183 for a new, half-year contract). If the CSB contracts for the placement of a specified number of individuals, convert this to the number of beds by multiplying the number of individuals by their average length of stay in the program and then dividing the result by the number of days in the term of the CSB's contract.

2. *Number of Slots*

Number of slots means the maximum number of individuals who could be served during a day or a half-day session in most day support programs. It is the number of slots for which the program or service is staffed. For example, in psychosocial rehabilitation programs, the number of slots is not the total number of members in the whole program; it is the number of members who can be served by the program at the same time during a session. If the CSB contracts for days of service without specifying a number of slots, convert the days of service to a static capacity by dividing the days of service by the days in the term of the CSB's contract (e.g., 248 for an annual contract based on 365 days minus 105 weekend and 12 holiday days). If the CSB contracts for the placement of a specified number of individuals, convert this to days of service by multiplying the number of individuals by the average units of service they receive and then convert the resulting days of service to slots, per the preceding example. If the CSB contracts for day support hours without specifying a number of slots, convert the hours to a static capacity by dividing the day support hours by the number of hours the program is open daily and dividing the result by the number of days the program is open during the CSB's contract period.

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Core Services Definitions: Individuals Receiving Services

Section 37.2-100 of the Code of Virginia defines an individual receiving services as a current direct recipient of public or private mental health, developmental, or substance abuse treatment or habilitation services. The term individual or individual receiving services will always be those individuals who have been admitted to a program area or for whom a CSB has opened a case and who have received valid services during a reporting period or the contract period. However, persons participating in prevention services are not counted as individuals receiving services.

If a CSB has opened a case for an individual or admitted an individual to a program area, but the individual has not received any valid services during the reporting period or the contract period, the CSB must not report that individual as a consumer in the CCS. Information about all individuals receiving valid services from CSBs through directly operated services or contracts with other providers must be collected and reported through the CCS.

Inpatient Core Service and State Facility Cost Centers Crosswalk

The following table crosswalks the inpatient services in the core services taxonomy (4.a through g) with the state facility cost centers and codes.

Core Service and State Facility Cost Accounting Crosswalk		
4.	Inpatient Services (Core Service)	
	State Facility Cost Center	Code
a.	Medical/Surgical	
	Acute Medical/Surgical (Certified)	411
b.	Skilled Nursing	
	Skilled Nursing - ID (Certified)	421
	Skilled Nursing - General (Certified)	423
c.	Intermediate Care Facility/Intellectual Disability (ID)	
	ICF/ID Certified (General)	529
d.	Intermediate Care Facility/Geriatric	
	ICF (Certified)	441
	Chronic Disease (Certified)	443
e.	Acute Intensive Psychiatric	
	Acute Admissions (Certified)	457
g.	Extended Rehabilitation	
	Community Preparation/Psychosocial	481
	Long Term Rehabilitation	482
	Child and Adolescent Services (General)	487
	Clinical Evaluation	488
	Forensic Medium Security	490
	Forensic Maximum Security	491
	Forensic Intermediate Security	493

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Performance Contract Definitions

Administrative Expenses means the expenses incurred by the CSB for its administrative functions. Administrative expenses are incurred for common or joint activities that cannot be identified readily with a particular organizational activity or cost objective. Expenses may include overall leadership and supervision of the CSB organization (e.g., expenses for the executive director, deputy director or director of administration, and support staff), financial management, accounting, reimbursement, procurement, human resources management, information technology services, policy development, strategic planning, resource development and acquisition, quality improvement, risk management, intergovernmental relations, board member support, and media relations.

Administrative functions and expenses may be centralized or included in programs and services, depending on the CSB's organizational structure. However, in either alternative, administrative and management expenses must be identified and allocated on a basis that is auditable and satisfies generally accepted accounting principles among service costs across the three program areas and emergency and ancillary services on financial and service forms in the performance contract and reports, and administrative costs must be displayed separately on the Consolidated Budget form (page AF-1) in the performance contract and reports. CSB administrative and management expenses shall be reasonable and subject to review by the Department.

Admission means the process by which a CSB accepts a person for services in one or more program areas (all mental health, developmental, or substance abuse services). If a person is only interviewed regarding services or triaged and referred to another provider or system of care, that activity does not constitute an admission. The staff time involved in that activity should be recorded in the core service category or subcategory (e.g., emergency or outpatient services) where the activity occurred as a z-consumer, a service with no associated individual receiving services, for Community Consumer Submission (CCS) purposes. Admission is to a program area, not to a specific program or service. A clinical record is opened on all persons seen face-to-face for an assessment. Individuals who will be receiving services through a CSB-contracted program or service are admitted to a program area, based upon a face-to-face clinical assessment. In order for a person to be admitted to a program area, all of the following actions are necessary:

1. an initial contact has been made,
2. a clinical screening or initial assessment was conducted,
3. a unique identifier for the individual was assigned or retrieved from the management information system if the person has been admitted for a previous episode of care, and
4. the person is scheduled to receive services in a directly-operated or contractual service in the program area.

Admission is to a program area. An individual is not admitted to a program area for emergency services or ancillary (motivational treatment, consumer monitoring, assessment and evaluation, or early intervention) services; the CSB opens a case for that individual. The CCS requires collection of an abbreviated set of data elements, rather than a full set, for these services. However, all of the CCS data elements that were not collected then must be collected if an individual subsequently is admitted to a program area. It is possible that an individual may be admitted to more than one program area concurrently. A case is not opened for an individual participating in consumer-run services. CSBs providing consumer-run services directly or contractually must report the number of individuals participating in those services separately in the CARS management report.

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Case Management CSB means the CSB that serves the area in which the individual receiving services lives. The case management CSB is responsible for case management, liaison with the state facility when a person is admitted to it, and discharge planning. Any change in case management CSB for an individual shall be implemented in accordance with the current *Discharge Planning Protocols* to ensure a smooth transition for the individual and the CSB. Case management CSB also means the CSB to which bed day utilization is assigned, beginning on the day of admission, for an episode of care and treatment when an individual is admitted to a state facility.

Case Opening means the process by which the CSB opens a case for a person. The CSB has determined that it can serve the person who has sought or been referred to it for services. This does not constitute an admission to a program area. When the CSB opens a case for a person, he or she can access the following services without being admitted to a program area: emergency services or ancillary (motivational treatment, consumer monitoring, assessment and evaluation, and early intervention) services. The CSB collects only minimal CCS data elements at case opening. If the person needs other services, he or she is admitted to a program area. A person can be admitted directly to a program area without going through case opening; however, CCS data and other information collected at case opening must still be collected and reported.

Case Closing means the process by which the CSB closes a case for an individual who received services.

Cognitive Delay means a child is at least three but less than six years old and has a confirmed cognitive developmental delay. Documentation of a confirmed cognitive developmental delay must be from a multidisciplinary team of trained personnel, using a variety of valid assessment instruments. A confirmed delay will be noted on the test with a score that is at least 25 percent below the child's chronological age in one or more areas of cognitive development. A developmental delay is defined as a significant delay in one of the following developmental areas: cognitive ability, motor skills, social/adaptive behavior, perceptual skills, or communication skills. A multidisciplinary team of trained personnel will measure developmental delay (25 percent below the child's chronological age) by using a variety of valid assessment instruments. The most frequently used instruments in Virginia's local school systems are the Battelle Developmental Inventory, Learning Accomplishments Profile - Diagnostic Edition (LAP-D), the Early Learning Accomplishment Profile (ELAP), and the Hawaiian Early Learning Profile (HELP). For infants and toddlers born prematurely (gestation period of less than 37 weeks), the child's actual adjusted age is used to determine his or her developmental status. Chronological age is used once the child is 18 months old.

Co-Occurring Disorders means individuals are diagnosed with more than one, and often several, of the following disorders: mental health or substance use disorders or intellectual disability. Individuals may have more than one substance use disorder and more than one mental health disorder. At an individual level, co-occurring disorders exist when at least one disorder of each type (e.g., mental health and substance use disorder or intellectual disability and mental health disorder) can be identified independently of the other and are not simply a cluster of symptoms resulting from a single disorder. The mental health and substance use disorders of some individuals may not, at a given point in time, fully meet the criteria for diagnoses in DSM IV categories. While conceptually ideal, diagnostic certainty cannot be the sole basis for system planning and program implementation.

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A service definition of co-occurring disorders includes individuals who are pre-diagnosis in that an established diagnosis in one domain (mental health disorder, intellectual disability, or substance use disorder) is matched with signs or symptoms of an evolving disorder in another domain. Similarly, the service definition also includes individuals who are post-diagnosis in that one or both of their substance use disorder and their mental health disorder may have resolved for a substantial period of time, but who present for services with a unitary disorder and acute signs or symptoms of a co-occurring condition. For example, an individual with a substance use disorder who is now suicidal may not meet the formal criteria for a DSM IV diagnosis but is clearly in need of services that address both conditions. Refer to State Board Policy 1015 (SYS) 86-22 for more information about providing services to individuals with co-occurring mental health disorders, intellectual disability, or substance use disorders.

The definition of co-occurring disorders for the Community Consumer Submission data set is individuals shall be identified as having co-occurring mental health and substance use disorders if there is (1) an Axis I or Axis II mental health diagnosis and (a) an Axis I substance use disorder diagnosis or (b) admission to the substance abuse program area (denoted in a type of care record) or (2) an Axis I substance use disorder diagnosis and (a) an Axis I or Axis II mental health diagnosis or (b) admission to the mental health program area (denoted in a type of care record).

Discharge means the process by which a CSB documents the completion of a person's episode of care in a program area. Discharge occurs at the program area level, as opposed to a specific service. When an individual has completed receiving all services in the program area to which he or she was admitted, the person has completed the current episode of care and is discharged from that program area. A person is discharged from a program area if any of the following conditions exists; the individual has:

1. been determined to need no further services in that program area,
2. completed receiving services from all CSB and CSB-contracted services in that program area,
3. received no program area services in 90 days from the date of the last face-to-face service or service-related contact or indicated that he no longer desires to receive services, or
4. relocated or died.

Persons may be discharged in less than the maximum time since the last face-to-face contact (i.e., less than 90 days) at the CSB's discretion, but the person must be discharged if no face-to-face services have been received in the maximum allowable time period for that episode of care. Once discharged, should an individual return for services in a program area, that person would be readmitted to that program area; the subsequent admission would begin a new episode of care. If the person is discharged because he or she has received no services in 90 days, the discharge date must be the date of the last face-to-face or other contact with the person, not the 90th day.

In the rare circumstance in which services are provided for an individual after he or she has been discharged (e.g., completing a discharge summary), the units of service should be collected and reported in the core service category or subcategory (e.g., outpatient or case management services) where the activity occurred using the z-consumer function (NC service file), a service with no associated individual receiving services, for CCS purposes.

Episode of Care means all of the services provided to an individual to address an identified condition or support need over a continuous period of time between an admission and a discharge. An episode of care begins with admission to a program area, and it ends with the discharge from

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that program area. An episode of care may consist of a single face-to-face encounter or multiple services provided through one or more programs. A person is not admitted to emergency services or ancillary services; those services are outside of an episode of care. If a person has received his or her last service but has not yet been discharged from a program area, and he or she returns for services in that program area within 90 days, the person is not readmitted, since he or she has not been discharged; the person is merely accepted into that program area for the needed services.

Intellectual Disability means a disability, originating before the age of 18 years, characterized concurrently by (i) significantly sub average intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills (§ 37.2-100 of the Code of Virginia).

Mental Illness means a disorder of thought, mood, emotion, perception, or orientation that significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for the health, safety, or recovery of the individual or for the safety of others (§ 37.2-100 of the Code of Virginia).

Serious Mental Illness means a severe and persistent mental or emotional disorders that seriously impair the functioning of adults, 18 years of age or older, in such primary aspects of daily living as personal relations, self-care skills, living arrangements, or employment. Individuals with serious mental illness who have also been diagnosed as having a substance abuse disorder or developmental disability are included in this definition. Serious mental illness is defined along three dimensions: diagnosis, level of disability, and duration of illness. All three dimensions must be met to meet the criteria for serious mental illness.

- a. **Diagnosis:** The person must have a major mental disorder diagnosed using the *Diagnostic and Statistical Manual of Mental Disorders* (DSM). These disorders are: schizophrenia, major affective disorders, paranoia, organic or other psychotic disorders, personality disorders, or other disorders that may lead to chronic disability. A diagnosis of adjustment disorder or a V Code diagnosis cannot be used to satisfy these criteria.
- b. **Level of Disability:** There must be evidence of severe and recurrent disability resulting from mental illness. The disability must result in functional limitations in major life activities. Individuals should meet at least two of the following criteria on a continuing or intermittent basis. The person:
 - 1.) Is unemployed; is employed in a sheltered setting or supportive work situation; has markedly limited or reduced employment skills; or has a poor employment history;
 - 2.) Requires public financial assistance to remain in the community and may be unable to procure such assistance without help;
 - 3.) Has difficulty establishing or maintaining a personal social support system;
 - 4.) Requires assistance in basic living skills such as personal hygiene, food preparation, or money management; or
 - 5.) Exhibits inappropriate behavior that often results in intervention by the mental health or judicial system.
- c. **Duration of Illness:** The individual is expected to require services of an extended duration, or the individual's treatment history meets at least one of the following criteria.

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- 1.) The individual has undergone psychiatric treatment more intensive than outpatient care more than once in his or her lifetime (e.g., crisis response services, alternative home care, partial hospitalization, and inpatient hospitalization), or
- 2.) The individual has experienced an episode of continuous, supportive residential care, other than hospitalization, for a period long enough to have significantly disrupted the normal living situation.

Serious Emotional Disturbance means a serious mental health problem that can be diagnosed under the DSM-IV in children ages birth through 17 (until the 18th birthday), or the child must exhibit all of the following:

- a. Problems in personality development and social functioning that have been exhibited over at least one year's time, and
- b. Problems that are significantly disabling based upon the social functioning of most children that age, and
- c. Problems that have become more disabling over time, and
- d. Service needs that require significant intervention by more than one agency.

At Risk of Serious Emotional Disturbance means children aged birth through seven are considered at risk of developing serious emotional disturbances if they meet at least one of the following criteria.

- a. The child exhibits behavior or maturity that is significantly different from most children of that age and is not primarily the result of developmental disabilities; or
- b. Parents or persons responsible for the child's care have predisposing factors themselves that could result in the child developing serious emotional or behavioral problems (e.g., inadequate parenting skills, substance abuse, mental illness, or other emotional difficulties, etc.); or
- c. The child has experienced physical or psychological stressors that have put him or her at risk for serious emotional or behavioral problems (e.g., living in poverty, parental neglect, physical or emotional abuse, etc.).

Please refer to Appendix A that contains detailed criteria in checklists for serious mental illness, serious emotional disturbance, and at risk of serious emotional disturbance. Those criteria are congruent with these definitions and will ensure consistent screening for and assessment of these conditions.

Program Area means the general classification of service activities for one of the following defined conditions: a mental health disorder, intellectual disability, or a substance use disorder. The three program areas in the public services system are mental health, developmental, and substance abuse services. In the taxonomy, mental health or substance use disorder or intellectual disability refers to a condition experienced by an individual; and mental health, substance abuse, or developmental refers respectively to the services that address that condition.

Service Area means the city or county or any combination of cities and counties or counties or cities that established and is served by the CSB.

Service Location means the location in which the service for which a service.txt file is submitted in the Community Consumer Submission (CCS) was provided to an individual. Service location is reported in the service file for every service in all program areas (100, 200, and 300) and for

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emergency and ancillary services (400). Service location is collected at every service encounter. Service locations are defined in CCS data element 65.

Service Subtype is a specific activity associated with a particular core service category or subcategory for which a service.txt file is submitted in the Community Consumer Submission. Service Subtypes now are defined only for emergency services and case management services. Service subtypes are defined in CCS data element 64.

Substance Abuse means the use of drugs, enumerated in the Virginia Drug Control Act (§ 54.01-3400 et seq.), without a compelling medical reason or alcohol that (i) results in psychological or physiological dependence or danger to self or others as a function of continued and compulsive use or (ii) results in mental, emotional, or physical impairment that causes socially dysfunctional or socially disordering behavior and (iii), because of such substance abuse, requires care and treatment for the health of the individual. This care and treatment may include counseling, rehabilitation, or medical or psychiatric care (§ 37.2-100 of the Code of Virginia). Substance abuse is now beginning to be defined and described as substance use disorder. There are two levels of substance use disorder: substance addiction (dependence) and substance abuse.

Substance Addiction (Dependence), as defined by ICD-9, means uncontrollable substance-seeking behavior involving compulsive use of high doses of one or more substances resulting in substantial impairment of functioning and health. Tolerance and withdrawal are characteristics associated with dependence. ICD-9 defines substance dependence as a maladaptive pattern of substance use, leading to clinically significant impairment or distress, as manifested by three (or more) of the following, occurring at any time in the same 12-month period:

1. tolerance, as defined by a need for markedly increased amounts of the substance to achieve intoxication or desired effect or markedly diminished effect with continued use of the same amount of the substance;
2. withdrawal, as manifested by the characteristic withdrawal syndrome for the substance or the same (or a closely related) substance is taken to relieve or avoid withdrawal symptoms;
3. the substance is often taken in larger amounts or over a longer period than was intended;
4. there is a persistent desire or unsuccessful efforts to cut down or control substance use;
5. a great deal of time is spent on activities necessary to obtain the substance, use the substance, or recover from its effects;
6. important social, occupational, or recreational activities are given up or reduced because of substance use; and
7. the substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.

Substance Abuse, as defined by ICD-9, means a maladaptive pattern of substance use manifested by recurrent and significant adverse consequences related to the repeated use of substances. It leads to clinically significant impairment or distress, as manifested by one (or more) of the following occurring within a 12-month period:

1. recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (e.g., repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; neglect of children or household);

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2. recurrent substance use in situations in which it is physically hazardous (e.g., driving an automobile or operating a machine when impaired by substance use);
3. recurrent substance-related legal problems (e.g., arrests for substance-related disorderly conduct); and
4. continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (e.g., arguments with spouse about consequences of intoxication, physical fights).

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Appendix A: Diagnostic Criteria Checklists

Serious Mental Illness Criteria Checklist		
Yes	No	Criteria
		1. Age: The individual is 18 years of age or older.
		2. DIAGNOSIS: The individual has a major mental disorder diagnosed using the DSM IV. At least one of the following diagnoses must be present. Adjustment disorder or V Code diagnoses do not meet this criterion.
		Schizophrenia, all types
		Major Affective Disorder
		Paranoid Disorder
		Organic Disorder
		Other Psychotic Disorder
		Personality Disorder
		Other mental health disorder that may lead to chronic disability
		3. Level Of Disability: There must be evidence of severe and recurrent disability resulting from mental illness. The disability must result in functional limitations in major life activities. The individual must meet at least two of these criteria on a continuing or intermittent basis. The individual:
		Is unemployed; employed in a sheltered setting or a supportive work situation; has markedly limited or reduced employment skills; or has a poor employment history.
		Requires public financial assistance to remain in the community and may be unable to procure such assistance without help.
		Has difficulty establishing or maintaining a personal social support system.
		Requires assistance in basic living skills such as personal hygiene, food preparation, or money management.
		Exhibits inappropriate behavior that often results in intervention by the mental health or judicial system.
		4. Duration Of Illness: The individual's treatment history must meet at least one of these criteria. The individual:
		Is expected to require services of an extended duration.
		Has undergone psychiatric treatment more intensive than outpatient care more than once in his or her lifetime (e.g., crisis response services, alternative home care, partial hospitalization, and inpatient hospitalization).
		Has experienced an episode of continuous, supportive residential care, other than hospitalization, for a period long enough to have significantly disrupted the normal living situation.
		If Yes is checked for criterion 1, and for at least one response in criterion 2, and for at least two responses in criterion 3, and for at least one response in criterion 4, then check Yes here to indicate that the individual has serious mental illness.
NOTE: Any diagnosis checked in 2 above must be documented in the individual's clinical record and in the CSB's information system, and the individual's clinical record also must contain documentation that he or she meets any criteria checked in 3 and 4 above.		

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Appendix A: Diagnostic Criteria Checklists

Serious Emotional Disturbance Criteria Checklist		
Yes	No	Criteria
		1. Age: The individual is a child, age birth through 17 (until the 18 th birthday).
		2. Diagnosis: The child has a serious mental health problem that can be diagnosed under the DSM IV. Specify the diagnosis: _____
		3. Problems And Needs: The child must exhibit all of the following:
		Problems in personality development and social functioning that have been exhibited over at least one year's time, and
		Problems that are significantly disabling based upon the social functioning of most children that child's age, and
		Problems that have become more disabling over time, and
		Service needs that require significant intervention by more than one agency.
		If Yes is checked for criterion 1 and for criterion 2 OR for all four responses in criterion 3, then check Yes here to indicate that the child has serious emotional disturbance.
<p>NOTE: Any diagnosis in criterion 2 above must be documented in the child's clinical record and in the CSB's information system, and the child's clinical record also must contain documentation of any of the problems or needs checked in criterion 3 above.</p>		

At Risk Of Serious Emotional Disturbance Criteria Checklist		
Yes	No	Criteria
		1. Age: The person is a child, age birth through 7.
		2. Problems: The child must meet at least one of the following criteria.
		The child exhibits behavior or maturity that is significantly different from most children of that age and which is not primarily the result of developmental disabilities; or
		Parents or persons responsible for the child's care have predisposing factors themselves that could result in the child developing serious emotional or behavioral problems (e.g., inadequate parenting skills, substance use disorder, mental illness, or other emotional difficulties, etc.); or
		The child has experienced physical or psychological stressors that have put him or her at risk for serious emotional or behavioral problems (e.g., living in poverty, parental neglect, or physical or emotional abuse, etc.).
		If Yes is checked for criterion 1 and for any problem in criterion 2, then check Yes here to indicate that the child is at risk of serious emotional disturbance.
<p>NOTES: These criteria should be used only if the child does not have serious emotional disturbance. The child's clinical record must contain documentation of any of the problems checked in criterion 2 above.</p>		

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Appendix B: Core Services Taxonomy and Medicaid Intellectual Disability Home and Community-Based Waiver (ID Waiver) Services Crosswalk

Core Services Taxonomy Service	ID Home and Community-Based Waiver Service
Emergency Services	Crisis Stabilization/Crisis Supervision Personal Emergency Response System ¹
Inpatient Services	None
Outpatient Services	Skilled Nursing Services ² Therapeutic Consultation ³
Case Management Services	None. Case Management is not a Waiver service.
Day Support: Habilitation	Day Support (Center-Based and Non-Center-Based) and Prevocational
Sheltered Employment	None
Group Supported Employment	Supported Employment - Group Model
Individual Supported Employment	Supported Employment - Individual Placement
Highly Intensive Residential Services	None, this is ICF/ID services in the taxonomy.
Intensive Residential Services	Congregate Residential Support Services ⁵
Supervised Residential Services	Congregate Residential Support Services ⁵
Supportive Residential Services	Supported Living/In-Home Residential Supports Agency and Consumer-Directed Respite Services, Personal Assistance Services ⁴ , and Companion Services
Early Intervention, Ancillary Services	None

This crosswalk is included for information purposes. When there is an inconsistency between Medicaid service units and taxonomy units of service, taxonomy units of service will be used for uniform cost report and CCS purposes. Medicaid service definitions can be accessed at <https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManuals>

¹ **Personal Emergency Response System** will be counted in the taxonomy and performance contract in terms of numbers of individuals served and expenses; there are no core services taxonomy units of service for this Medicaid service.

² **Skilled Nursing Services** are available to individuals with serious medical conditions and complex health care needs that require specific skilled nursing services that are long term and maintenance in nature ordered by a physician and which cannot be accessed under the Medicaid State Plan. Services are provided in the individual's home or a community setting on a regularly scheduled or intermittent need basis. The Medicaid service unit is one hour.

³ **Therapeutic Consultation** provides expertise, training, and technical assistance in a specialty area (psychology, behavioral consultation, therapeutic recreation, rehabilitation engineering, speech therapy, occupational therapy, or physical therapy) to assist family members, care givers, and other service providers in supporting the individual receiving services. ID Waiver therapeutic consultation services may not include direct therapy provided to Waiver recipients or duplicate the activities of other services available to the person through the State Plan for Medical Assistance. This service may not be billed solely for monitoring purposes. The Medicaid service unit is one hour. Therapeutic consultation is included under outpatient services in the crosswalk, instead of

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case management services, to preserve the unique nature of case management services and because it seemed to fit most easily in outpatient services. This also is the preference expressed by the VACSB Developmental Services Council.

⁴ **Personal Assistance Services** are available to ID Waiver recipients who do not receive congregate residential support services or live in an assisted living facility and for whom training and skills development are not primary objectives or are received in another service or program. Personal assistance means direct assistance with personal care, activities of daily living, medication or other medical needs, and monitoring physical condition. It may be provided in residential or non-residential settings to enable an individual to maintain health status and functional skills necessary to live in the community or participate in community activities. Personal assistance services may not be provided during the same hours as Waiver supported employment or day support, although limited exceptions may be requested for individuals with severe physical disabilities who participate in supported employment. The Medicaid service unit is one hour. Personal Assistance Services and Companion Services are included under supportive residential services because they are more residentially based than day support based. The credentials for both include Department residential services licenses. This is the preference expressed by the VACSB Developmental Services Council. The Medicaid service unit and taxonomy unit are the same, a service hour.

⁵ **Congregate Residential Support Services** have a Medicaid service unit measured in hours; this is inconsistent with the taxonomy bed day unit of service for intensive and supervised residential services. Therefore, congregate residential support services will be counted in the taxonomy and performance contract reports in terms of numbers of individuals served and expenses; there are no taxonomy units of service for these Medicaid services.

Environmental Modifications are available to individuals who are receiving at least one other ID Waiver service along with Medicaid targeted case management services. Modifications are provided as needed only for situations of direct medical or remedial benefit to the individual. These are provided primarily in an individual's home or other community residence. Modifications may not be used to bring a substandard dwelling up to minimum habitation standards. Environmental modifications include physical adaptations to a house or place of residence necessary to ensure an individual's health or safety or to enable the individual to live in a non-institutional setting, environmental modifications to a work site that exceed reasonable accommodation requirements of the Americans with Disabilities Act, and modifications to the primary vehicle being used by the individual. The Medicaid service unit is hourly for rehabilitation engineering, individually contracted for building contractors, and may include supplies. Environmental Modifications are included in the core service in which they are implemented (e.g., various residential services or case management services).

Assistive Technology is available to individuals who are receiving at least one other ID Waiver service along with Medicaid targeted case management services. It includes specialized medical equipment, supplies, devices, controls, and appliances not available under the State Plan for Medical Assistance that enable individuals to increase their abilities to perform activities of daily living or to perceive, control or communicate with the environment in which they live or that are necessary to their proper functioning. It may be provided in a residential or non-residential setting. The Medicaid service unit is hourly for rehabilitation engineering or the total cost of the item or the supplies. Assistive technology is included in the core service in which it is implemented (e.g., various residential services or case management services).

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Appendix C: Retired Core Services Service Codes

The following core services service codes have been retired from use. The codes are listed in this appendix so that when core service categories or subcategories are added to the taxonomy in the future, none of these retired codes will be assigned to those new services.

Retired Core Services Service Codes		
Core Service Category	Former Core Services Subcategory	Service Code
Outpatient Services	Medical Services	311
Outpatient Services	Intensive In-Home Services	315
Outpatient Services	Opioid Detoxification Services	330
Outpatient Services	Opioid Treatment Services	340
Day Support	Therapeutic Day Treatment for Children and Adolescents	415
Day Support	Alternative Day Support Arrangements	475
Residential Services	Jail-Based Habilitation Services	531
Residential Services	Family Support Services	587
Limited Services	Substance Abuse Social Detoxification Services	710

Appendix D: Reserved for Future Use

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Appendix E: Regional Program Operating Principles

A regional program is funded by the Department through the community services board or behavioral health authority, hereafter referred to as the CSB, and operated explicitly to provide services to individuals who receive services from the CSBs participating in the program. A regional program may be managed by the participating CSBs or by one CSB, have single or multiple service sites, and provide one or more types of service. A regional program also may include self-contained, single purpose programs (e.g., providing one type of core service, usually residential) operated by one CSB for the benefit of other CSBs or programs contracted by one CSB that serve individuals from other CSBs.

A regional program can be a highly effective way to allocate and manage resources, coordinate the delivery and manage the utilization of high cost or low incidence services, and promote the development of services where economies of scale and effort could assist in the diversion of individuals from admission to state facilities. Each individual receiving services provided through a regional program must be identified as being served by a particular CSB. That CSB will be responsible for contracting for and reporting on the individuals that it serves and the services that it provides; and each individual will access services through and have his or her individualized services plan managed by that particular CSB. CSBs are the single points of entry into publicly funded mental health, developmental, and substance abuse services, the local points of accountability for coordination of those services, and the only entities identified in the Code of Virginia that the Department can fund for the delivery of community mental health, developmental, or substance abuse services.

The regional program operating principles provide guidance for CSBs to implement and manage identified regional programs and to account for services provided by the programs. The principles also provide guidance for the Department to monitor regional programs on a more consistent basis. Adherence to these principles will ensure that performance contracts and reports, including the Community Automated Reporting System (CARS) and the Community Consumer Submission (CCS) reports, contain complete and accurate information about individuals receiving services, services, funding, and expenses.

Regional Program Operating Principles

1. **Individual CSB Reporting:** The CCS, a secure and HIPAA-compliant individual data reporting system, is the basis for all statewide individual and service data. Therefore, every individual served in any manner must be included in some CSB's information system, so that necessary individual and service information can be extracted by CSBs and provided to the Department using the CCS. If a CSB does not collect information about all of the individuals it serves and services, including those served by regional programs, in its information system, it will not be able to report complete information about its operations to the Department.
 - a. Unless subsection b. is applicable, each CSB participating in a regional program shall admit individuals that it serves through the regional program to the applicable program area(s) and maintain CCS data about them in its information system. For performance contract and report purposes (CARS and CCS), each participating CSB shall maintain and report funding, expense, cost, individual, and service information associated with the regional program for each individual that it serves through the regional program.

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- b. If one CSB operates a regional program on behalf of other CSBs in a region, it shall admit all individuals for services provided by the regional program, maintain CCS data about these individuals in its information system, and maintain and report funding, expense, cost, individual, and service information associated with those individuals, or, if the participating CSBs elect, each referring CSB may report on the individuals it serves.
2. **Regional Program Funding:** Depending on the design of a regional program, the Department may disburse state or federal funds for a regional program to each participating CSB or to one CSB that operates a regional program or agrees to serve as the fiscal agent for a regional program. Sections 37.2 -504 and 37.2-508 of the Code of Virginia establish the community services performance contract as the mechanism through which the Department provides state and federal funds to CSBs for community services and through which CSBs report on the use of those and other funds. All regional programs shall be included in the performance contract and reflected in CARS and CCS reports.
- a. If the Department disburses regional program funds to each participating CSB, each participating CSB shall follow existing performance contract and report requirements and procedures for that portion of the regional program funded by that CSB.
 - b. If the Department disburses regional program funds to a CSB that operates a regional program on behalf of the other CSBs in a region, the operating CSB shall follow existing performance contract and report requirements and procedures, as if the regional program were its own program.
 - c. If the Department disburses regional program funds to a CSB that has agreed to serve as the fiscal agent (fiscal agent CSB) for the regional program, disbursements will be based on, accomplished through, and documented by appropriate procedures, developed and implemented by the region.
 - d. When funds are disbursed to a fiscal agent CSB, each participating CSB shall identify, track, and report regional program funds that it receives and spends as funds for that regional program. Each participating CSB, including the fiscal agent CSB, shall reflect in its CARS reports and CCS 3 extracts only its share of the regional program, in terms of individuals served, services provided, funds received, expenses made, and costs of the services. Any monitoring and reporting of and accountability for the fiscal agent CSB's handling of state or federal funds for a regional program shall be accomplished through the performance contract and reports. Alternately, if the participating CSBs elect, each CSB may perform these functions for its share of the regional program.
 - e. When funds are disbursed to a fiscal agent CSB that pays a contract agency to deliver regional program services, the fiscal agent CSB and participating CSBs may elect to establish an arrangement in which the fiscal agent CSB reports all of the funds and expenditures in the fiscal pages of Exhibit A while the participating CSBs and the fiscal agent CSB report information about individuals served, units of services, and expenses for those units only for the individuals it serves on the program pages of Exhibit A, with a note on the Comments page of Exhibit A explaining the differences between the fiscal and program pages. Alternately, if the participating CSBs elect, the fiscal agent CSB may admit the individuals served by other participating CSBs and, for purposes of this regional program, treat those individuals as its own for documentation and reporting purposes.

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3. **Financial Reporting:** All funds, expenses, and costs for a regional program shall be reported to the Department only once; they may be reported by individual CSBs, the CSB that serves as the fiscal agent, or both, depending on how the regional program is designed and operates. For example, the fiscal agent CSB might report the revenues and expenses for a regional program provided by a contract agency, and a CSB that refers individuals it serves to that regional program may report the service and cost information related to those individuals.
4. **Consumer Reporting:** Each individual who receives services through a regional program shall be reported to the Department only once for a particular service. However, an individual who receives services from more than one CSB should be reported by each CSB that provides a service to that individual. For example, if an individual receives outpatient mental health services from one CSB and residential crisis stabilization services from a second CSB operating that program on behalf of a region, the individual would be admitted to each CSB and each CSB would report information about the individual and the service it provided to the individual.
5. **Service Reporting:** Each service provided by a regional program shall be reported only once, either by the CSB providing or contracting for the service or the CSB that referred individuals it served to the regional program operated or contracted by another CSB or by the region.
6. **Contracted Regional Programs:** When the case management CSB refers an individual to a regional program that is operated by a contract agency and paid for by the regional program's fiscal agent CSB, the case management CSB shall report the service and cost information, but not the funding and expense information, even though it did not provide or pay for it, since there would be no other way for information about it to be extracted through the CCS. Alternately, if the participating CSBs elect, the fiscal agent CSB could admit the individual for this service and report information about the individual receiving services, services, costs, funds, and expenses itself; in this situation, the case management CSB would report nothing about this service.
7. **Transfers of Resources Among CSBs:** CSBs should be able to transfer state, local, and federal funds to each other to pay for services that they purchase from each other.
8. **Use of Existing Reporting Systems:** Existing reporting systems (the CCS and CARS) shall be used wherever possible, rather than developing new reporting systems, to avoid unnecessary or duplicative data collection and entry. Any new service or program shall be implemented as simply as possible regarding reporting requirements.
9. **Regional Administrative and Management Expenses:** CSBs and the Department have provider and local or state authority roles that involve non-direct services tasks such as utilization management and regional authorization committees. These roles incur additional administrative and management expenses for the programs. CSBs shall report these expenses as part of their costs of delivering regional services. The Department shall factor in and accept reasonable administrative and management expenses as allowable costs in regional programs.
10. **Local Supplements:** If a CSB participating in a regional program supplements the allocation of state or federal funds received by the CSB operating that program through transferring resources to the operating CSB, the participating CSB shall show the transfer as an expense on financial forms but not as a cost on service forms in its performance contract and reports. Then, the participating CSB will avoid displaying an unrealistically low service cost in its reports for the

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regional program and double counting individuals served by and service units delivered in the regional program, since the operating CSB already reports this information.

11. **Balances:** Unexpended balances of current or previous fiscal year regional program funds should not be retained by the participating CSBs to which the regional fiscal agent CSB or the Department disbursed the funds, unless this is approved by the region for purposes that are consistent with the legislative intent of the Appropriation Act item that provided the funds. Otherwise, the balances should be available for redistribution during the fiscal year among participating CSBs to ensure maximum utilization of these funds. Each region should establish procedures for monitoring expenditures of regional program funds and redistributing those unexpended balances to ensure that uses of those funds are consistent with the legislative intent of the Appropriation Act item that provided the funds.
12. **Issue Resolution:** Regional program funding issues, such as the amount, sources, or adequacy of funding for the program, the distribution of state allocations for the regional program among participating CSBs, and financial participation of each CSB whose individuals receive services from the regional program, should be resolved at the regional level among CSBs participating in the program, with the Department providing information or assistance upon request.
13. **Local Participation:** Whenever possible, regional funding and reporting approaches should encourage or provide incentives for the contribution of local dollars to regional activities.

Four Regional Program Models

The following models have been developed for CSBs and the Department to use in designing, implementing, operating, monitoring, and evaluating regional programs. These models are paradigms that could be altered by mutual agreement among the CSBs and the Department as regional circumstances warrant. However, to the greatest extent possible, CSBs and the Department should adhere to these models to support and reinforce more consistent approaches to the operation, management, monitoring, and evaluation of regional programs. CSBs should review these models and, in consultation with the Department, implement the applicable provisions of the model or models best suited to their particular circumstances, so that the operations of any regional program will be congruent with one of these models.

1. Operating CSB-Funded Regional Program Model

1. The CSB that operates a regional program receives state and sometimes other funds from the Department for the program. The operating CSB provides the services, projects the total funding and cost for the regional program in its performance contract and contract revision(s), and reports total actual individuals served and units of service(s) delivered in its Community Consumer Submission 3 (CCS 3) extracts and reports funding, expenses, costs, and static capacities in its CARS. Other CSBs, which refer individuals to the regional program for services, project and report nothing for the regional program in their contracts, CARS reports, or CCS 3 extracts.
2. The operating CSB admits individuals receiving services from the regional program to the applicable program area (all MH, DV, or SA services) and develops individualized services plans (ISPs) for them for service(s) provided by the regional program. When individuals complete receiving all services from the regional program, they are discharged from the

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applicable program area by the operating CSB, unless they are receiving other services in that program area from that operating CSB. If individuals also are receiving services from the operating CSB in another program area, the CSB admits them to that program area. The operating CSB provides appropriate information about the services provided and other clinical information to the CSB that referred the individual to the regional program for clinical record keeping purposes at the referring CSB.

3. The operating CSB ensures that the appropriate information about individuals and services in the regional program is entered into its information system, so that the information can be extracted by the CCS 3 and reported in the CCS 3 and applicable CARS reports. Thus, for performance contract and reporting purposes, individuals receiving services from a regional program operated by that CSB are reported by that operating CSB.
4. Each of the other CSBs with individuals receiving services from this regional program admits those individuals to the applicable program area and provides a service, such as case management, consumer monitoring, or another appropriate service, but not in service(s) provided by the regional program. Thus, individuals receiving services from a regional program will appear in the CCS 3 extracts for two CSBs, but not for the same services.
5. If the other CSBs with individuals receiving services from this regional program provide additional funds to the operating CSB to supplement the funds that the operating CSB receives from the Department for the regional program, these other CSBs show the revenues and expenses for this supplement on the financial forms in their performance contracts, contract revisions, and reports. However, these other CSBs do not show any services provided, individuals served, or costs for the regional program's services on the service forms in their contracts, revisions, or reports. These other CSBs include an explanation on the Financial Comments page of the difference between the expenses on the financial forms and the costs on the service forms. The operating CSB shows the services provided, individuals served, and total costs (including costs supported by supplements from the other CSBs) for the regional program's services on its service forms, but it does not show any revenues or expenses associated with the supplements on the financial pages in its contract, contract revision(s), and reports. The operating CSB includes an explanation of the difference between the expenses on the financial forms and the costs on the service forms on the Financial Comments page.
6. All of the CSBs, to the extent practicable, determine individual CSB allocations of the state and sometimes other funds received from the Department, based on service utilization or an agreed-upon formula.
7. Regional programs should receive the same state funding increases as regular CSB grant-funded activities, such as the salary increases for community services provided from time to time by the General Assembly in the Appropriation Act.

This model also could be adapted by a region to handle its LIPOS services, if one CSB receives all of the LIPOS funds, admits all of the individuals receiving LIPOS services, and pays all of the LIPOS providers. Participating CSBs should negotiate this adaptation with the Department.

2. All Participating CSBs-Funded Regional Program Model

1. Each CSB that participates in a regional program that is operated by one of those CSBs receives state and sometimes other funds from the Department for that program. Each participating CSB may supplement this amount with other funds available to it if the funds received from the Department are not sufficient to cover the regional program's expenses. Each participating CSB

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uses those funds to purchase services from the regional program for the individuals it serves, projects the funding and cost for the regional program in its performance contract) and reports actual individuals served and units of service(s) delivered in its Community Consumer Submission 3 (CCS 3) extracts and reports funding, expenses, costs, and static capacities in its performance contract reports (CARS) only for the individuals it serves.

2. The regional program operated by one of the participating CSBs functions like a contract agency provider. All of the individual, service, static capacity, funding, expense, and cost information for the whole program is maintained separately and is not included in the contract, contract revision(s), reports (CARS), and CCS 3 extracts of the CSB operating the program. The participating CSBs, including the CSB operating the program, include only the parts of this information that apply to the individuals it serves in their contracts, contract revisions, reports, and extracts. The regional program is licensed by the Department, when applicable, and develops and maintains individualized services plans (ISPs) for individuals that it serves.
3. Each participating CSB admits individuals receiving services from the regional program to the applicable program area (all MH, DV, or SA services) for the services provided by the regional program. The services provided by the regional program are listed in the ISPs maintained by the participating CSBs for these individuals. When individuals complete receiving all services from the regional program, they are discharged from the applicable program area by the participating CSB, unless they continue to receive other services in that program area from that participating CSB. The regional program provides appropriate information about the services provided and other clinical information to the CSB that referred the individual to the program, as any contract agency would provide such information to the contracting CSB.
4. Each participating CSB, including the CSB operating the regional program, ensures that the appropriate information about the individuals it serves and their services is entered into its information system, so that the information can be extracted by the CCS 3 and reported in the CCS 3 submissions and applicable CARS reports for that participating CSB.
5. Regional programs should receive the same state funding increases as regular CSB grant-funded activities, such as the salary increases for community services provided from time to time by the General Assembly in the Appropriation Act.

3. Fiscal Agent CSB-Funded Regional Program Model

1. One CSB receives state and sometimes other funds from the Department and acts as the fiscal agent for a regional program. The Department disburses the regional allocation to the fiscal agent CSB on behalf of all CSBs participating in the regional program.
2. The fiscal agent CSB, in collaboration with the other participating CSBs, develops agreed-upon procedures that describe how the CSBs implement the regional program and jointly manage the use of these funds on a regional basis. The procedures also establish and describe how unused funds can be reallocated among the participating CSBs to ensure the greatest possible utilization of the funds. These procedures should be documented in a regional memorandum of agreement (MOA) that is available for review by the Department.
3. The fiscal agent CSB receives the semi-monthly payments of funds from the Department for the regional program. The fiscal agent CSB disburses the regional program funds to individual CSBs, including itself when applicable, in accordance with the procedures in paragraph 2. The fiscal agent CSB displays such disbursements on a Transfer In/Out line of the applicable resources page in its final performance contract revision and its reports. The other CSBs

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receiving the transferred funds show the receipt of these funds on the same line. CSBs provide more detailed information about these transfers on the Financial Comments pages of contract revisions and reports.

4. Each CSB implementing a regional program accounts for and reports the funds and expenses associated with the program in its final performance contract revision and CARS reports. The fiscal agent CSB displays the total amount of the allocation as funding and all Transfers Out in its CARS reports, but it only displays in its reports the expenses for any regional program that it implements.
5. As an alternative to paragraphs 1 through 4 for some kinds of programs, such as the Discharge Assistance Program, and with the concurrence of the Department, instead of one CSB acting as a fiscal agent, all CSBs participating in that program establish a regional mechanism for managing the use of the regional program funds. The CSBs decide through this regional management mechanism how the total amount of funds for the program should be allocated among them on some logical basis (e.g., approved regional discharge assistance program ISPs). The region informs the Department of the allocations, and the Department adjusts the allocation of each participating CSB and disburses these allocations directly to the participating CSBs. Those CSBs agree to monitor and adjust allocations among themselves during the fiscal year through this regional management mechanism to ensure the complete utilization of these regional program funds, in accordance with the MOA in paragraph 2.
6. Each CSB implementing a regional program ensures that appropriate information about the individuals it serves and their services is entered into its information system, so that the CCS 3 can extract the information and report it in the CCS 3 submissions and applicable CARS reports.
7. Regional programs should receive the same state funding increases as regular CSB grant-funded activities, such as the salary increases for community services provided from time to time by the General Assembly in the Appropriation Act.

A variation of this model, the Fiscal Agent CSB-Funded Regional Local Inpatient POS Program Model, can be used to implement and manage regional local acute psychiatric inpatient bed purchases.

3.a. Fiscal Agent CSB-Funded Regional Local Inpatient POS Program Model

1. One CSB agrees to act as the fiscal agent for the regional Local Inpatient Purchase of Services (LIPOS) program. The Department disburses the regional LIPOS allocation to the fiscal agent CSB on behalf of all of the CSBs participating in the regional LIPOS program.
2. The fiscal agent CSB, in collaboration with all of the participating CSBs and with consultation from the Department, develops procedures that describe how the CSBs will implement the regional LIPOS program and jointly manage the use of these funds on a regional basis. The procedures include regional utilization management mechanisms, such as regional authorization committees (RACs) and regional procurements of beds through contracts with private providers. Such contracts may reserve blocks of beds for use by the region or purchase beds or bed days on an as available basis. The procedures also establish and describe how unused funds can be reallocated among the participating CSBs to ensure the greatest possible utilization of the funds. These procedures should be documented in a regional memorandum of agreement (MOA) that is available for review by the Department.

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3. The fiscal agent CSB receives the semi-monthly payments of funds from the Department for the regional LIPOS program. The fiscal agent CSB disburses regional LIPOS funds to individual CSBs or uses such funds itself to pay for the costs of local inpatient hospitalizations that have been approved by a regional review and authorization body established by and described in the MOA in paragraph 2. The fiscal agent CSB displays such disbursements on a Transfer In/Out line of the mental health resources page in its final performance contract revision and reports, and the CSB receiving the transferred funds shows the receipt of these funds on the same line. CSBs provide more detailed information about these transfers on the Financial Comments page of contract revisions and reports.
4. The CSB that purchases local inpatient services accounts for and reports the funds and expenses associated with its LIPOS in its final performance contract revision and CARS reports. The fiscal agent CSB displays the total amount of the allocation as funds and all Transfers Out in its CARS reports, but it displays in its reports only the expenses for its own LIPOS.
5. The CSB that purchases the local inpatient services ensures that appropriate information about individuals, services, and costs is entered into its management information system, so that the CCS 3 can extract the information and report it in the CCS 3 submissions and applicable CARS reports.
6. Regional programs should receive the same state funding increases as regular CSB grant-funded activities, such as the salary increases for community services provided from time to time by the General Assembly in the Appropriation Act.

4. Fiscal Agent CSB-Funded Contract Agency Regional Program Model

1. One CSB receives state and sometimes other funds from the Department and acts as the fiscal agent for a regional program that is contracted by this fiscal agent CSB to a public or private agency. The Department disburses the regional allocation to the fiscal agent CSB on behalf of all CSB participating in the contracted regional program.
2. The fiscal agent CSB contracts with and provides set monthly payments to a regional program provided by a public or private contract agency on behalf of all of the CSB participating in this regional program. The contract may purchase a pre-set amount of specified services from the contract agency and pay the agency a predetermined cost, whether or not the participating CSBs use the services.
3. Each participating CSB referring one of the individuals it serves to this contracted regional program admits the individual, enrolls him in the regional program service, and refers him to the contract agency. The contract agency provides information to the referring (case management) CSB, and that CSB maintains information about the individual and the service units in its information system, where the CCS 3 can extract the information.
4. The fiscal agent CSB provides program cost information to each referring CSB, based on its use of the regional program, and the referring CSB enters this information in the cost column of the program services form (pages AP-1 through AP-4) but does not enter any funding or expenditure information in its performance contract report (CARS). The fiscal agent CSB enters the funding and expenditure information associated with the regional program on the financial forms in its performance contract report, but it enters cost information on the program services form only for the individuals that it referred to the regional program. Each CSB will explain the differences

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between the financial and program service forms in its performance contract report on the Financial Comments page. The Department will reconcile the differences among the participating CSBs' reports using these comments. Because of the difficulty in calculating the program cost information for each participating CSB, program cost information would only need to be included in end of the fiscal year performance contract (CARS) reports.

5. All of the participating CSBs, to the extent practicable, determine individual CSB allocations of the state and sometimes other funds received from the Department, based on service utilization or an agreed-upon formula.
6. Regional programs should receive the same state funding increases as regular CSB grant-funded activities, such as the salary increases for community services provided from time to time by the General Assembly in the Appropriation Act.

This model also could be adapted by a region to handle its LIPOS services, if one CSB acts as the fiscal agent and pays all of the LIPOS providers. This adaptation should be negotiated with the Department by the participating CSBs.

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Appendix F: Regional Program Procedures

A regional program is funded by the Department through the community services board or behavioral health authority, hereafter referred to as the CSB, and operated explicitly to provide services to individuals who receive services from the CSBs participating in the program.

1. Purpose

The CSB may collaborate and act in concert with other CSBs or with other CSBs and state hospitals or training centers, hereafter referred to as state facilities, to operate regional programs, provide or purchase services on a regional basis, conduct regional utilization management, or engage in regional quality improvement efforts. Regional programs include regional discharge assistance programs (RDAP), local inpatient purchases of services (LIPOS), and other programs such as residential or ambulatory crisis stabilization programs. These procedures apply to all regional programs. While this appendix replaces earlier regional memoranda of agreement (MOAs), CSBs, state facilities, private providers participating in the regional partnership, and other parties may still need to develop MOAs to implement specific policies or procedures to operate regional or sub-regional programs or activities. Also, an MOA must be developed if a regional program intends to establish a peer review committee (e.g., a regional utilization review and consultation team) whose records and reviews would be privileged under § 8.01-581.16 of the Code of Virginia. When the CSB receives state or federal funds from the Department for identified regional programs or activities, it shall adhere to the applicable parts of these procedures, which are subject to all applicable provisions of the community services performance contract. In the event of a conflict between any regional program procedures and any provisions of the contract, provisions of the contract shall apply.

2. Regional Management Group (RMG)

- a. The participating CSBs and state facilities shall establish an RMG. The executive director of each participating CSB and the director of each participating state facility shall each serve on or appoint one member of the RMG. The RMC shall manage the regional program and coordinate the use of funding provided for the regional program, review the provision of services offered through the regional program, coordinate and monitor the effective utilization of the services and resources provided through the regional program, and perform other duties that the members mutually agree to carry out. An RMG may deal with more than one regional program.
- b. Although not members of the RMG, designated staff in the Central Office of the Department shall have access to all documents maintained or used by this group, pursuant to applicable provisions of the performance contract, and may attend and participate in all meetings or other activities of this group.
- c. In order to carry out its duties, the RMG may authorize the employment of one or more regional managers to be paid from funds provided for a regional program and to be employed by a participating CSB. The RMG shall specify the job duties and responsibilities for and supervise the regional manager or managers.

3. Regional Utilization Review and Consultation Team (RURCT)

- a. The RMG shall establish a RURCT pursuant to § 8.01-581.16 of the Code of Virginia to, where applicable:

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- 1.) review the implementation of the individualized services plans (ISPs) or individualized Discharge Assistance Program plans (IDAPPs) developed through the regional program to ensure that the services are the most appropriate, effective, and efficient services that meet the clinical needs of the individual receiving services and report the results of these reviews to the RMG;
 - 2.) review individuals who have been on the state facility extraordinary barriers to discharge list for more than 30 days to identify or develop community services and funding appropriate to their clinical needs and report the results of these reviews and subsequent related actions to the RMG;
 - 3.) review, at the request of the case management CSB, other individuals who have been determined by state facility treatment teams to be clinically ready for discharge and identify community services and resources that may be available to meet their needs;
 - 4.) facilitate, at the request of the case management CSB, resolution of individual situations that are preventing an individual's timely discharge from a state facility or a private provider participating in the regional partnership or an individual's continued tenure in the community;
 - 5.) identify opportunities for two or more CSBs to work together to develop programs or placements that would permit individuals to be discharged from state facilities or private providers participating in the regional partnership more expeditiously;
 - 6.) promote the most efficient use of scarce and costly services; and
 - 7.) carry out other duties or perform other functions assigned by the RMG.
- b. The RURCT shall consist of representatives from participating CSBs in the region, participating state facilities, private providers participating in the regional partnership, and others who may be appointed by the RMG, such as the regional manager(s) employed pursuant to section II.C. The positions of the representatives who serve on this team shall be identified in local documentation.
 - c. The RURCT shall meet monthly or more frequently when necessary, for example, depending upon census issues or the number of cases to be reviewed. Minutes shall be recorded at each meeting. Only members of the team and other persons who are identified by the team as essential to the review of an individual's case, including the individual's treatment team and staff directly involved in the provision of services to the individual, may attend meetings. All proceedings, minutes, records, and reports and any information discussed at these meetings shall be maintained confidential and privileged, as provided in § 8.01-581.17 of the Code of Virginia.
 - d. For the regional program, the RURCT or another group designated by the RMG shall maintain current information to identify and track individuals served and services provided through the regional program. This information may be maintained in participating CSB information systems or in a regional data base. For example, for the RDAP, this information shall include the individual's name, social security number or other unique identifier, other unique statewide identifier, legal status, case management CSB, state hospital of origin, discharge date, state re-hospitalization date (if applicable), and the cost of the IDAPP. This team shall maintain automated or paper copies of records for each RDAP-funded IDAPP. Changes in responsibilities of the case management CSB, defined in the core services taxonomy, and the transfer of RDAP funds shall be reported to the Offices of Grants

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Management and Mental Health Services in the Department as soon as these changes or transfers are known or at least monthly.

- e. For RDAP, the RURCT shall conduct utilization reviews of ISPs as frequently as needed to ensure continued appropriateness of services and compliance with approved IDAPPs and reviews of quarterly utilization and financial reports and events related to the individual such as re-hospitalization, as appropriate. This utilization review process may result in revisions of IDAPPs or adjustment to or redistribution of RDAP funds. This provision does not supersede utilization review and audit processes conducted by the Department pursuant to the performance contract.
 - f. Although not members of the RURCT, designated staff in the Central Office of the Department shall have access to all documents, including ISPs or IDAPPs, maintained or used by this body, pursuant to applicable provisions of the performance contract, and may attend and participate in all meetings as non-voting members and in other activities of this team.
- 4. Operating Procedures for Regional Programs:** These operating procedures establish the parameters for allocating resources for and monitoring continuity of services provided to individuals receiving regional program services. Some of the procedures apply to regional programs generally; others apply to particular regional programs, although they may be able to be adapted to other regional programs.
- a. Funding for a regional program shall be provided and distributed by the Department to participating CSBs or to a CSB on behalf of the region through their community services performance contracts in accordance with the conditions specified the contract, often in an Exhibit D.
 - b. Each participating CSB or a CSB on behalf of the region shall receive semi-monthly payments of state funds from the Department for the regional program through its community services performance contract, as long as it satisfies the requirements of this appendix and the performance contract, based upon its total base allocation of previously allotted and approved regional program funds.
 - c. Participating CSBs and state facilities shall develop agreed-upon procedures that describe how they will implement a regional program and jointly manage the use of regional program funds on a regional basis. These procedures shall be reduced to writing and provided to the Department upon request.
 - d. Regional program funds may be used to support the activities of the RMG and RURCT.
 - e. Within the allocation of funds for the regional program, funds may be expended for any combinations of services and supports that assure that the needs of individuals are met in community settings. ISPs or IDAPPs must be updated and submitted, as revisions occur or substitute plans are required, to the RMG for approval according to procedures approved by the RMG.
 - f. Regional program funds used to support ISPs or IDAPPs shall be identified on a fiscal year basis. Amounts may be adjusted by the RMG to reflect the actual costs of care based on the regional program's experience or as deemed appropriate through a regional management and utilization review process.

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- g. The CSB responsible for implementing an individual's regional program ISP or IDAPP shall account for and report the funds and expenses associated with the regional program ISP or IDAPP in its community services performance contract and in its quarterly performance contract reports submitted through the Community Automated Reporting System (CARS).
- h. The CSB responsible for implementing an individual's regional program ISP or IDAPP shall ensure that the appropriate information about that individual and his or her services is entered into its management information system so that the information can be extracted by the Community Consumer Submission (CCS) and reported in the monthly CCS extracts and applicable CARS reports to the Department.
- i. The participating CSBs may use regional program funds to establish and provide regional or sub-regional services when this is possible and would result in increased cost effectiveness and clinical effectiveness.
- j. Operation of a RDAP is governed by the Discharge Assistance Program Manual issued by the Department and provisions of Exhibit C of the performance contract.

5. General Terms and Conditions

- a. CSBs, the Department, and any other parties participating in a regional program agree that they shall comply with all applicable provisions of state and federal law and regulations in implementing any regional programs to which these procedures apply. The CSB and the Department shall comply with or fulfill all provisions or requirements, duties, roles, or responsibilities in the current community services performance contract in their implementation of any regional programs pursuant to these procedures.
- b. Nothing in these procedures shall be construed as authority for the CSB, the Department, or any other participating parties to make commitments that will bind them beyond the scope of these procedures.
- c. Nothing in these procedures is intended to, nor does it create, any claim or right on behalf of any individual to any services or benefits from the CSB or the Department.

6. Privacy of Personal Information

- a. The CSB, the Department, and any other parties participating in a regional program agree to maintain all protected health information (PHI) learned about individuals receiving services confidential and agree to disclose that information only in accordance with applicable state and federal law and regulations, including the regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 CFR Part 2, the Virginia Health Records Privacy Act, the Department's human rights regulations, and each party's own privacy policies and practices. The organization operating the regional program shall provide a notice to individuals participating in or receiving services from the regional program that it may share protected information about them and the services they receive, as authorized by HIPAA and other applicable federal and state statutes and regulations. The organization shall seek the authorization of the individual to share this information whenever possible.
- b. Even though each party participating in a regional program may not provide services directly to each of the individuals served through the regional program, the parties may disclose the PHI of individuals receiving services to one another under 45 C.F.R. § 164.512(k)(6)(ii) in order to perform their responsibilities related to this regional program,

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including coordination of the services and functions provided under the regional program and improving the administration and management of the services provided to the individuals served in it.

- c. In carrying out their responsibilities in the regional program, the CSB, the Department, and any other parties involved in this regional program may use and disclose PHI to one another to perform the functions, activities, or services of the regional program on behalf of one another, including utilization review, financial and service management and coordination, and clinical case consultation. In so doing, the parties agree to:
- 1.) Not use or further disclose PHI other than as permitted or required by the performance contract or these procedures or as required by law;
 - 2.) Use appropriate safeguards to prevent use or disclosure of PHI other than as permitted by the performance contract or these procedures;
 - 3.) Report to the other parties any use or disclosure of PHI not provided for by the performance contract or these procedures of which they become aware;
 - 4.) Impose the same requirements and restrictions contained in the performance contract or these procedures on their subcontractors and agents to whom they provide PHI received from or created or received by the other parties to perform any services, activities, or functions on behalf of the other parties;
 - 5.) Provide access to PHI contained in a designated record set to the other parties in the time and manner designated by the other parties or at the request of the other parties to an individual in order to meet the requirements of 45 CFR 164.524;
 - 6.) Make available PHI in its records to the other parties for amendment and incorporate any amendments to PHI in its records at the request of the other parties;
 - 7.) Document and provide to the other parties information relating to disclosures of PHI as required for the other parties to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528;
 - 8.) Make their internal practices, books, and records relating to use and disclosure of PHI received from or created or received by the other parties on behalf of the other parties, available to the Secretary of the U.S. Department of Health and Human Services for the purposes of determining compliance with 45 CFR Parts 160 and 164, subparts A and E;
 - 9.) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI that they create, receive, maintain, or transmit on behalf of the other parties as required by the HIPAA Security Rule, 45 C.F.R. Parts 160, 162, and 164;
 - 10.) Ensure that any agent, including a subcontractor, to whom they provide electronic PHI agrees to implement reasonable and appropriate safeguards to protect it;
 - 11.) Report to the other parties any security incident of which they become aware; and
 - 12.) At termination of the regional program, if feasible, return or destroy all PHI received from or created or received by the parties on behalf of the other parties that the parties still maintain in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections in this appendix to the information and

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limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

- d. Each of the parties may use and disclose PHI received from the other parties, if necessary, to carry out its legal responsibilities and for the proper management and administration of its business. Each of the parties may disclose PHI for such purposes if the disclosure is required by law, or if the party obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially, that it will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and that the person will notify the party of any instances of which it is aware in which the confidentiality of the information has been breached.
- 7. Reporting:** The CSB shall provide all required information (e.g., the number of individuals receiving services, the total expenditures for the regional program, and the total amount of regional program restricted funds expended) to the Department about the regional programs in which it participates, principally through CCS and CARS reports. CSBs shall not be required to submit more frequent standard reports or reports on individuals, unless such requirements have been established in accordance with the applicable sections of the performance contract. The CSB also shall identify all individuals in regional programs that it serves in its CCS extract submissions using the applicable consumer designation codes.
- 8. Project Management**
- a. The Department shall be responsible for the allocation of regional program state and federal funds and the overall management of the regional program at the state level.
 - b. The RMG shall be responsible for overall management of the regional program and coordination of the use of funding provided for the regional program in accordance with these procedures.
 - c. The CSB shall be responsible for managing regional program funds it receives in accordance with these regional program procedures.
 - d. Payments generated from third party and other sources for any regional program shall be used by the region or CSB to offset the costs of the regional program. The CSB shall collect and utilize all available funds from other appropriate specific sources before using state and federal funds to ensure the most effective use of these state and federal funds. These other sources include Medicare; Medicaid-fee-for service, targeted case management payments, rehabilitation payments, and ID waiver payments; other third party payors; auxiliary grants; SSI, SSDI, and direct payments by individuals; payments or contributions of other resources from other agencies, such as social services or health departments; and other state, local, or Department funding sources.
 - e. The Department may conduct on-going utilization review and analyze utilization and financial information and events related to individuals served, such as re-hospitalization, to ensure the continued appropriateness of services and to monitor the outcomes of the regional program. The utilization review process may result in adjustment to or reallocation of state general and federal funding allocations for the regional program.
- 9. Compensation and Payment:** The Department shall disburse semi-monthly payments of state general and federal funds to the CSB for the regional program as part of its regular semi-monthly disbursements to the CSB.

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Appendix G: Core Services Taxonomy Work Group Commentary

The following comments reflect the deliberations and decisions of the Core Services Taxonomy Work Group and the VACSB Data Management Committee. These comments are included for information or historical background purposes.

Peer-provided services are included and reported where they are delivered, for example, in outpatient, rehabilitation, or residential services, rather than in consumer-run services. Peer-provided services are provided by individuals who identify themselves as having mental health, substance use, or co-occurring disorders and are receiving or have received mental health, substance abuse, or co-occurring services. The primary purpose of peer-provided services is to help others with mental health, substance use, or co-occurring disorders. Peer-provided services involve partnering with non-peers, such as being hired by community mental health or substance abuse programs in designated peer positions or traditional clinical positions. Peers may serve as recovery coaches, peer counselors, case managers, outreach workers, crisis workers, and residential staff, among other possibilities. Units of service provided by peers in core services should be included with all service units collected and reported through the CCS. CSBs will report the numbers of peers they employ in each program area to provide core in their CARS management reports.

Family Support was a separate core services subcategory in Taxonomy 6; however, it was eliminated as a separate subcategory in Taxonomy 7. Family support offers assistance for families who choose to provide care at home for family members with mental disabilities. Family support is a combination of financial assistance, services, and technical supports that allows families to have control over their lives and the lives of their family members. Family is defined as the natural, adoptive, or foster care family with whom the person with a mental disability resides. Family can also mean an adult relative (i.e., sister, brother, son, daughter, aunt, uncle, cousin, or grandparent) or interested person who has been appointed full or limited guardian and with whom the person with the mental disability resides. The family defines the support. While it will be different for each family, the support should be flexible and individualized to meet the unique needs of the family and the individual with the mental disability. Family support services include respite care, adaptive equipment, personal care supplies and equipment, behavior management, minor home adaptation or modification, day care, and other extraordinary needs. Funds and expenses for family support activities should be included in the applicable core service subcategories, but numbers of individuals would not be included separately, since those individuals are already receiving the service in the category or subcategory. If an individual is receiving nothing but family support, he or she should be opened to consumer monitoring and the family member with a mental disability would be counted and reported as an individual receiving services in consumer monitoring.

Consultations include professional and clinical consultations with family assessment and planning teams (CSA), other human services agencies, and private providers. No ISPs are developed, and Department licensing is not required. In consultations, CSB staff members are not providing services or care coordination to individuals; the staff are only consulting with service providers and other agencies about individuals who are receiving services from other organizations. Since there are no individuals receiving services counted for consultations, service units will be collected through the z-consumer function in the CCS. Traditionally, consultations have been and will continue to be included in outpatient or case management services. However, if a CSB is providing other services, this is not a consultation situation; the CSB opens a case for the individual or admits the individual to a program area, depending on the other services received. For example, if a CSB is providing significant amounts of staff support associated with FAPT or Title IV-E activities, it may include this support as part of consumer monitoring services.

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Appendix H: REACH Services Crosswalk and Reporting Requirements

This exhibit provides guidance to the CSBs providing Regional Education Assessment Crisis Services and Habilitation (REACH) program services about how to report those services in their monthly CCS 3 submissions to the Department. REACH program services must be reported only in emergency services, ancillary services and the developmental services program area; they must not be reported in the mental health services or substance abuse services program areas. There are only seven services that CSBs providing REACH program services directly or contractually must include in their information systems in a way that information about them can be extracted and exported to the Department through CCS 3. These services are:

1. **100 Emergency Services**, licensed by the Department as crisis intervention services;
2. **390 Consumer Monitoring Services** (ancillary services), not licensed by the Department;
3. **720 Assessment and Evaluation Services** (ancillary services), not licensed by the Department;
4. **420 Ambulatory Crisis Stabilization Services** (in the developmental services program area), licensed by the Department as mental health non-residential crisis stabilization;
5. **510 Residential Crisis Stabilization Services** (in the developmental services program area), licensed by the Department as mental health residential crisis stabilization services for adults;
6. **521 Intensive Residential Services** (in the developmental services program area), licensed by the Department as intellectual disability residential therapeutic respite group home services for adults - includes ID assessment/treatment beds; and
7. **581 Supportive Residential Services** (in the developmental services program area), licensed by the Department as REACH intellectual disability supportive in-home services for adults.

These are the only services provided to individuals who have been determined to be served in the REACH program that should be included in CCS 3 submissions to the Department. When they provide them, CSBs that operate or contract for REACH program services must include the following information about these seven services in their CCS 3 submissions.

Consumer File: Include all applicable CCS 3 consumer data elements on an individual receiving REACH program services if the individual has not already been admitted to the developmental services program area (for services 4 through 7 above) or if the CSB has not opened a case on the individual for emergency services or ancillary services (for services 1 through 3 above).

Type of Care File: Include a type of care file on the individual if he or she receives services 4 through 7 above and has not already been admitted to the developmental services program area.

Service Files: Include service files to report receipt of:

1. Emergency services (pseudo program area code 400 and service code 100) if the individual receives crisis intervention services,
2. Consumer monitoring (pseudo program area code 400 and service code 390) if the individual receives consumer monitoring services,
3. Assessment and evaluation (pseudo program area code 400 and service code 720) if the individual receives assessment and evaluation services,
4. Ambulatory crisis stabilization (developmental services program area code 200 and service code 420) if the individual receives mental health non-residential crisis stabilization,

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5. Residential crisis stabilization (developmental services program area code 200 and service code 510) if the individual receives mental health residential crisis stabilization services for adults,
6. Intensive residential services (developmental services program area code 200 and service code 521) if the individual receives intellectual disability residential therapeutic respite group home services for adults, or
7. Supportive residential services (developmental services program area code 200 and service code 581) if the individual receives REACH intellectual disability supportive in-home services for adults.

When they provide these services, CSBs that operate or contract for REACH program services also must include funding, expenditure, cost, and static capacity information about these seven services in their quarterly CARS Reports submitted to the Department.

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June 27, 2021

ACTION - 9

Endorsement of the Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2022 Through 2027

ISSUE:

Board endorsement the Virginia Department of Transportation (VDOT) Secondary Six Year Program (SSYP) for Fiscal Years (FY) 2022 through 2027.

RECOMMENDATION:

The County Executive recommends that the Board endorse the attached Secondary Six Year Program for FY 2022 through 2027 (Attachment 1) and approve the resolution (Attachment 2) required by VDOT.

TIMING:

Since the Commonwealth Transportation Board has already approved the FY 2022 through 2027 Six Year Improvement Program, the Board is requested to act on this item on July 27, 2021.

BACKGROUND:

The SSYP has been prepared by VDOT 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 25, 2019.

Roadway funding in Virginia is now largely allocated through the Commonwealth's Smart Scale and State of Good Repair programs. Consequently, the secondary road fund has been shrinking and only nominal 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, 2019, if they are committed and expected to be expended as of January 1, 2020. Those secondary funds that remain unspent as of January 1, 2020, 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.

The County initiated legislation during the 2019 General Assembly Session that would limit the requirements for the SSYP Update. Specifically, HB 2578 (Plum) / SB 1684

(Petersen), changes the Code of Virginia to require that a governing body hold a public hearing on the SSYP only when the locality has a proposed new funding allocation greater than \$100,000. Both bills passed the General Assembly unanimously, were signed by the Governor, and become effective on July 1, 2019. Therefore, a public hearing will only be required in years when a new funding allocation is substantial.

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	\$19,591
2013-2018	\$11,382
2014-2019	\$25,680
2015-2020	\$51,480
2016-2021	\$33,275
2017-2022	\$36,860
2018-2023	\$41,750
2019-2024	\$43,073
2020-2025	\$43,600
2021-2026	\$43,393
2022-2027	\$46,822

FISCAL IMPACT:

There is no impact to the General Fund. 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.

Board Agenda Item
June 27, 2021

ENCLOSED DOCUMENTS:

Attachment 1: Secondary System Construction Program for FY 2022 through FY 2027

Attachment 2: Resolution Approving Program.

STAFF:

Rachel Flynn, 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

Ray Johnson, Coordination and Funding Division, FCDOT

Secondary System
 Fairfax County
 Construction Program
 Estimated Allocations

Fund	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	Total
TeleFee	\$0	\$0	\$0	\$0	\$0	\$0	\$0
District Grant - Unpaved	\$6,921	\$9,379	\$6,616	\$6,616	\$8,645	\$8,645	\$46,822
Total	\$6,921	\$9,379	\$6,616	\$6,616	\$8,645	\$8,645	\$46,822

Board Approval Date:

Residency Administrator

Date

County Administrator

Date

District: Northern Virginia

County: Fairfax County

Board Approval Date: 2022-23 through 2026-27

Route PPMS ID Accomplishment Type of Funds Type of Project Priority #	Road Name Project # Description FROM TO Length	Estimated Cost Ad Date	Traffic Count Scope of Work FHWA # Comments
4008 100373 NOT APPLICABLE S 0000.04	1204008 COUNTYWIDE RIGHT OF WAY ENGR. VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY	PE \$0 RW \$0 CN \$0 Total \$0 3/1/2011	0 Right of Way 16016 USE WHEN IMPARTIAL TO OPEN A PROJECT: ATTORNEY FEES and ACQUISITION COST.
0638 5559 RAAP CONTRACT STP Migration 0002.03	ROLLING ROAD 0638029156 ROLLING ROAD - RTE 638 - WIDEN TO 4 LANES - PH II 0.369 MI. N. RTE. 286 (FAIRFAX COUNTY PARKWAY) RTE. 6723 (KENWOOD AVENUE) 1.4	PE \$7,248,767 RW \$23,471,538 CN \$42,499,734 Total \$73,220,039 9/12/2023	18000 Reconstruction w/ Added Capacity 44003 MPO Project. Balance to be provided by locality.
0611 11012 NON VDOT STP Migration 9999.00	TELEGRAPH ROAD 0611029303 TELEGRAPH RD -RTE 611 - WIDEN TO 4-LANES ROUTE 613 (BEULAH STREET) LEAF ROAD 1.0	PE \$1,207,594 RW \$1,098,441 CN \$23,561,965 Total \$25,868,000 3/16/2011	25900 Bridge, New Construction 4H008 \$4,035 VNDIA Grant
9999 -25341 NOT APPLICABLE 9999.99	9999029545 FAIRFAX COUNTY - FUTURE UNPAVED SECONDARY FUNDING	PE \$0 RW \$0 CN \$0 Total \$0	
R000 11680 RAAP CONTRACT NH/STPBD PRIMARY - ONE HEARING DESIGN 9999.99	FAIRFAX CO. PKWY R000029249 FAIRFAX COUNTY PARKWAY - CONSTRUCT 4 & 6 LANES 0.417 MILE NORTH OF BARON CAMERON AVENUE 0.436 MILE SOUTH OF ROUTE 7 (WBL) 2.5	PE \$0 RW \$4,314,556 CN \$21,808,384 Total \$26,122,940 8/4/1998	\$0 New Construction Roadway 4A101 Construction complete - awaiting financial closure. Balance to be redistributed.
7100 95718 NON VDOT NH/S 9999.99	7100029881 GEC Oversight of Fairfax County Parkway Extension Project Fullerton Road Rolling Road	PE \$2,722,000 RW \$0 CN \$0 Total \$2,722,000	New Construction Roadway _E101

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Fairfax County Government Center, on Tuesday, July 27, 2021, 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, the Commonwealth Transportation Board (CTB) approved the Six-Year Plan for Secondary Roads (FY2022 through FY2027) on June 23, 2021,

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County Virginia, endorses CTB approval of the Secondary Six-Year Plan (FY2022 through FY2027), and authorizes the Director of the Department of Transportation to execute the approved Secondary Six-Year Plan (FY2022 through FY2027).

Adopted this 27th day of July, 2021, Fairfax, Virginia

ATTEST

Jill G. Cooper
Clerk for the Board of Supervisors

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July 27, 2021

ACTION - 10

Endorsement of the Recommendations Proposed as Part of the Fairfax County and Franconia-Springfield Parkways Alternatives Analysis and Long-Term Planning Study and Authorization of a Comprehensive Plan Amendment to Incorporate Those Recommendations into the Transportation Plan Map and Area Transportation Plan Maps and Text (Braddock, Dranesville, Hunter Mill, Lee, Mount Vernon, Springfield and Sully Districts)

ISSUE:

Board of Supervisors' endorsement of the recommendations proposed as part of the Fairfax County and Franconia-Springfield Parkways Alternatives Analysis and Long-Term Planning Study and authorization of a Comprehensive Plan amendment to incorporate those recommendations into the Transportation Plan Map and Area Transportation Plan maps and text.

RECOMMENDATION:

The County Executive recommends that the Board:

1. Endorse the recommendations from Fairfax County and Franconia-Springfield Parkways Alternatives Analysis and Long-Term Planning Study; and
2. Authorize a Comprehensive Plan amendment to incorporate those recommendations. The Plan Amendment will consider potential changes to the Transportation Plan Map and associated Area Transportation Plan maps and possible text clarifications.

TIMING:

Board action is requested on July 27, 2021, to allow the various activities with this project to advance.

BACKGROUND:

Fairfax County is a strong and vibrant community. By design, the landscape of the County includes an urban and suburban form served by a diverse transportation network. Fairfax County Parkway and Franconia-Springfield Parkway (the Parkways) are at the heart of the County's transportation network, connecting seven of the nine Magisterial Districts within Fairfax County. Stretching nearly 35 miles from Route 7 to Richmond Highway and to the Franconia-Springfield Metrorail Station, the Parkways support quality neighborhoods and thriving commercial areas.

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On February 12, 2013, the Board requested a corridor improvement study of the Parkways, which had become continually congested and over-capacity, to assess the need for interim and long-term solutions to better serve anticipated demand and improve safety and mobility for alternative modes.

The first component of staff's response to the Board request was an assessment of existing conditions and development of short-term improvements. Completed in 2017, the Fairfax County Parkway & Franconia-Springfield Parkway Corridor Study (Corridor Study), co-administered by the Fairfax County Department of Transportation (FCDOT) and the Virginia Department of Transportation (VDOT), provided an operational and safety assessment of the existing Parkways, identifying over 350 short-term improvements, and set the foundation for FCDOT and VDOT to continue evaluating these roadways which provide a critical role within the Fairfax County transportation network. The Corridor Study identified challenges of the existing Parkways and multimodal opportunities for improvement but did not consider the long-term conditions for the corridors.

Next, staff evaluated 2040 forecasted conditions for the Parkways. The Fairfax County Parkway/Franconia-Springfield Parkway Alternatives Analysis & Long-Term Study (Long-Term Study), administered by FCDOT, identified and addressed long-term conditions for the Parkways. Specifically, the purpose of the Long-Term Study was to:

- Evaluate future conditions of the Parkways, based on current Comprehensive Plan network recommendations and planned land uses;
- Identify shortcomings of the planned network modifications;
- Collect public input on preferred elements to be incorporated into the future conditions of the Parkways;
- Develop a preferred configuration of the Parkways (i.e., number of lanes, grade separation, high-occupancy lanes) for the eventual adoption into the Comprehensive Plan; and
- Develop priorities.

Now complete, the Long-Term Study provides recommendations for updates to the current Fairfax County Comprehensive Plan Transportation Plan Map and Area Transportation Plan maps, as they pertain to the Parkways. Plan text would also be modified, as necessary, to provide clarity. These recommendations primarily consist of the following:

- Number of travel lanes (maintain, increase, or decrease the number of lanes in the current Comprehensive Plan);
- Designation of high occupancy vehicle (HOV) travel segments (HOV is currently recommended for a majority of the Parkways);
- Addition or removal of proposed interchanges at existing at-grade intersections or planned network connections; and

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- Additional interchange modifications to already built interchanges on the corridor.

The Board was briefed on these recommendations at the Transportation Committee on May 25, 2021. A copy of the presentation and recommendations is included as Attachment 1.

On September 24, 2019, the Board authorized Plan Amendment 2019-IV-T1, requesting an evaluation of the potential for a partial interchange (overpass/underpass) at the intersection of the Fairfax County Parkway and Burke Centre Parkway. The outreach and analysis as part of this Plan Amendment has been incorporated into the larger Fairfax County and Franconia-Springfield Parkways Alternatives Analysis and Long-Term Planning Study. Recommendations for this plan amendment will be considered with the authorization of the plan amendment for the Parkways.

Attachment 2 summarizes the specific Long-Term Study recommendations for the Parkways that would be subject of the requested Comprehensive Plan amendment for incorporation into the Transportation Plan Map and Area Transportation Plan maps, with Plan text modifications, as necessary.

FISCAL IMPACT:

There is no direct fiscal impact of this endorsement and authorization. However, implementation of each of the recommendations would require future prioritization and funding approval by the Board.

ENCLOSED DOCUMENTS:

Attachment 1 – Board Transportation Committee presentation, May 25, 2021.

Attachment 2 – Recommendations from the Fairfax County and Franconia-Springfield Parkways Alternatives Analysis and Long-Term Planning Study

STAFF:

Rachel Flynn, Deputy County Executive

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

Jeffrey Hermann, Chief, Site Analysis and Transportation Planning Division, FCDOT

Michael Garcia, Chief, Transportation Planning Section, FCDOT

Thomas Burke, Senior Transportation Planner, Transportation Planning Section, FCDOT



Fairfax County & Franconia-Springfield Parkways *Alternatives Analysis & Long-Term Planning Study*

Final Recommendations

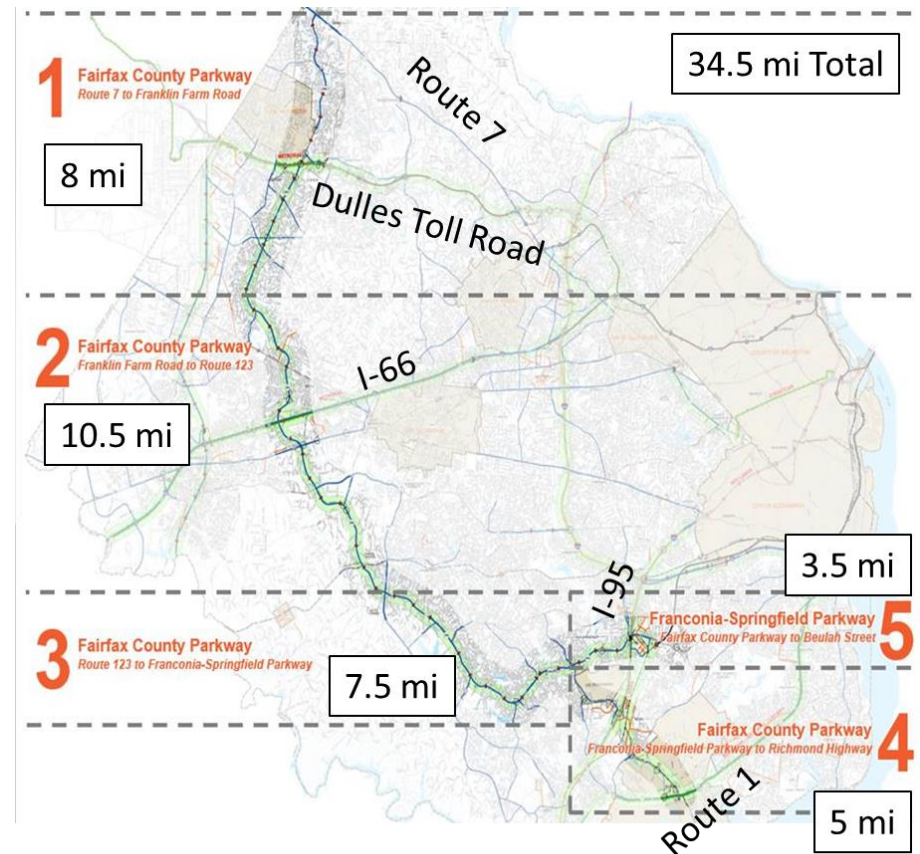
Board Transportation Committee
May 25, 2021

Thomas Burke, P.E., AICP
Senior Transportation Planner
Department of Transportation

ATTACHMENT 1

Study Purpose & Process

- Reassessment of Comprehensive Plan recommendations
- Nearly 35 miles of corridor studied
- 3+ rounds of community meetings (10 total) and 3 online surveys
- Development and evaluation of multiple alternative scenarios
 - Minimize Impacts, Maximize Capacity, HOV
- Multimodal assessment of bicycle, pedestrian and transit facilities
- High level capacity and operational analyses using travel forecasting and micro-simulation tools



ATTACHMENT 1

Key Take-Aways

Based on public outreach and capacity and operational analyses, we found:

- A need and desire for enhanced bicycle and pedestrian facilities
- Potential for enhanced transit routing and performance
- Low demand for High Occupancy Vehicle (HOV) Lanes
- Wide-ranging need for 6 travel lanes (general purpose)
 - Desire to minimize impacts to properties and environment
- A continued need for grade separated interchanges and interchange modifications
 - Potential for long stretches of free flow traffic
- Benefit of innovative intersection strategies at key locations

Multimodal Considerations

Transit

- Additional capacity for general purpose lanes will benefit bus service and reliability
- Planned FC Route 496 from Herndon to Franconia-Springfield included in the Fairfax County Transit Development Plan (FY16-FY22)
- HOV feeder/connectors to regional facilities (DTR, I-66, I-95) will enhance transit service and reliability
- Queue jumps could serve as an interim improvement prior to a segment widening to the future planned cross-section



Bicycle/Pedestrians



- Trail facilities planned on both sides of the Parkways
- Maintain trail along the mainline at interchanges with under/overpasses across free-flow ramps
- Enhanced facilities at intersections (e.g. crosswalks on all legs) and connections to regional parallel and crossing facilities

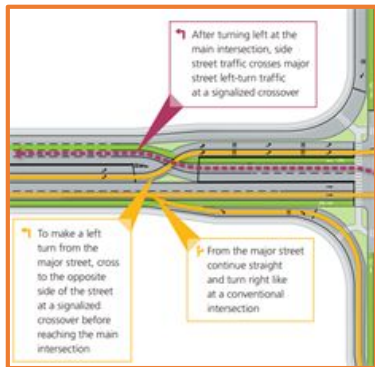
ATTACHMENT 1

4

Final Recommendations – Segment 1

Fairfax County Parkway Route 7 to Franklin Farm Road

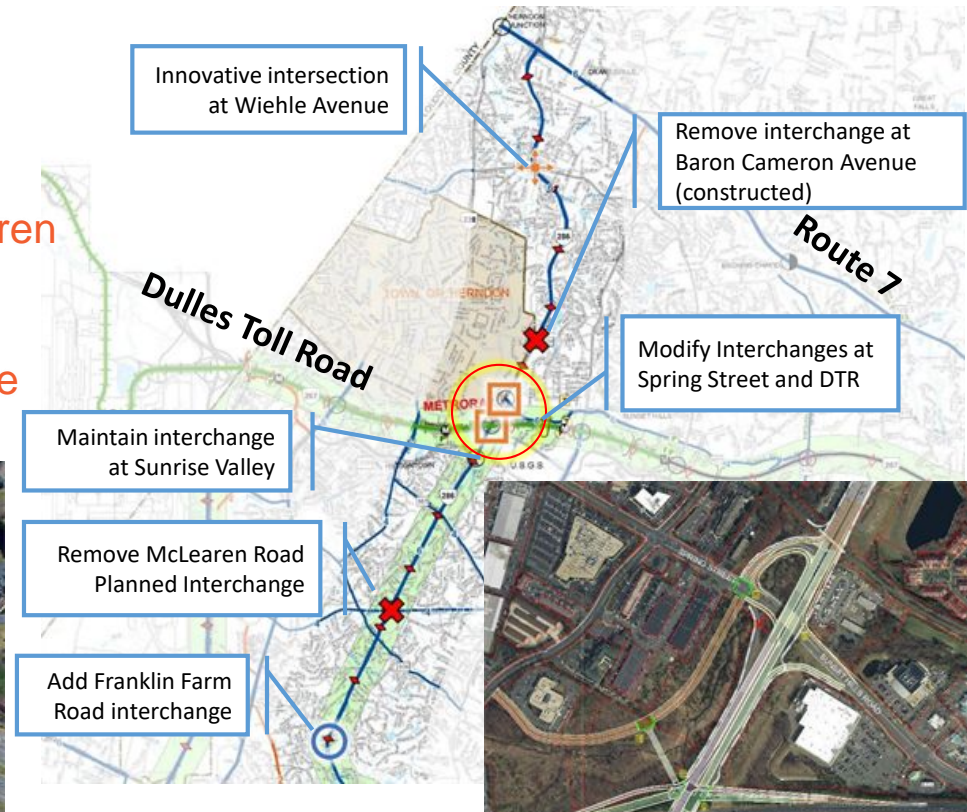
- Maintain 6 travel lanes (general purpose)
- Remove HOV, Add HOV feeder at DTR
- Remove interchanges at Baron Cameron, McLearen
- Modify interchanges at Spring Street and DTR
- Add interchange at Franklin Farm Road
- Consider Innovative intersection at Wiehle Avenue



WIEHLE AVE PARTIAL DISPLACED LEFTS
Source: <http://www.virginiadot.org/innovativeintersections/>

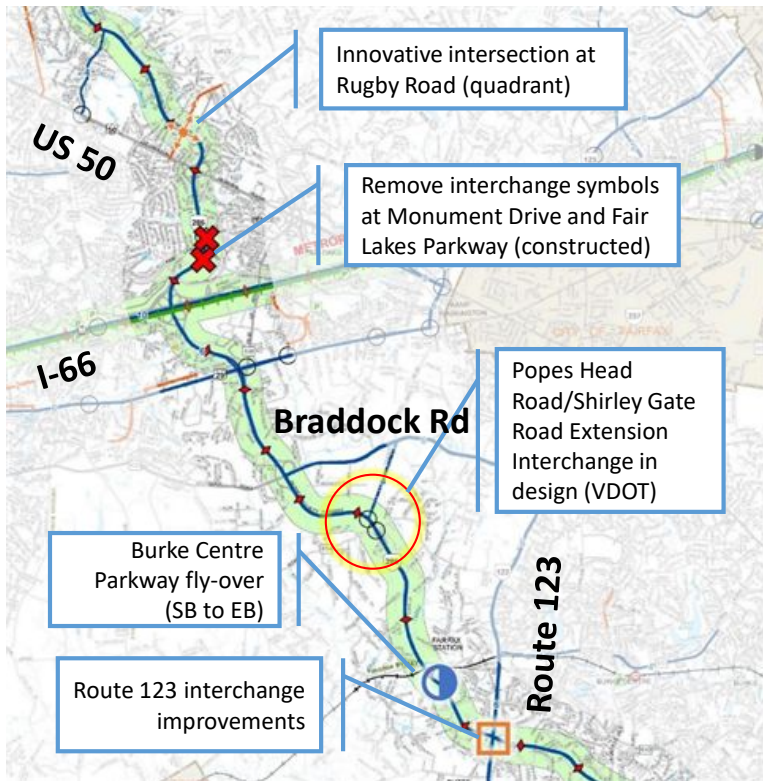


EXAMPLE OF AN ECHELON INTERCHANGE
Source: VDOT



SPRING STREET / FAIRBROOK DRIVE CONNECTOR

Final Recommendations – Segment 2



Fairfax County Parkway Franklin Farm Road to Route 123

- Maintain 6 travel lanes (general purpose)
- Remove HOV, Add HOV feeder at I-66
- Remove interchanges at Monument Dr, Fair Lakes Pkwy
- Maintain interchange at Shirley Gate Rd/Popes Head Rd
- Add partial interchange/flyover at Burke Centre Pkwy
- Modify interchange at Route 123
- Consider Innovative intersection at Rugby Road

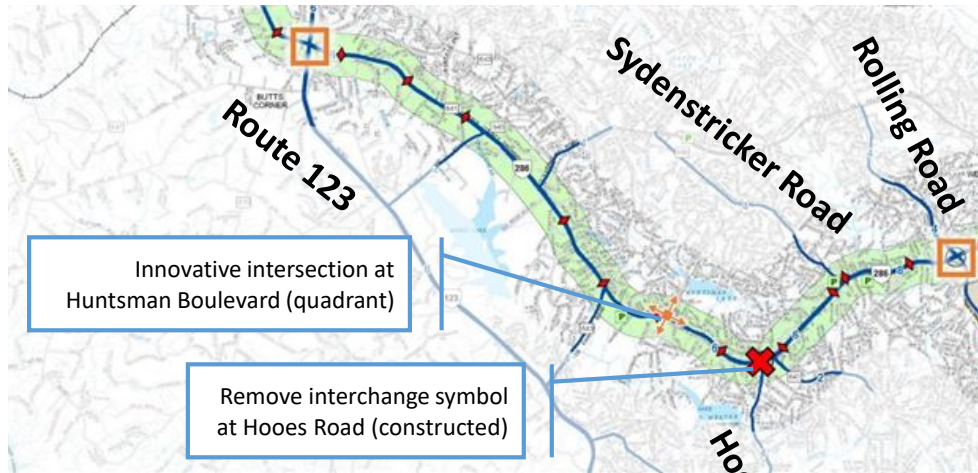


RUGBY ROAD QUADRANT INTERSECTION



BURKE CENTRE PARKWAY FLYOVER

Final Recommendations – Segment 3



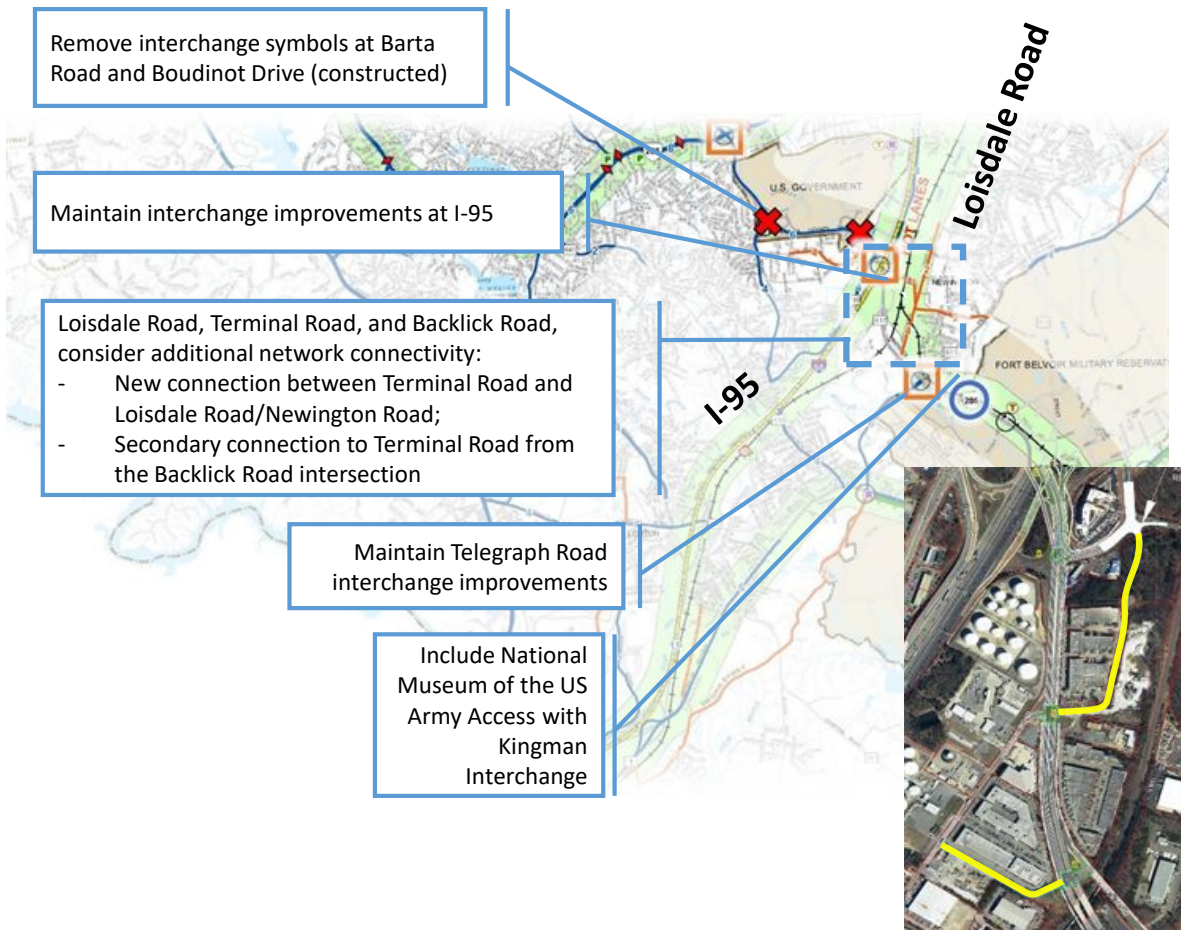
HUNTSMAN BLVD QUADRANT INTERSECTION

Fairfax County Parkway

Route 123 to Franconia-Springfield Pkwy

- Maintain 6 travel lanes (general purpose), west of Sydenstricker Road
Require re-evaluation of 4 lanes prior to implementation, with additional outreach and study, (particular focus between Lee Chapel Road and Huntsman Boulevard)
- Remove HOV
- Remove interchange symbol at Hooes Road
- Reduce to 6 travel lanes (existing), east of Sydenstricker Road (currently planned at 8)
- Consider innovative intersection at Huntsman Boulevard

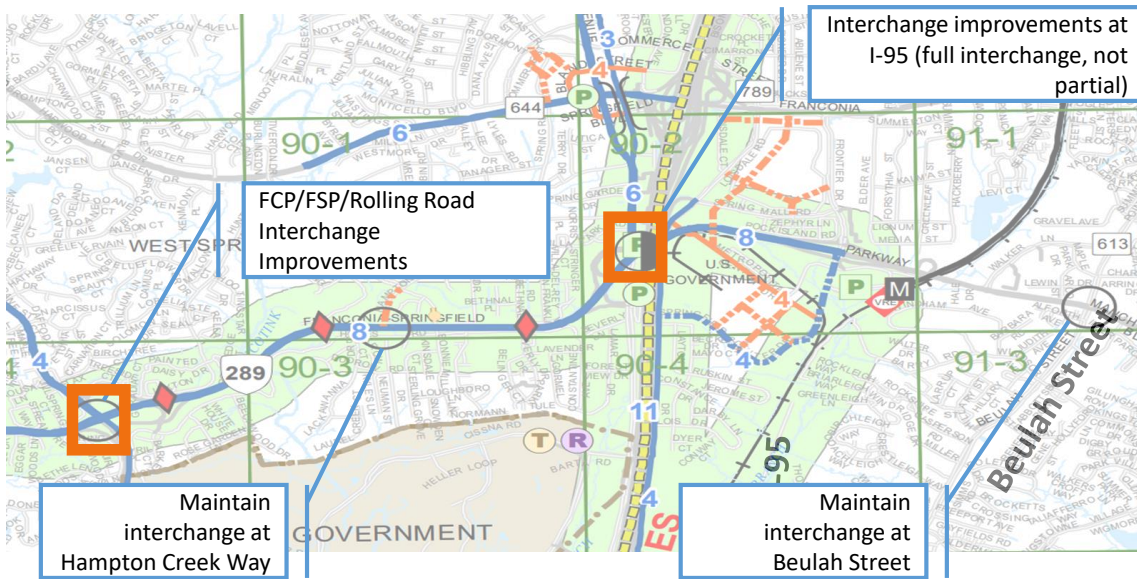
Final Recommendations – Segment 4



Fairfax County Parkway Franconia-Springfield Parkway to Richmond Highway

- Increase to 6 travel lanes (general purpose), north of John J Kingman Road (currently no plans to widen) Evaluate need for 6 travel lanes, south of John J Kingman Road
- Maintain no HOV
- Remove interchanges at Barta Road and Boudinot Drive
- Modify interchanges at I-95 and Telegraph Road
- Consider network connectivity between I-95 and Backlick Road
- Include Army Museum access with interchange at John J Kingman Rd

Final Recommendations – Segment 5



Franconia-Springfield Parkway Fairfax County Parkway to Beulah Street

- Reduce to existing 6 travel lanes, west of Frontier Drive (currently planned at 8 lanes)
- Remove HOV, Add HOV feeder at I-95
- Maintain interchanges at Hampton Creek Way and Beulah Street
- Modify interchange Rolling Road/FCP/FSP

Schedule & Costs

- Schedule to be set based on Board priorities and funding
- VDOT widening (Route 29 to Route 123)
 Begin Construction:
 - Phase 1 (Popes Head Road interchange) – Mid 2023
 - Phase 2 (Route 29 to Nomes Court) – 2025
 - Phase 3 (Nomes Court to Route 123) - TBD

- Current Plan & Preliminary Recommendations each cost roughly \$2B+/- in total over a 50+ year horizon

	Current Plan	Preliminary Recommendations	Change
New Interchanges (each)	7	7	-
New Partial Interchanges (each)	0	1	+1
Interchange Modifications (each)	6	7	+1
Roadway Widening (miles)	22	22	-
HOV Feeders (each)	0	3	+3
Trails (miles)	5	40	+35

Next Steps

- Receive Board feedback on final recommendations (by June 8)
- Complete prioritization of final recommendations (by July 13, 2021)
- Present final report to Board, with prioritization, and request Board endorsement of final recommendations and authorization for Comprehensive Plan Amendment (July 13, 2021)
- Process Comprehensive Plan Amendment, Board Action (Summer 2021 to Winter 2021/2022)

Feedback Requested from Board

- Questions
- Comments
- Concerns

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Fairfax County & Franconia-Springfield Parkways Alternatives Analysis & Long-Term Planning Study

FINAL RECOMMENDATIONS

Segment 1 – Fairfax County Parkway, from Route 7 to Franklin Farm Road

- Maintain recommendation for 6 lanes (general purpose lanes)
- Implement innovative intersection at Wiehle Avenue
- Remove interchange symbol at Baron Cameron Avenue (constructed)
- Maintain interchange modification recommendations at Spring Street and Dulles Toll Road
- Remove HOV designation, add “HOV feeder” at Dulles Toll Road
- Maintain planned interchange at Sunrise Valley Drive
- Remove planned interchange at McLearen Road (replace with at-grade intersection)
- Add new planned interchange at Franklin Farm Road

Segment 2 – Fairfax County Parkway, from Franklin Farm Road to Route 123

- Maintain recommendation for 6 lanes (general purpose lanes)
- Implement innovative intersection at Rugby Road
- Remove interchange symbols at Monument Drive and Fair Lakes Parkway (constructed)
- Remove HOV designation, add “HOV feeder” at I-66
- Maintain planned interchange at Popes Head Road/Shirley Gate Road Extension
- Add new planned partial interchange at Burke Centre Parkway
- Add interchange modification recommendation at Route 123

Segment 3 – Fairfax County Parkway, Route 123 to Franconia-Springfield Parkway/Rolling Road

- Maintain recommendation for 6 lanes from Route 123 to Sydenstricker Road (general purpose lanes)
 - Additional analysis and outreach required before implementing 6 lanes from Route 123 to Hooes Road
- Reduce recommendation from 8 lanes to 6 lanes from Sydenstricker Road to Franconia-Springfield Parkway/Rolling Road (general purpose lanes)
- Remove interchange symbol at Hooes Road (constructed)
- Implement innovative intersection at Huntsman Boulevard
- Remove HOV designation

Segment 4 – Fairfax County Parkway, Franconia-Springfield Parkway/Rolling Road to Richmond Highway

- Increase recommendation to 6 lanes from Barta Road to John J Kingman Road (general purpose lanes)
- Maintain 4 lanes south of John J Kingman Road
- Remove interchange symbols at Barta Road and Boudinot Drive (constructed)
- Maintain interchange modification recommendations at I-95 and Telegraph Road
- Implement additional, enhanced network connectivity between I-95 and Backlick Road
- Maintain planned interchanges at John J Kingman Road and Richmond Highway

ATTACHMENT 2

Segment 5 – Franconia-Springfield Parkway, Fairfax County Parkway/Rolling Road to Beulah Street

- Reduce recommendation from 8 lanes to 6 lanes from Fairfax County Parkway/Rolling Road to Frontier Drive (general purpose lanes)
- Maintain 6 lanes from Frontier Drive to Beulah Street
- Maintain interchange modification recommendations at Fairfax County Parkway/Rolling Road
- Maintain planned interchanges at Hampton Creek Way Extension and Beulah Street
- Change partial interchange recommendation at I-95 to interchange modification
- Remove HOV designation, add “HOV feeder” at I-95

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ACTION - 11

Approval of Proposed Fairfax Connector Fares to Match Recently Approved Washington Metropolitan Area Transit Authority (WMATA) Fare Changes

ISSUE:

Board approval of and authorization to adjust Fairfax Connector fares with Washington Metropolitan Area Transit Authority (WMATA) fare changes beginning on September 5, 2021.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the following fare changes for Fairfax Connector, beginning in September 2021:

Rail to Bus Transfer Discount – The current discount is \$0.50; the proposed discount is \$2.00.

Consistent with County bus fare policies, the County Executive also recommends that Fairfax Connector honor the other fare changes that will be enacted by WMATA, e.g., the reduced 7-Day Regional Bus Pass, the 7-Day Regional Bus Pass for Seniors, and the Bus to Rail Transfer Discount.

TIMING:

Board action is requested on July 27, 2021, because WMATA's fare changes go into effect on September 5, 2021, and the Board of Supervisors does not meet in August 2021.

BACKGROUND:

As part of the National Capital Region, Fairfax County has historically coordinated Fairfax Connector services and aligned fare policies with Metrobus, which provides services in Fairfax County and the rest of the region. By aligning fare policies with Metrobus, Fairfax Connector helps create a seamless experience for users when moving between transit services provided by WMATA and the County.

On June 10, 2021, the WMATA Board approved service and fare changes that are scheduled to begin on September 5, 2021. WMATA also will implement more frequent all-day service, offering 12 minutes or better service on six rail and 20 bus lines, and additional improvements to base service levels on other bus lines. The fare changes adopted included deferred fare changes (e.g., the Rail to Bus Transfer Discount) from

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the FY 2021 approved budget. The WMATA Board also approved other promotional fares that are short-term and not applicable to Fairfax Connector. The long-term fares changes adopted by the WMATA Board include:

- 1) Elimination of the Bus to Rail transfer fee of \$2.00;
- 2) Elimination of the Rail to Bus transfer fee of \$2.00;
- 3) Reducing the 7-Day Regional Pass from \$15.00 to \$12.00; and
- 4) Reducing the 7-Day Regional Senior/Disabled Bus Pass from \$7.50 to \$6.00.

These service and fare changes are aimed at encouraging people to use transit or to return to transit now that the worst of the COVID-19 pandemic has passed. According to the WMATA Board, these changes would serve customers for all trip purposes as the region reopens and especially benefit low-income and minority riders. By matching the new WMATA fares, Fairfax Connector riders would also enjoy these benefits.

Of the fare changes being considered, Fairfax Connector would be matching the elimination of the Rail to Bus transfer fee. Fairfax Connector will not be matching the other fares proposed by WMATA, because the Connector does not offer any passes, except the student bus pass. Consistent with the County's fare policies, Fairfax Connector will, however, continue to honor regional passes offered by WMATA. The Fairfax Connector's fare policies can be found at: [Fares and Policies | Connector \(fairfaxcounty.gov\)](https://www.fairfaxcounty.gov/connector/fares-and-policies)

Title VI Analysis

Title VI of the Civil Rights Act of 1964 requires that recipients of federal funding must comply with provisions that are prescribed by the cognizant federal agency. In the case of Fairfax County and Fairfax Connector, the cognizant federal agency is the Federal Transit Administration (FTA). *FTA Circular C-4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients* requires that all recipients must develop a methodology for and complete a Title VI Fare Equity Analysis when any fare change is proposed. The proposed fare changes must be considered and approved by the Board of Supervisors within six months of implementation. The Board of Supervisors approved the County's Fare Equity Analysis methodology and policy as part of the Major Service Change Policy on September 15, 2020, and again in the full Title VI Plan on September 29, 2020.

The Fairfax Connector fare changes proposed for implementation in September 2021 were reviewed as mandated by FTA. The proposed fare changes would not result in a disparate impact for minority riders or a disproportionate burden for low-income riders. For more detail, please see the attached Title VI Fare Equity Analysis (Attachment 2). Given this finding, no further examination of alternatives is required.

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FISCAL IMPACT:

When fare changes were first proposed for the FY 2021 WMATA Operating Budget, prior to the onset of the COVID-19 emergency, all WMATA services and routes were operating normally. At that time, WMATA staff estimated that the elimination of the fare to transfer from rail to bus would reduce revenue for the Connector Bus system by approximately \$1.53 million for an entire fiscal year. Since Metrorail ridership is still only at approximately 20 percent of pre-pandemic service levels and that the proposed fare changes would only be in effect for 10 months, the estimated cost in lost revenues for Fiscal Year 2022 is approximately \$650,000. Including the reduced price of the 7-Day Regional Pass and the other passes, the revenue impact for the first fiscal year is approximately \$700,000. The Department of Transportation intends to address these lost revenues in Fund 40000, County Transit Systems, through funds available thanks to the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the American Rescue Plan Act (ARPA).

While the FY 2022 costs of these revenue losses are manageable due to ARPA funds, it is likely that the WMATA Board will make these fare policies permanent. Also, as ridership improves as the effects of COVID-19 become more manageable, the magnitude of these lost revenues will grow. If the Board approves these fare changes, the County should expect that the annual impact to the budget will be closer to \$1.5 million per year once stimulus balances are expended.

ENCLOSED DOCUMENTS:

Attachment 1 – WMATA Fare Changes
Attachment 2 – Title VI Fare Equity Analysis

STAFF:

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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
Dwayne Pelfrey, Chief, Transit Services Division, FCDOT
Michael Felschow, Planning Section Chief, Transit Services Division, FCDOT
Brent Riddle, Sr. Transportation Planner, Coordination and Funding Section, FCDOT

ATTACHMENT A: FARE CHANGES

Metrobus Fares	CURRENT Fares/Fees	Proposed Fare Options
Peak Fares¹		
1 · Boarding charge (up to 3 miles)	\$2.25	no change
2 · Composite miles between 3 and 6 miles	\$0.326	no change
3 · Composite miles over 6 miles	\$0.288	no change
4 · Maximum peak fare	\$6.00	no change
5 · Charge for senior/disabled is one-half peak fare	\$1.10 - \$3.00	no change
Off-Peak Fares²		
6 · Boarding charge (up to 3 miles)	\$2.00	no change
7 · Composite miles between 3 and 6 miles	\$0.244	no change
8 · Composite miles over 6 miles	\$0.216	no change
9 · Maximum off-peak fare	\$3.85	no change
10 · Weekend Flat Fare ³	\$2.00 - \$3.85	\$2.00
· Weekend senior/disabled Flat Fare	New	\$1.00
11 · Charge for senior/disabled is one-half the peak fare	\$1.10 - \$3.00	no change
Unlimited Combo Passes⁴		
12 · Monthly unlimited passes	varies	no change
13 · 1-day unlimited pass	\$13.00	no change
14 · 3-day unlimited pass	\$28.00	no change
15 · 7-day short-trip unlimited pass	\$38.00	no change
16 · 7-day unlimited pass	\$58.00	no change
Unlimited Combo Passes Promotion		
	varies	30 Day Promotion varies
12P · Monthly unlimited passes	(36 trip multiple)	(22 trip multiple)
13P · 1-day unlimited pass	\$13.00	\$6.50
14P · 3-day unlimited pass	\$28.00	\$14.00
15P · 7-day short-trip unlimited pass	\$38.00	\$19.00
16P · 7-day unlimited pass	\$58.00	\$29.00
Other Rail Fares		
17 · Bus-to-rail transfer utilizing SmarTrip® card	\$0.50 discount	\$2.00 discount
18 · Monthly TransitLink Card on MARC and VRE ⁵	\$114.00	no change
19 · Monthly TransitLink Card on MTA ⁵	\$176.00	no change
20 · Surcharge on Entry/Exit for station improvements, two stations per Compact jurisdiction ⁶	\$0.05	no change
Metrobus Fares		
Regular Fares		
21 · Cash boarding charge for local bus	\$2.00	no change
22 · Cash boarding charge for express bus	\$4.25	no change
23 · Cash boarding charge for designated airport routes	\$7.50	no change
24 · SmarTrip® boarding charge for local bus	\$2.00	no change
25 · SmarTrip® boarding charge for express bus	\$4.25	no change
26 · SmarTrip® boarding charge for designated airport routes	\$7.50	no change

Senior/Disabled: One-Half Regular Fares

27	· Cash boarding charge for local bus	\$1.00	no change
28	· Cash boarding charge for express bus	\$2.10	no change
29	· Cash boarding charge for designated airport routes	\$3.75	no change
30	· SmarTrip® boarding charge for local bus	\$1.00	no change
31	· SmarTrip® boarding charge for express bus	\$2.10	no change
32	· SmarTrip® boarding charge for designated airport routes	\$3.75	no change

Cash Upload to SmarTrip®

33	· Surcharge for cash upload to SmarTrip® on board bus	\$0.00	no change
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Bus Transfers utilizing SmarTrip® card

34	· Local to local bus	free	no change
35	· Local to express bus	\$2.00 discount	no change
36	· Local to designated airport routes	\$2.00 discount	no change
37	· Rail-to-bus transfer	\$0.50 discount	\$2.00 discount
38	· Transfer from MARC, VRE, & MTA with weekly/monthly pass	free	no change
39	· Transfer from regional bus partners	varies	varies

Bus Passes

40	· 7-Day Regional Bus Pass	\$15.00	\$12.00
41	· 7-Day Regional Senior/Disabled Bus Pass	\$7.50	\$6.00

Other Fare Media

42	· Package of 10 tokens, available to organizations	\$20.00	no change
43	· DC student tokens - 10 trips per pack	\$10.00	no change

MetroAccess Fares⁷

44	· MetroAccess fare (within ADA 3/4 mile service corridor)	varies	varies
45	· Maximum fare	\$6.50	no change

Parking Fees⁸

46	· District of Columbia	\$4.45 - \$4.95	no change
47	· Montgomery County	\$4.45 - \$5.20	no change
48	· Prince George's County	\$3.00 - \$4.95	no change
49	· Virginia	\$3.00 - \$4.95	no change
50	· Monthly reserved parking fee	\$45.00 - \$65.00	no change
51	· Parking meters \$1.00/60 minutes	\$1.00	no change
52	· Prince George's parking garage at New Carrollton (monthly)	\$85.00	no change
53	· Non-Metro rider parking fees	\$7.50 - \$15.00	no change
54	· Special event parking fees	up to \$25.00	no change

Other Fees

55	· Bicycle locker rental	\$120.00 (annual)	no change
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¹ Peak fares are in effect from opening through 9:30 a.m. and from 3:00 p.m. to 7:00 p.m. weekdays, except on national holidays.

² Off-peak fares are in effect during all other hours on weekdays and all national holidays.

³ Weekend flat fares are in effect from Saturday opening until Sunday closing.

⁴ *Unlimited Combo Passes shall be valid on Metrorail, Metrobus and Regional Bus Providers (including but not limited to ART, DC Circulator, CUE, DASH, Fairfax Connector, The Bus, and Ride On) instead of only Metrorail and Metrobus upon the implementation of and subject to WMATA entering into a revenue sharing agreement with regional providers.*

⁵ *Metro's portion of the TransitLink Cards on MARC, VRE, and MTA.*

⁶ *A \$0.05 surcharge on entry and exit at up to two stations in each jurisdiction in the Compact Transit Zone to fund station-specific capital improvements to Metro facilities at the station(s) where the surcharge is levied may be imposed with further Board approval.*

⁷ *MetroAccess fare is twice the equivalent fixed route SmarTrip® fare based on fastest trip.*

⁸ *Parking fees consist of Metro's base fee plus jurisdiction surcharge, if any.*

Additional Fare Changes

1. The District of Columbia currently provides additional \$0.50 subsidy to increase the value of bus to rail transfers for passengers transferring from bus to rail on DC Bus Routes 94, A2, A4, A6, A7, A8, W1, W2, W3, W5, W6 and W8. To the extent that the \$2 bus to rail transfer is in place, the additional subsidy provided by the District of Columbia shall be suspended.

2. Notwithstanding the fare changes made in this Resolution the virtual bus-to-bus transfer between lines serving the Addison Road and Capitol Heights Metrorail stations via Metrorail at no charge with the use of a SmarTrip® card authorized in Resolution 2017-52 shall continue in effect.

Title VI Fare Equity Analysis – Proposed September 2021 Fairfax Connector Fare Changes

Summary of Fare Equity Analysis Results

The Fairfax Connector fare changes proposed for implementation in September 2021 were reviewed as mandated by the Federal Transit Administration (FTA) in *Circular C-4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients* (hereafter *Circular*). The fare equity analysis requirement applies to all fare changes regardless of the amount of increase or decrease. The proposed fare changes would not result in a disparate impact for minority riders or a disproportionate burden for low-income riders. Given this finding, no further examination of alternatives is required by the FTA *Circular*.

Relevant Fairfax County Title VI Program Elements

When a transit agency proposes a fare change or a major service change, the FTA *Circular* requires the agency to conduct an equity analysis to determine whether the fare change or service change will result in a disparate impact for minority riders or a disproportionate burden for low-income riders. In conducting this equity analysis, Fairfax Connector used the following survey and operational data to determine which populations would be affected by the proposed fare changes:

- March - May 2019 Fairfax Connector Passenger Origin/Destination Survey

A Title VI equity analysis may require the evaluation of as many as four items depending on the route's nature, proposed change, and served environment. The policies listed in this section are contained in Fairfax County's Title VI Program, as approved by the Board of Supervisors in 2020.

A major service change is defined as either an increase or decrease of 25 percent or more in either daily revenue service hours, revenue service miles, or both for the individual route being modified.

An adverse effect occurs when the proposed service incorporates any of the following modifications:

- Service is eliminated.
- Headways are modified by at least 20 percent and 10 minutes.
- The span of service is modified by at least 10 percent and two hours.
- New service is implemented.

A disparate impact occurs when the difference between minority riders and non-minority riders affected by a proposed service change or fare change is 10 percent or greater.

A disproportionate burden occurs when the difference between low-income riders and non-low-income riders affected by a proposed service change or fare change is 10 percent or greater.

If a transit provider chooses not to alter a proposed service change despite the potential disparate impact on minority populations or if the transit provider finds, even after the revisions, that minority riders will continue to bear a disproportionate share of the proposed service change, the transit provider may implement the service change *only* if:

- “the transit provider has a substantial legitimate justification for the proposed service change”; **and**
- “the transit provider can show that there are no alternatives that would have a less disparate impact on minority riders but would still accomplish the transit provider’s legitimate program goals.” (FTA *Circular*, page IV-16; emphasis in original)

Fare Equity Analysis

Description of Proposed Fare Changes

The Washington Metropolitan Area Transit Authority (WMATA) recently issued a plan for proposed fare changes in FY 2022. Fairfax Connector participates as a regional partner with WMATA in the use of SmarTrip (pre-paid fare card). Fairfax County chose to match the WMATA fare changes for FY 2022 in keeping with the County’s commitment to equity, exemplified by the belief that bus riders should pay the same fare for the same type of bus service without regard to the agency operating the service. The proposed Fairfax Connector fare changes, which are consistent with the WMATA bus fare changes, are described in Table 1.

Table 1: Major Proposed Fare Changes

Bus to/from Rail Transfers	Raise discount from \$0.50 to \$2.00
7-day Regional Bus Pass	Reduce cost from \$15.00 to \$12.00
7-day Regional Senior/Disabled Bus Pass	Reduce cost from \$7.50 to \$6.00

Utilization of Survey Data for 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 groups. FCDOT collected data from the Fairfax Connector Passenger Origin/Destination Survey from March to May 2019. The survey consisted of questions regarding fare paid, household income, race and Latino origin, English proficiency, trip origin/destination, frequency of use, availability of travel alternatives, opinion of service, and other topics.

In Fairfax County’s Title VI Program, minority riders were defined as any person identifying themselves as Latino or indicating a race other than white on the survey. Fairfax County’s Department of Housing and Community Development defines low-income households as households where the total income is less than 50 percent of the Metropolitan Statistical Area (MSA) median household income, adjusted for family size. In keeping with that definition, FCDOT used the Federal Housing and Urban Development (HUD) Fair Market Rents (FMR) income limits to determine the median household income for the Washington-Arlington-Alexandria FMR metropolitan area, which includes Fairfax County. For 2020, the median household income for the area was \$126,000; therefore, 50 percent of that income is \$63,000. Based on the 2019

Attachment 2

survey, 66 percent of Fairfax Connector riders have a household income of \$60,000 or less and are considered low-income.

To assess the impacts of the proposed fare changes described in Table 1, the fare equity analysis focused on the survey respondents who use the 7-day bus pass and/or the SmarTrip to make a bus to/from rail transfer. Note that the 7-day regional senior/disabled bus pass category was combined into the 7-day regional bus pass category, since the 7-day regional senior/disabled bus pass was not listed as a separate fare media in the 2019 survey. Table 2 shows the total number of estimated respondents using each fare category based on the survey.

Table 2: Proposed Fare Changes and Estimated Monthly Ridership¹

Fare Category/Change			Estimated Monthly Usage		
Fare Media	Bus to/from Rail Transfer (Y/N)	Proposed Fare Change	Minority	Low-Income	Overall
Cash		No change	84,763	63,930	108,836
SmarTrip (regular fare)	No	No change	316,431	216,916	464,221
SmarTrip (regular fare)	Yes	Increase bus to/from rail transfer discount from \$0.50 to \$2.00	119,169	60,190	221,339
Senior/Disabled SmarTrip	No	No change	9,387	6,242	18,258
Senior/Disabled SmarTrip	Yes	Increase bus to/from rail transfer discount from \$0.50 to \$2.00	3,307	277	6,515
Senior/Disabled Cash		No change	337	1,001	1,054
7-day Regional Bus Pass		Reduce cost from \$15 to \$12	1,831	1,523	2,996
MARC/VRE Transit Link Card		No change	365	365	1,714
Student Pass/Card (free)		No change	5,056	3,268	6,966
Metro Access		No change	701	701	1,161
DASH Pass		No change	2,057	2,010	3,000
Other		No change	6,922	826	9,064
Don't know/refused			627	551	22,149
Total			550,953	357,799	867,273

¹ Fare media categories highlighted in bold are the types that the fare equity analysis was conducted for.

After extracting the number of respondents per fare category, the percentage of each demographic group was calculated, as shown in Table 3. Table 3 also shows the differences between minority, low-income, and overall riders and whether the proposed fare changes will result in a disparate impact (DI) or disproportionate burden (DB).

Table 3: Percentage of Ridership by Fare Category (proposed to change) and Demographic Group

Fare Category	Percentage of Estimated Monthly Riders				Difference			
	Bus to/from Rail Transfer	Minority	Low-Income	Overall	Minority vs. Overall	Low-Income vs. Overall	Fare Change DI	Fare Change DB
SmarTrip (Regular fare)	Yes	21.6%	16.8%	25.5%	-3.9%	-8.7%	No	No
Senior/Disabled SmarTrip	Yes	0.6%	0.1%	0.8%	-0.2%	-0.7%	No	No
7-day Regional Bus Pass		0.3%	0.4%	0.3%	0.0%	0.1%	No	No

Evaluation of Survey Data for Disparate Impact

As prescribed in Fairfax County’s Title VI threshold policy, a disparate impact (DI) occurs when the difference between minority riders and all riders affected by a proposed fare change is 10 percent or greater. For SmarTrip passengers (regular fare) who are reported to transfer between bus and rail, the utilization by minority riders is 3.9% below the total riders in this fare category. Therefore, the proposed increase in the bus/rail transfer discount would not result in a DI for minority riders paying regular fare. For SmarTrip passengers (senior/disabled fare) who are reported to transfer between bus and rail, the utilization by minority riders is 0.2% below the total riders in this fare category. Therefore, the proposed increase in the bus to/from rail transfer discount would not result in a DI for minority riders paying a senior/disabled fare. For the 7-day regional bus pass, the utilization by minority riders is the same as the total riders in this fare category. Therefore, the proposed reduction in the bus pass cost would not result in a DI for minority riders.

Evaluation of Survey Data for Disproportionate Burden

As prescribed in Fairfax County’s Title VI threshold policy, a disproportionate burden (DB) occurs when the difference between low-income riders and all riders affected by a proposed fare change is 10 percent or greater. For SmarTrip passengers (regular fare) who are reported to transfer between bus and rail, the utilization by low-income riders is 8.7% below the total riders in this fare category. Therefore, the proposed increase in the bus to/from rail transfer discount would not result in a DB for low-income riders paying regular fare. For SmarTrip passengers (senior/disabled fare) who are reported to transfer between bus and rail, the utilization by low-income riders is 0.7% below the total riders in this fare category. Therefore, the proposed increase in the bus to/from rail transfer discount would not result in a DB for low-income riders paying a senior/disabled fare. For the 7-day regional bus pass, the utilization by low-income riders is 0.1% above

the total riders in this fare category. Therefore, the proposed reduction in the bus pass cost would not result in a DB for low-income riders.

Findings

The proposed Fairfax Connector fare changes would not result in a disparate impact finding for minority riders or a disproportionate burden finding for low-income riders. Given this finding, no further examination of alternatives is required by the FTA *Circular*.

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ACTION - 12

Authorization to Establish the Active and Thriving Community Grants Program

ISSUE:

Board of Supervisors' authorization to create a grant program to assist certain small businesses and nonprofits experiencing negative economic impacts of the COVID-19 pandemic. The program would be funded through an allocation of the Coronavirus State and Local Fiscal Recovery Funds (Fiscal Recovery Funds) provided through the Federal American Rescue Plan Act (ARPA) under the authority to support small businesses, non-profits or those in geographic areas disproportionately impacted by the pandemic. Approval is also requested for the County Executive to administer the grant program.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors (Board) establish the Active and Thriving Community Grants Program that responds to the negative economic impacts of the COVID-19 public health emergency on small businesses and non-profits; approve the expenditure of \$10,000,000 of ARPA Fiscal Recovery Funds; and authorize the County Executive to administer the Active and Thriving Community Grants Program to meet program objectives.

TIMING:

Board action is requested on July 27, 2021, in order to establish the grant program by the end of August 2021.

BACKGROUND:

On November 18, 2020, the Board of Supervisors was briefed on the Economic Recovery Framework (Recovery Framework) prepared by staff and consultants. The Recovery Framework includes data and analysis demonstrating the sectors and business types that have been most impacted by the COVID-19 pandemic. Following that briefing, a Board Matter was put forward on February 9, 2021, directing staff to develop a targeted relief and recovery program to support Fairfax County businesses and non-profits identified in the Recovery Framework. Consistent with this direction, on March 16, 2021, staff briefed the Board on specific recommendations regarding the Recovery Framework, including creating programs providing targeted assistance to small businesses and non-profits most impacted by the COVID-19 pandemic, including recreation organizations and child care providers.

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COVID-19 specific support to community-based organizations began in 2020. In line with the County's RISE small business grants and in response to reports from local non-profit organizations, the County developed the Non-Profit Safety Net Sustainability Grant Program (NSG). The program was developed to ensure safety net organizations critical to meeting self-sufficiency, health, and safety needs of vulnerable populations, would remain fiscally viable and able to continue providing services despite the financial and service delivery impacts of the pandemic. The County awarded 149 such grants.

The American Rescue Plan Act allocated State and Local Fiscal Recovery Funds to the County. Among other uses, the County may use its Fiscal Recovery Funds to respond to the "negative economic impacts" of the COVID-19 pandemic "including assistance to small businesses, and nonprofits...." The U.S. Department of the Treasury is charged with oversight of the Fiscal Recovery Funds. In its Interim Final Rule, Treasury permits assistance grants that respond to the negative economic impacts of the COVID-19 public health emergency experienced by small businesses and nonprofit organizations. Unlike the Coronavirus Relief Fund, the Fiscal Recovery Funds defines both "small business" and "nonprofit" organizations as eligible recipients. A small business "has no more than 500 employees" (or the applicable size standard established by the Small Business Administration) and is "small business concern" as defined by the Small Business Act. Nonprofits include only those tax-exempt organizations described in 501(c)(3) of the Internal Revenue Code. Lastly, under ARPA, the covered period for the Fiscal Recovery Funds begins March 2020. Within the sectors covered by this program, a few organizations have no formal employee/employer relationship; however, these organizations are eligible to compete for and receive funding.

On June 8, 2021, the Board of Supervisors established the PIVOT Business Recovery Grant Program to respond to the negative impacts of the COVID-19 public health emergency and approved the expenditure of \$25,000,000 of ARPA Fiscal Recovery Funds. The specific small business and nonprofit sectors that were targeted for this program are food services, lodging (hotels), retail, services, and Amusements and Arts Organizations, Museums, Historical Sites.

At that time, the Board was notified that staff were exploring additional opportunities, including grants, to targeted organizations and populations including community-based organizations (CBOs) providing safety net services, programs promoting healthy childhood environments, and programs strengthening communities. In line with the Board's direction, the Active and Thriving Community Grants Program was developed to help address and mitigate the negative economic impacts of the COVID-19 public health emergency on small businesses and community-based organizations. This will be accomplished through grants to impacted, eligible small businesses and non-profits. Similar to the PIVOT grant, organizations will be required to demonstrate a minimum of 15 percent decline in gross revenue in 2020 compared to 2019 or a 15 percent increase

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in expenditures directly tied to costs incurred due to the pandemic.

The specific small business and non-profit sectors are:

- Child care programs (center based and family child care);
- Community-based organizations providing key health and human services;
- Youth programs in athletic organizations;
- Out-of-school time programs for youth grades K-12; and
- Outdoor community pools owned by Homeowners Associations (HOAs), Community Associations, and Apartments/Condominiums, as well as community membership-based pools.

This grant program will prioritize disproportionately impacted populations and communities wherever possible. Under the U.S. Department of Treasury's Interim Final Rule, the County may identify a disproportionately impacted population and community using Qualified Census Tracts or "other households, businesses, and populations disproportionately impacted by the COVID-19 public health emergency." County staff are developing a definition/criterion to identify areas in Fairfax County that are disproportionately impacted by the COVID-19 public health emergency. Staff are using data showing the social and economic conditions that made populations more vulnerable to COVID (e.g., the Fairfax County COVID-19 Vulnerability Index), as well as recent economic, health, and other relevant data showing the pandemic's impact. This data will be used to create a new, combined index which will be applied to the Active and Thriving Community Grants prior to the program launch (late August 2021) and future ARPA spending. Staff will provide a memorandum to the Board outlining the specific methodology utilized to create the index prior to the program launch. Funding prioritization based on disproportionate impact is further detailed in Attachment 1, "Grant Program Guidelines."

The county's economic recovery and long-term success is contingent on the workforce having access to affordable, quality child care. Throughout the pandemic, the loss of revenue due to lower program capacities and added expenses related to new health and safety requirements have put the viability of child care programs at risk. In a March 2021 Fairfax County survey of child care programs, over 52 percent of programs that responded stated that they did not know how long they would be able to stay open without financial support. The potential closure of child care programs could come at a time when more parents are returning to work, impacting working parents and their children, employers, and the child care workforce and their families. By providing funding to support child care programs' sustainability, the County will help to mitigate the ongoing negative impacts of the pandemic on the workforce and the child care infrastructure.

Out of school time (after-school and summer programs) providers have been especially

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hard hit during the pandemic. Most had to close completely in March 2020 for the remainder of that school year and throughout the summer. While some were able to offer virtual programming, often this format of programming does not produce enough income to replace losses. Programs that were able to offer in-person programming had to adopt new practices and purchase PPE and other safety equipment. Even this summer's programming is not back to "normal." As schools return to five days a week of in-person learning and parents return to work, ensuring out-of-school-time programs remain open and stable is a critical component of a robust child care system.

Many Fairfax County Community Based Organizations continue to struggle economically due to the COVID-19 public health emergency. Most have had to cancel or significantly alter major fundraising events. For many, giving levels have not returned to prior levels; for many donors, giving patterns have changed. Even where giving has increased, it has not made up for lost revenue or increased expenses. Treasury recognizes the "vital services" nonprofits provide to communities and the community need for these services continues to grow. A new round of non-profit funding will assist in these organizations in responding to the pandemic's negative economic impact and their recovery.

Community sports organizations provide a critical role in accessible, positive, healthy activity for the county's youth. Youth sports provide opportunities for all Fairfax County youth to participate in organized sports. The county's ongoing collaborations with community sports organizations has shown that many sports organizations have been negatively financially impacted by the pandemic. Many organizations lost significant revenue through a lack of registration fees. Capital improvements and maintenance donated to County facilities carry ongoing fixed costs to some of these organizations. This grant program will be open for non-profit sports organizations, serving youth, that are scheduled by NCS, as well as those that offer other youth sports including swimming, hockey, etc.

Similarly, outdoor swimming pools, including those maintained by homeowner's associations, apartment complexes, and community organizations have experienced negative economic impacts from the COVID-19 public health emergency. Like other recreation organizations, swimming pools report a reduction in revenue through membership fees while continuing to have expenditures.

As described in Attachment 1, for sectors that have a small population of organizations (CBOs, athletic organizations, and out-of-school time organizations), the intention is to award all eligible applicants. If the number of eligible applicants exceeds available funding, then awards will be prioritized first to those who serve disproportionately impacted populations and communities, and then the remaining grants will be awarded through a lottery system. It is anticipated that the child care sector and the swimming pools sector will be oversubscribed. Therefore, applications will be prioritized to

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disproportionately impacted populations and communities and then a lottery system for the remaining applicants. Additionally, this grant program will utilize the same third-party vendor, Latino Economic Development Corporation (LEDC), for the grant online portal administration and awards as well as technical assistance.

To ensure a consistent impact of both grant programs supported by the ARPA funding, the desired outcomes of the Active and Thriving Community Grants Program have been modeled after the PIVOT grant program:

1. Help the most negatively impacted small businesses and nonprofit organizations remain in business and retain employees.
2. Help the most vulnerable residents by supporting programs and services that provide a social safety net and promote positive childhood environments.
3. Sustain business sectors which employ disproportionately higher number of low-income and minority workers.
4. Assist impacted small businesses and nonprofits by mitigating financial hardship, funding implementation of COVID-19 prevention or mitigation tactics, or both.

No later than forty-five (45) days after the establishment of the Active and Thriving Community Grants Program, staff will update the Board on the program. The Board may increase this fund at any time in the future.

FISCAL IMPACT:

Funding for the Active and Thriving Community Grants Program is recommended from the Federal ARPA funding that has been provided by the County. It is anticipated that an appropriation of \$10,000,000 will be used from Coronavirus Relief Funds provided through the Federal ARPA to fund the Active and Thriving Community Grants Programs. Funds to administer the Active and Thriving Community Grants Programs would come from ARPA. Program administration costs are limited to no more than 1.6% of the total authorized for the Active and Thriving Community Grants Program funding amount.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed Active and Thriving Community Grant Program Parameters

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STAFF:

Christopher A. Leonard, Deputy County Executive
Joseph Mondoro, Chief Financial Officer
Christina Jackson, Director, Department of Management and Budget
Lloyd Tucker, Director, Department of Neighborhood and Community Services (NCS)
Sarah Baldwin, Acting Director, Fairfax County Park Authority
Sarah Allen, Deputy Director, NCS
Anne-Marie Twohie, Director for Office for Children, NCS

ASSIGNED COUNSEL:

Patricia McCay, Senior Assistant County Attorney

Fairfax County Active and Thriving Community Grants Program

Grant Program Guidelines

Grant Awards

The Active and Thriving Communities Grant Program will provide grants to selected eligible awardees. To be eligible, an applicant must be a small business or non-profit (as defined in 31 C.F.R.; 35.3) operating in one or more of the following sectors:

1. Child care, which includes regulated centers and family child care homes;
2. Community based organizations providing safety net services in one or more of the categories outlined in the Consolidated Community Funding Pool (CCFP);
3. Youth athletic programs within county-based organizations;
4. Out-of-school-time programs for youth grades K-12; or
5. Outdoor community pools located in HOAs and apartments/condominiums, as well as community membership-based pools.

Eligibility Requirements and Use of Funds

Grant funds are for qualifying small business and non-profit organizations to (1) address and mitigate financial hardship; (2) implement COVID-19 prevention or mitigation tactics; or (3) both.

Minimum **small business** eligibility for grant awards across all identified sectors include that the small business:

1. Must be established or have one or more location(s), including the principal place of business, in Fairfax County. Fairfax County includes the Towns of Herndon, Vienna and Clifton. *The City of Falls Church and City of Fairfax are separate jurisdictions from Fairfax County and are excluded.*
2. Must have been in business prior to March 1, 2020.
3. Must meet the U.S Department of Treasury definition of "small business." (See 31 C.F.R. 35.3: A small business is a business concern or other organization that: has no more than 500 employees, or if applicable, size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates (SBA Table of size standards at <https://www.sba.gov/document/support-table-size-standards>); and is a small business concern as defined in Section 3 of the Small Business Act (15 U.S.C.632).

Minimum **non-profit** eligibility for grant awards across all identified sectors include that the non-profit:

1. Must serve residents of Fairfax County. Fairfax County includes the Towns of Herndon, Vienna, and Clifton. *The City of Falls Church and City of Fairfax are separate jurisdictions from Fairfax County and are excluded.*
2. Must have been in business prior to March 1, 2020.
3. Must meet the U.S Department of Treasury definition of “non-profit.” See 31 C.F.R. 35.3: A non-profit is an organization that is exempt from Federal income taxation and that is described in Section 501(c)(3) of the Internal Revenue Code.

Additional Minimum Eligibility Requirements for Grant Award:

Child Care:

1. Must be regulated (current state license, state license-exempt, or county permit).
2. Must be currently open for business.

Community-based Organizations-Safety Net Providers:

1. Must be an organization providing social safety net services in at least one of the FY 20-21 Consolidated Community Funding Pool (CCFP) categories.
 - A social safety net organization is one which provides services in one or more of the FY20-21 categories of the [CCFP](#) funding cycle and whose primary focus is on serving people from communities who are more vulnerable to self-sufficiency problems, including people with limited income; immigrants and refugees; people with disabilities; and people who are historically subject to disparate access to opportunities.
 - The categories of the FY20-21 CCFP funding cycle are financial stability; food and nutrition; health; housing; positive behaviors and healthy relationships; literacy & educational development; support and community/social networks.

Youth Athletic Organizations:

1. Must provide sports programming for youth under the age of 18. Organizations may also have adult sports programs; however, only the youth programs can receive the grant award.
2. Majority (51% and above) of the youth sports participants of the organization must be Fairfax County residents.
3. For purpose of determining any grant award amount, the number of participants/sizes of the organization will be determined by the documented number of Fairfax County residents only.

Out of School Time Programs:

1. Must provide direct recreation and/or educational services to school-age youth (grades K-12) before school, after school, and/or during school breaks.
2. Organizations may administer programs at their own facility or be contracted to administer programs at another facility.
3. Must offer structured group programs that meet on a regularly set schedule (e.g., organizations that only provide ad hoc presentations to out-of-school time programs are not eligible).

Community Pools:

1. Must be an outdoor pool associated with an HOA or an apartment/condominium, or a community membership-based pool.
2. Must be operational only during the summer season.
3. Must be permitted to operate by the Fairfax County Health Department.

Ineligible for Award:

The following businesses and organizations are ineligible for award:

1. Organizations that only sponsor adult sports programs.
2. Country club pools, fitness club pools, hotel pools, municipal pools, therapy pools, storefront/swim schools, school-owned pools.
3. Non-pool aquatic facilities, including but not limited to day spas, water parks, splashpads/interactive water features, and spas.
4. Out-of-school time programs where the primary funder is Fairfax County through the Department of Neighborhood and Community Services or the Department of Housing and Community Development.
5. Organizations that have been recognized by the IRS as tax-exempt under subsections of the Internal Revenue Code other than 501(c)(3).

To direct the county's limited financial resources in ways that will best accomplish the purpose of the ARPA Fiscal Recovery Funds, the Active and Thriving Community Grants Program will apply the county's vulnerability definition, under development, for ARPA funded projects. For sectors that have a small population of organizations (CBOs, athletic organizations, and out-of-school time organizations), the intention is to award all eligible applicants. However, due to limited funding, if the number of eligible applicants exceeds available dollars, funding will be prioritized first to those who serve vulnerable communities, and the remaining applicants will be awarded through a lottery system. Due to the large size of potential applicants, the child care sector and the community pools sector will be assessed through vulnerability prioritization and then a lottery system for the remaining applicants.

Grants to eligible small businesses and non-profit organizations would be awarded as follows:

Sector	Business Size	Grant Level	Allocation Prioritization	Funding Estimate*
Child Care	Permit/License Capacity: A: Family Child Care with 1-4 children. B: Family Child Care with 5-12 Children. C. Center based child care with 13-40 children D. Center based child care with 41-120 children E: Center based child care with over 121 children	A: \$2,000 B: \$5,000 C: \$10,000 D: \$15,000 E: \$18,000	All eligible child care providers and centers within vulnerable areas and/or support the county's Child Care Subsidy Program will be awarded. All other eligible child care providers will be entered into a lottery for the remaining funds.	\$4,300,000
Safety-Net Community Based Organizations	A: Organizations with 0 to 24 full-time employee equivalents B. Organizations with more 25- 500 full time employees equivalents	A: \$10,000 B: \$18,000	All eligible organizations will be awarded. If eligible applicants exceed available funding, the first awarded grants will go to non-profits that serve vulnerable communities using a lottery system, if necessary. If additional funding remains, there will be a lottery for all remaining applicants.	\$1,900,000
Out-of-School Time	A. 100–450 participant days	A: \$2,000	All eligible organizations will be awarded. If	\$1,800,000

	<p>B. 451-1350 participant days</p> <p>C. 1,351–2,000 participant days</p> <p>D. 2,001 or more participant days</p>	<p>B: \$5,000</p> <p>C: \$15,000</p> <p>D: \$18,000</p>	<p>eligible applicants exceed funding, the first grants awarded will be to applicants who serve a majority of participants (51% and above) from vulnerable communities.</p> <p>If additional funding remains, there will be a lottery for all remaining applicants.</p>	
Youth Athletics	<p>A: 1-100 Participants</p> <p>B: 101-1000 Participants</p> <p>C: Over 1001 Participants</p>	<p>A: \$5,000</p> <p>B: \$10,000</p> <p>C: \$18,000</p>	<p>All eligible applicants will be awarded. If eligible applicants exceed funding, the first grants awarded will be to applicants who serve a majority of participants (51% and above) from vulnerable communities.</p> <p>If additional funding remains, there will be a lottery for all remaining applicants.</p>	\$1,500,000
Community Pools	<p>A. 0–2000 square feet</p> <p>B. 2001–10,000 square feet</p> <p>C. 10,001 or more square feet</p>	<p>A. \$2,500</p> <p>B. \$5,000</p> <p>C. \$7,500</p>	<p>All eligible applicants will be awarded. If eligible applicants exceed funding, the first grants awarded will be to applicants</p>	\$500,000

			located in vulnerable communities. If additional funding remains, there will be a lottery for all remaining applicants.	
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*Funding may change between sectors if there are fewer-than-anticipated awarded applications.

Use Limitations:

Grant funds can be used to:

- Mitigate financial hardship (e.g., declines in revenues or impacts of periods of business closure). This includes:
 - Supporting payroll and benefits costs
 - Costs to retain employees
 - Mortgage
 - Rent
 - Utilities Costs
 - Other business critical operating costs as determined by the County

- Implement COVID-19 prevention or mitigation tactics such as:
 - Physical changes to enable social distance
 - Enhanced cleaning efforts
 - Barriers or partitions

Funding must be used to sustain or evolve the grant awardee business. No grant funds can be used to pay debts to close the business or start new business. All grant awardees will be expected to enter into a grant agreement with Fairfax County and/or the program administrator. A condition of the grant will be that the grantee agrees in good faith to maintain the business in Fairfax County through December 31, 2022, or potentially be subject to repayment of the grant.

There is a limit of one Active and Thriving Community grant award per individual small business or nonprofit.

Eligible expenses cannot include the same expenses that have been covered under another federal, local or state COVID-19 program and/or contract (including PPP, EIDL, RISE grant, RebuildVA, Nonprofit Sustainability Grant).

Examples of Document Requirements

Applicants for the Active and Thriving Community grant will be asked to provide documentation to support the eligibility and award requirements. These may include:

- 2019 and 2020 tax returns or Forms 990/990-EZ/990-N;
- 2020 year-end profit-and-loss statement or similar statement of organizational financial standing;
- Current profit-and-loss statement or other similar document showing financial status, as revised due to COVID-19 impacts;
- Current state license, state license- exempt or County permit (*Applicable only to child care providers*);
- IRS letter of determination (for non-profits);
- Articles of incorporation, articles of organization or other similar evidence of legal formation of the business;
- Health Department permit (*Applicable only to community pools*);
- Contract with pool management company operating the pool (*Applicable only to some community pools*);
- Sports teams rosters demonstrating county resident information (without personal identifying information) (*Applicable only to youth sports organizations*);
and
- Documents sufficient to demonstrate that any claimed revenue loss was not due to longer-term economic or industrial trends unrelated to the pandemic.

Consistent with ARPA funding requirements, grantees will be asked to provide documentation of eligible reimbursable costs (incurred after March 13, 2020) of up to 100% of the grant amount requested. In addition, grantees will be required to provide additional documentation, or any certifications deemed necessary to meet other requirements.

ACTION - 13

Approval of a Resolution Authorizing the Department of Transportation to Apply for Funding, and Endorsing Projects Being Submitted for the Virginia Department of Transportation's FY 2023-2024 Transportation Alternatives Set-Aside Funding Program (Lee, Mount Vernon, and Providence Districts)

ISSUE:

Board of Supervisors authorization is requested for the Department of Transportation to apply for funding from the Virginia Department of Transportation (VDOT) FY 2023-2024 Transportation Alternatives (TA) Set-Aside Programs. Staff recommends that \$3.2 million, including \$800,000 in Local Cash Match (LCM) be requested for the following projects:

- Vienna Metro Bike Connection Improvement (UPC 113611), TPP #183
 - \$800,000 grant request, \$200,000 in LCM
- Mason Neck Trail (Pohick Bay Park Entrance to Route 1), TPP #84
 - \$800,000 grant request, \$200,000 in LCM
- Shreveewood Elementary School Safe Route to School (SRTS)
 - \$800,000 grant request, 200,000 in LCM
- Bush Hill Elementary School Safe Route to School (SRTS)
 - \$800,000 grant request, \$200,000 in LCM

The total required Local Cash Match is available in other transportation funding sources and does not require new General Fund resources. Each project requires a project endorsement resolution (Attachment 1) from the local governing body. If the County is awarded funding, staff will submit another item to accept the awards and execute the Project Administration Agreements with VDOT.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Department of Transportation to apply for funding in the amount of \$3.2 million, including \$800,000 in Local Cash Match and to adopt the project endorsement resolution (substantially in the form of Attachment 1).

TIMING:

Board of Supervisors' approval is requested on July 27, 2021, to meet VDOT's submission deadline of October 1, 2021.

BACKGROUND:

The TA Set-Aside, included in the Fixing America's Surface Transportation (FAST) Act, replaced the Transportation Alternatives Program (TAP), included in the Federal Surface Transportation Act, Moving Ahead for Progress in the 21st Century (MAP-21). TA is similar to TAP. Applicants are required to provide the same 20 percent match, with grant awards covering the remaining 80 percent. Some of the major aspects are:

- TA Set-Aside has the same eligible categories as TAP. The categories of eligible projects are:
 - Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other non-motorized forms of transportation;
 - Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers to access daily needs;
 - Conversion and use of abandoned railroad corridors for trails;
 - Construction of turn-outs, overlooks, and viewing areas to promote the scenic and historic character of local roads;
 - Inventory, control, or removal of outdoor advertising;
 - Historic preservation and rehabilitation of historic transportation facilities;
 - Vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control;
 - Archaeological activities relating to impacts from implementation of a transportation project eligible under this title;
 - Environmental mitigation activity, including prevention and abatement activities to address storm water management, control, and water pollution related to highway runoff; and
 - Wildlife mortality mitigation activities to decrease the negative impacts of roads on the natural environments.
- Safe Routes to Schools (SRTS) and Recreational Trails Programs are merged under TA, and, SRTS applicants will continue to provide the 20 percent local match.

All submissions require a 20 percent local cash match. Staff will also pursue future funding opportunities to reduce the total County commitment to these projects. The Board should be aware that jurisdictions are responsible for any cost overruns, future maintenance, and operating costs of any projects that are funded.

On May 27, 2021, staff conducted a public meeting in response to VDOT guidelines that allow for other means of public participation rather than public hearings for TA.

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Pre-Application deadline was July 1, 2021, full applications are due to VDOT on October 1, 2021. The applications submitted to VDOT will be reviewed by both VDOT staff (with recommendations forwarded to the CTB) and the Transportation Planning Board (TPB). Both the CTB and TPB will make announcements on funding decisions in Summer 2022.

County staff recommends forwarding four applications to VDOT and TPB for FY 2023-2024 funding consideration:

- Vienna Metro Bike Connection Improvement
 - Total Project Estimate (TPE) - \$9,400,000
 - Grant request - \$800,000
 - \$200,000 in LCM
 - \$6,500,000 in available funds.
- Mason Neck Trail (Pohick Bay Park Entrance to Route 1)
 - TPE - \$7,174,545
 - Grant request - \$800,000
 - \$200,000 in LCM
 - \$4,010,000 in available funds.
- Shreveewood Elementary School Safe Route to School (SRTS)
 - TPE - \$1,725,000
 - Grant request- \$800,000
 - \$200,000 in LCM
 - \$700,000 in available funds.
- Bush Hill Elementary School Safe Route to School (SRTS)
 - TPE - \$2,800,000
 - Grant request – \$800,000
 - \$200,000 in LCM
 - No available funds.

TA funding that is being requested will allow for the completion of design phase and commencement of the right-of-way phase. See Attachment 2 for project details.

FISCAL IMPACT:

The total Transportation Alternatives Set-Aside request is \$3.2 million, including \$800,000 in Local Cash Match. The total required Local Cash Match for these four projects will come from Fund 40010, County and Regional Transportation Projects. No General Fund resources are required.

The TA Set-Aside program does not allow for the recovery of indirect costs. If the County is awarded funding, staff will submit another board item to accept the awards and execute the Project Administration Agreements with VDOT.

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CREATION OF POSITIONS:

No positions will be created through this action.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution Endorsing Transportation Projects for FY 2023-2024

Transportation Alternatives Set-Aside Programs

Attachment 2 – Project Details

STAFF:

Rachel Flynn, Deputy County Executive

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

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT

Michael Guarino, Section Chief, Capital Projects and Operations Division, FCDOT

Chris Wells, Capital Projects and Operations Division, FCDOT

Lauren Delmare, Capital Projects and Operations Division, FCDOT

Ray Johnson, Chief, Funding Section, FCDOT

Smitha Chellappa, Senior Transportation Planner, Funding Section, FCDOT

Mei Fang, Transportation Planner, Funding Section, FCDOT

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center in Fairfax, Virginia, on Tuesday, July 27, 2021, at which meeting a quorum was present and voting, the following resolution was adopted:

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, Fairfax County desires to submit applications for allocation of funds of \$3.2 million, and the required \$800,000 in Local Cash Match (LCM), through the Virginia Department of Transportation (VDOT) Fiscal Year 2023-2024, Transportation Alternatives Set-Aside Program; and,

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby endorses and approves submissions to VDOT’s Fiscal Year 2023-2024 Transportation Alternatives Set-Aside Program, for the following projects with requested amounts not to exceed:

Transportation Alternatives Set-Aside

- Vienna Metro Bike Connection Improvement
 - \$800,000 request with \$200,000 as LCM.
- Mason Neck Trail (Pohick Bay Park Entrance to Route 1)
 - \$800,000 request with \$200,000 as LCM.
- Shrevewood Elementary School Safe Route to School (SRTS)
 - \$800,000 request with \$200,000 as LCM.
- Bush Hill Elementary School Safe Route to School (SRTS)
 - \$800,000 request with \$200,000 as LCM

Adopted this 27th day of July 2021, Fairfax, Virginia

ATTEST _____
Jill G. Cooper
Clerk for the Board of Supervisors

Attachment 2

List of Recommended Projects Transportation Alternatives Set-Aside FY23-24 Grant Submissions Summer 2021

PROJECT	PROJECT DESCRIPTION	CURRENT COST ESTIMATE	GRANT REQUEST
Vienna Metro Bike Connection Improvement	This project will add dedicated bicycle facilities to Virginia Center Boulevard and Country Creek Road from Nutley Street to Sutton Road. The project provides protected bike lanes through a combination of implementing a road diet, narrowing the existing median, and adding trail connections behind the existing curb. The end points at Nutley Street and Sutton Road. This project is part of the I-66 Parallel Trail.	\$9,400,000	\$800,000
Mason Neck Trail (Pohick Bay Park Entrance to Route 1)	Construct missing walkway links along Gunston Road from Richmond Highway (Route 1) to existing trail.	\$7,174,545	\$800,000
Shreviewood Elementary School Safe Route to School (SRTS)	The Shreviewood Elementary School (Safe Routes to School) project will add two new marked crosswalks across Shreve Road, one at Fairwood Lane to the west with a pedestrian refuge island and one at the eastern driveway of Shreviewood Elementary School, in addition to a third crosswalk across Virginia Lane at Virginia Avenue. The crosswalks will provide neighborhood access to school amenities and the W&OD Trail.	\$1,725,000	\$800,000
Bush Hill Elementary School Safe Route to School (SRTS)	Pedestrian connection (Ninian Avenue to Larno Drive) to Bush Hill Elementary School	2,800,000	\$800,000

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ACTION - 14

Approval of an Addition to Action Item No. 17, Establishment of a Police Civilian Review Panel, Approved by the Fairfax County Board of Supervisors on December 6, 2016, and Related Bylaws Amendment

ISSUE:

Whether an addition to Action Item No. 17 on the Board of Supervisors' December 6, 2016 agenda, whereby the Board established the Police Civilian Review Panel (Panel), and a related amendment to the Panel's Bylaws should be approved. Such approval would authorize the appointment of an Executive Director for the Panel.

RECOMMENDATION:

If the Board of Supervisors wishes to appoint an Executive Director for the Police Civilian Review Panel, then the Board should approve this Action Item and the related proposed revisions to the Panel's bylaws.

TIMING:

Board action is requested on July 27, 2021, so that an Executive Director may be timely appointed by the Board of Supervisors for the Panel.

BACKGROUND:

The Board of Supervisors approved the establishment of the Panel on December 6, 2016, as part of Action Item No. 17 on the Board's agenda that day. The Board established the Panel for the purposes of building and maintaining public trust between the Fairfax County Police Department, the Board, and the public, and to enhance police legitimacy.

Action Item No. 17 stated that the Civilian Review Panel would be supported primarily by staff to the Independent Police Auditor. If the Board now wishes to appoint an Executive Director for the Panel, it is recommended that the following language be added to Action Item No. 17:

The Board of Supervisors will select and appoint an Executive Director for the Police Civilian Review Panel. The Executive Director will report directly to the Board of Supervisors. Among other duties as assigned, the Executive Director will review and summarize Police Department investigations before the Panel

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commences its review. Further, the Executive Director will provide administrative support for the Panel's work.

If the Board of Supervisors wishes to approve this addition to the 2016 Action Item, then the Panel's Bylaws also must be amended. Such amendments are necessary to provide for the appointment of an Executive Director for the Panel. A redlined version of the necessary amendments to the Bylaws is attached as Attachment 1.

FISCAL IMPACT:

If approved by the Board, the new Executive Director position will be created by converting a vacant administrative position in the Office of the Independent Police Auditor into this new position. Additional funding would be required to cover the increased salary and benefit costs, which are estimated to be between \$100,000 and \$150,000. Once the classification and specific salary have been set, an appropriate adjustment will be included in a quarterly review in FY 2022 and the baseline budget for FY 2023.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Amendment to the Panel's Bylaws

STAFF:

David M. Rohrer, Deputy County Executive

ASSIGNED COUNSEL:

Anita V. McFadden, Panel Counsel

Elizabeth D. Teare, County Attorney

BYLAWS OF THE FAIRFAX COUNTY POLICE CIVILIAN REVIEW PANEL

Approved by the Board of Supervisors on July 11, 2017

Accepted by the Police Civilian Review Panel on August 3, 2017

Amendments Approved by the Board of Supervisors on October 16, 2018, November 19, 2019, December 1, 2020, February 23, 2021, and _____, 2021

ARTICLE I. NAME¹

The name of this organization is the **Fairfax County Police Civilian Review Panel**.

ARTICLE II. PURPOSE

The Board of Supervisors, pursuant to Virginia law, established the Panel on December 6, 2016, to enhance police legitimacy and to build and maintain public trust between the FCPD, the Board of Supervisors and the public. The Panel will:

- A. Review certain Investigations to ensure the thoroughness, completeness, accuracy, objectivity, and impartiality of the Investigations;
- B. Provide an independent process for commencing an Initial Complaint against the FCPD or its officers; and
- C. Make recommendations on law enforcement policies, practices, and procedures to assist the FCPD Chief of Police ("Chief") and Board of Supervisors in policy review.

The Panel shall report directly to the Board of Supervisors.

ARTICLE III. COMPOSITION OF THE PANEL AND TERM OF OFFICE FOR PANEL MEMBERS

A. Composition and Qualifications.

1. The Board of Supervisors shall appoint each Panel Member.
2. The Panel shall be comprised of nine Fairfax County residents with expertise and experience relevant to the Panel's responsibilities. At least one Panel Member shall have prior law enforcement experience other than as a member of the FCPD or the FCSO.
3. The Board of Supervisors shall endeavor to create an independent and fair body giving due consideration to the following factors, among others it may choose: community and

¹Certain terms used in these Bylaws are defined in the attached Exhibit A incorporated herein by this reference.

civic involvement; diversity; law enforcement and/or criminal investigative experience; reputation in the community; geographical representation; and other factors designated to ensure a balanced Panel representative of Fairfax County.

4. No Panel Member may be a current employee of Fairfax County, a current or former member of the FCPD or the FCSO, have a relative (i.e., an immediate or extended family member) who is a member of the FCPD or FCSO, hold public office, or be a candidate for public office.

B. Terms of Service.

1. Panel Members shall be appointed for three-year terms, except for the inaugural Panel (which shall have terms as described below) and may be appointed to no more than two consecutive terms.
2. Panel Member terms shall be staggered.
3. With respect to the inaugural Panel, three Panel Members shall be appointed for three-year terms, three Panel Members shall be appointed for two-year terms and three Panel Members shall be appointed to a one-year term.
4. The Panel Members of the inaugural Panel are eligible to be appointed to a second three-year term upon expiration of the Panel Member's initial term.

C. Resignations, Removals and Vacancies.

1. Panel Members serve at the pleasure of the Board of Supervisors.
2. The Chair shall notify the Board of Supervisors if a Panel Member is absent from three consecutive Panel meetings or is absent from five Panel meetings in any calendar year (unless the absence is for good reason as determined by the Chair).
3. Any Panel Member may resign from the Panel at any time by delivering written notice of termination to the Board of Supervisors with a copy to the Chair. The resignation will be effective upon receipt, unless an effective date of the resignation is specified in the notice.
4. The Board of Supervisors may appoint a new Panel Member for the unexpired Panel Member term resulting from a vacancy that occurs for any reason.

ARTICLE IV. CHAIR, VICE CHAIR, OTHER OFFICERS AND COMMITTEES

A. The Initial Chair and Vice-Chair.

The Board of Supervisors may choose to designate one of the Panel Members as the initial Chair. At a time agreed by the Panel Members, the Panel shall elect the initial Vice-Chair.

B. Succession; Annual Election of Officers; Vacancies.

1. Unless the Panel Members agree otherwise, the Vice-Chair shall succeed to the Chair position upon expiration of the Chair's term.
2. Panel Members shall elect the Vice-Chair and other officers (as determined by the Panel Members) who shall be responsible for those functions as assigned by the Panel and the Chair.
3. All Panel officers shall be elected at the first meeting of each calendar year. Terms of office for Panel Officers shall be for one year, effective March 1st of each calendar year.
4. No Panel Member may serve more than one, one year term as Chair.
5. If there is an officer vacancy, the Panel may elect a replacement officer at any time after the vacancy occurs to serve the balance of the unexpired term.
6. Before the election of any replacement officer, the Chair or Vice-Chair shall provide the Panel Members with at least two weeks written notice of the proposed election before the meeting at which the replacement is to be elected.
7. Election of Panel officers must take place in a meeting duly called as provided for in Article V.

C. Duties of the Chair and Vice-Chair.

1. The Chair shall:
 - (a) Preside over all Panel meetings at which the Chair is present;
 - (b) Act as a liaison between the Panel and (i) the Board of Supervisors, (ii) the FCPD, and (iii) the Auditor, as needed;
 - (c) Serve as the Panel's official spokesperson;
 - (d) Oversee the preparation of the Panel's annual report described in Article IX.B;
 - (e) Perform any other duties as the Panel may delegate; and
 - (f) Delegate any of these duties to other Panel Members.

2. The Vice-Chair shall:
 - (a) Preside over Panel meetings in the absence of the Chair; and
 - (b) Perform any other responsibilities delegated by the Chair or requested by the Panel.
3. Panel Committees.
 - (a) The Panel may establish as many committees as the Panel deems necessary to perform the Panel's duties. All Panel committee meetings shall comply with the notice and other requirements of the Virginia Freedom of Information Act.

ARTICLE V. QUORUM, VOTING AND MEETINGS

A. Quorum.

At any Panel meeting, the presence of five Panel Members shall constitute a quorum. Any Panel meeting may be adjourned from time to time by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

B. Voting.

The vote of a majority of Panel Members present at a meeting with a quorum is necessary for the Panel to take an action. Notwithstanding the previous sentence, the affirmative vote of a majority of all Panel Members is required to approve Panel Findings or the Annual Report. All votes of Panel Members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy. All Panel Members who are present at a meeting, including the Chair, may vote at any meeting.

C. Meetings.

1. The Panel shall meet as often as necessary to conduct Panel business.
2. All Panel Meetings shall be conducted in accordance with VFOIA, and, except for closed sessions, all Panel Meetings shall be open to the public.
3. All Panel Meetings shall be preceded by a Panel Meeting Notice, and, except for emergency Panel Meetings, a Panel Meeting Notice shall be published at least three working days before the Panel Meeting. Notice, reasonable under the circumstances for emergency Panel Meetings, shall be given contemporaneously with the notice provided to Panel Members.

4. Panel Meeting Notices shall be:
 - (a) provided to the Office of Public Affairs for posting at the Government Center and on the County Internet site, and
 - (b) placed at a prominent public location by the Clerk of the Board of Supervisors.
5. All Panel Meetings shall be conducted in:
 - (a) places that are accessible to persons with disabilities,
 - (b) public buildings whenever practical; and
 - (c) accordance with Robert's Rules of Order, Newly Revised (except as otherwise provided by Virginia law or these Bylaws).
6. Except as specifically authorized by VFOIA, no Panel Meeting shall be conducted through telephonic, video, electronic, or other communication means where the Panel Members are not all physically assembled to discuss or transact public business.
7. At any Panel Meeting, at least one copy of the agenda and, unless exempt from disclosure under VFOIA, all materials furnished to Panel Members shall be made available for public inspection at the same time the documents are furnished to the Panel Members.
8. Any person may photograph, film, record, or otherwise reproduce any portion of a Panel Meeting required to be open, but no person broadcasting, photographing, filming, or recording any open Panel Meeting may interfere with any of the proceedings.
9. The Panel shall keep minutes of its Panel Meetings, and those minutes shall include:
 - (a) the date, time, and location of each meeting;
 - (b) the Panel Members present and absent;
 - (c) a summary of the discussion on matters proposed, deliberated, or decided; and
 - (d) a record of any votes taken.
10. The Panel meeting minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media.
11. The Panel may solicit and receive public comment and answer questions about any matter relating to law enforcement policies, practices, and procedures up to six times annually. As long as all applicable VFOIA requirements are followed, the Panel may solicit, receive, and respond to such public comment in up to six public meetings annually, sponsored by the Panel or by others, where the public is invited to comment.

ARTICLE VI. PANEL AUTHORITY TO REVIEW INVESTIGATIONS AND REVIEW PROCEDURES

A. Scope of Panel Review Authority.

1. The Panel shall review Investigations to ensure their thoroughness, completeness, accuracy, objectivity, and impartiality where (1) the subject matter of an Investigation is an allegation of “abuse of authority” or “serious misconduct” by a FCPD officer, and (2) a Review Request is filed. The Panel shall not review:
 - (a) alleged misconduct that is subject to the exclusive review by the Auditor;
 - (b) any Complaint related to an incident that occurred before December 6, 2016;
 - (c) an Initial Complaint that is filed more than one (1) year after the date of the incident that is the subject of the Investigation (unless the Panel determines that there is good cause to extend the filing deadline);
 - (d) a Review Request filed more than sixty (60) days after the date of the FCPD notice sent to the complainant that informs the complainant of the completion of the FCPD’s investigation of the complainant’s Initial Complaint (unless the Panel determines that there is good cause to extend the filing deadline); or
 - (e) a Complaint concerning matters that are subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding; or any complaints from Fairfax County employees that are subject to any process, proceeding or appeal as set forth in the County’s Personnel Regulations or that are subject to the Police Department’s General Orders 310.1, 310.2, or 310.3.
2. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court’s judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved.
3. Where a Complaint alleges misconduct within both the Panel’s scope of authority and the Auditor’s scope of authority, the Panel and the Auditor shall each conduct a review of the Investigation within their requisite scope of authority. The Auditor and Chair shall coordinate the work of the Panel and Auditor to ensure efficient use of resources and avoid duplication of effort. If the matter cannot be divided between the Auditor and the Panel in an efficient manner, then the Auditor shall conduct the review of all portions of the investigation.
4. If there is a conflict in the scope of authority between the Auditor and the Panel, then the matter shall be resolved by the Auditor.

B. Definition of “Abuse of Authority” or “Serious Misconduct”.

For purposes of determining the Panel’s authority to review an Investigation, “abuse of authority” or “serious misconduct” by an FCPD police officer includes, but is not limited to:

1. the use of abusive racial, ethnic or sexual language or gestures;
2. harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability;
3. acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense;
4. reckless endangerment of detainee or person in custody;
5. violation of laws or ordinances; or
6. other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.

C. The Complaint.

1. Content and Filing of a Complaint.

- (a) An Initial Complaint and a Review Request shall be in writing and shall be deemed filed when delivered or emailed to the Office of the Independent Police Auditor.
- (b) A Complaint shall contain:
 - (i) identifying information for the person filing the Complaint;
 - (ii) a statement describing the reasons for the Review Request, unless the Complaint is an Initial Complaint;
 - (iii) the specific police behavior of concern;
 - (iv) a description of the incident in which the behavior occurred; and
 - (v) a list of the names, addresses and phone numbers of all witnesses to or persons with knowledge of the incident known by the complainant.
- (c) The Panel shall immediately forward an Initial Complaint to the FCPD for investigation. The FCPD shall complete its investigation and provide an Investigation Report to the Panel within sixty (60) days. The Panel shall extend the 60-day period upon request of the Chief to protect an ongoing criminal or internal administrative investigation, or for other good cause, with notice to the complainant and the Board of Supervisors.

2. Initial Disposition Notice.

- (a) The Panel shall conduct an initial review of each Review Request and may conduct

the initial review as a committee of the whole or establish a subcommittee of at least three Panel Members (with rotating membership) to conduct the initial review. The Chair may appoint, on a rotating basis, one or more Panel Members as Review Liaisons to manage the disposition of a Complaint in accordance with written duties established by the Panel.

- (b) Within 30 days of Receipt of the Investigation Report, the Panel shall send an Initial Disposition Notice to the complainant with the Panel's determination of its authority to undertake a review of the subject Investigation.
- (c) The Panel will determine if the Panel has authority to review the subject Investigation taking into account whether the underlying Complaint:
 - (i) is timely filed; or
 - (ii) is a Review Request of alleged misconduct that is subject to exclusive review of the Auditor.
- (d) If the Panel determines that the Panel does not have authority to review the subject Investigation, the Initial Disposition Notice shall state the reasons for the Panel's decision.
- (e) Where the Panel finds that a review of the subject Investigation is warranted, the Initial Disposition Notice shall include a description of the review process, a deadline for completion of the review, and a date for the Panel Review Meeting.
- (f) If the underlying Complaint alleges police misconduct that requires the Auditor's review, the Panel shall (i) promptly forward the matter to the Auditor and (ii) send an Initial Disposition Notice to the complainant explaining the reasons for the referral.

D. Pending Proceedings.

- 1. If at any point in the review process the Panel learns that the matters of a Review Request are the subject of pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding, the Panel shall:
 - (a) suspend its review;
 - (b) defer the review pending resolution of the criminal, civil or administrative proceeding by the trial court;
 - (c) notify the complainant and the Board of Supervisors, in writing, of any deferrals; and
 - (d) track any deferred matter and notify the complainant and the Board of Supervisors once the proceedings are closed and the request for review may proceed.
- 2. The panel may request assistance of Counsel, the Auditor, the Chief, or the County Attorney in making its determination that matters of a Review Request are the subject

of pending proceedings.

3. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court's judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved.

E. Panel Meetings to Review Investigations.

1. Additional Requirements for Panel Review Meetings.

In addition to the requirements for Panel Meetings generally set forth in Article V.C., Panel Review Meetings shall be conducted as follows:

- (a) If the Panel determines it has authority to review an Investigation under article VI.A.1, the Panel shall convene a Panel Review Meeting to review an Investigation as to which a Review Request has been submitted within sixty (60) days of Receipt of the Investigation Report.
- (b) The Panel Review Meeting Notice shall not only comply with Article V.C.4., but shall also include a statement inviting any person with information about the Investigation or the incident that is the subject of the Panel Review Meeting to submit the information in writing to the Chief or the Auditor.
- (c) Notwithstanding Article V.C.4, Panel Review Meeting Notices shall be published and sent to Panel Members, the FCPD Internal Affairs Office, the County Attorney's Office, and the complainant at least fourteen (14) days before the Review Meeting.
- (d) The Panel may conduct as many Panel Review Meetings as the Panel deems necessary to complete the requested review.
- (e) The Panel shall not take testimony or receive evidence.
- (f) At the request of the Panel or if the Complainant attends and requests an opportunity to be heard at the Panel Review Meeting, the complainant shall have the opportunity to state the reasons for filing the Review Request, and the Panel may ask questions of the complainant regarding those reasons. The Panel shall submit to the FCPD contact information for those persons who were not interviewed with a request for further investigation of the matters under review.
- (g) At the request of the Panel, an FCPD representative knowledgeable of the Investigation under review shall appear before the Panel at a Panel Review Meeting (as determined by the Panel) to review and answer questions from the Panel about the Investigation, including all findings of fact, evidence collected and received, witness statements and action taken or not.
- (h) At the Panel's discretion, it may request further investigation by the FCPD, and the FCPD shall, within a reasonable time, conduct further investigation and provide to

the Panel a supplemental report that details the findings of the additional investigation.

- (i) Translation services will be provided for a complainant or other person that needs translation assistance to present to the Panel or respond to questions from Panel Members.
2. Closed Sessions, and Confidential Matters During Panel Review Meetings.
- (a) The Panel may conduct portions of any Panel Meeting (including Panel Review Meetings) in closed session, so long as the purpose for and conduct of the closed session is consistent with VFOIA.
 - (b) Any statement made by a FCPD police officer to the FCPD that the FCPD required under the provisions of *Garrity v. New Jersey*, 385 U.S. 493 (1967), shall not be disclosed in public. The Panel shall have confidential access to the entire statement for its review. Unless the FCPD officer consents to the public release of the entire statement given during an Investigation, the FCPD representative(s) presenting information to the Panel on a Complaint may publicly state only that the officer admitted or denied the allegation.
 - (c) Panel Members shall not reveal the identity of (i) any juvenile, or (ii) victim of sexual assault (unless authorized to do so by the victim in writing).
 - (d) Each Panel Member who reviews a FCPD officer's personnel record or a FCPD internal administrative investigative case file shall sign a Notice of Confidentiality affirming that an officer's personnel record and those portions of the investigative case file reflecting officer discipline, other officers, confidential informants, victims, or witnesses, personal information including names, social security number, date of birth, driver's license number, agency-issued identification number, student identification number, criminal or employment record, shall not be disclosed or disseminated unless the information has been disclosed by the FCPD in a disposition letter or at a Panel meeting, or by the Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia Law.
 - (e) Portions of records of law-enforcement agencies, including the FCPD, that contain specific tactical plans or investigative procedures, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public, shall also not be disclosed or disseminated unless such information has been disclosed by the FCPD in a disposition letter or at a Panel meeting, or by the Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia law.
 - (f) If information subject to the Panel's review concerns an identifiable juvenile, the requested information shall first be forwarded to the County Attorney's Office for redaction in conformance with Code of Virginia §16.1-301, as amended.

F. Disposition of Review Requests.

1. Timely Completion.

- (a) The Panel shall complete the review of an Investigation and issue a public written report detailing the Panel Findings (defined below) within ninety (90) days of Receipt of the Investigation Report.
- (b) The Panel may extend the deadline for completion for good cause. The Chair shall report all deadline extensions (and the reason for the extension) to the Board of Supervisors. The Panel shall send written notice to the complainant, if the deadline for completion is extended. The notice shall include an approximate date for completion.

2. Panel Findings.

- (a) Upon completing a requested Investigation review, the Panel may reach one of the following Panel Findings:
 - (i) Concur with the findings and determination detailed in the Investigation Report;
 - (ii) Advise the Board of Supervisors that the findings are not supported by the information reasonably available to the FCPD and recommend further review and consideration by the Chief; or
 - (iii) Advise the Board of Supervisors that, in the Panel's judgment, the Investigation is incomplete and recommend additional investigation.
- (b) If the Panel Finding is either (ii) or (iii) above, the Board of Supervisors may direct the Chief to take further action as the Board of Supervisors deems appropriate.
- (c) A majority of the appointed Panel Members must concur in the Panel Findings for the Panel Findings to be the authorized conclusion of the Panel.
- (d) The Chair may assign to one or more Panel Members concurring in the conclusions of the Panel Findings the responsibility for drafting the Panel's final review report that shall be sent to the complainant, the Board of Supervisors, the Chief and the Auditor.

ARTICLE VII. RECOMMENDATIONS FOR REVISIONS TO FCPD POLICIES, TRAINING AND PRACTICES

A. Review of Law Enforcement Policies and Practices.

- 1. The Panel may recommend to the Chief and the Board of Supervisors revisions to FCPD policies, practices, and procedures that the Panel concludes are needed.

2. The Panel may conduct up to six public meetings annually, where it solicits and receives public comment and answers questions relating to law enforcement policies, practices, and procedures. Such public meetings may be sponsored by the Panel or by others, and they must meet applicable VFOIA requirements.

B. Meetings with the Auditor.

The Panel may meet periodically with the Auditor concerning the findings and recommendations of the Auditor as to use of force cases so that the Panel can provide the Panel's view to the Board of Supervisors and the Chief as to changes in policies and practices that may be warranted.

ARTICLE VIII. OTHER DUTIES OF PANEL MEMBERS

A. Training.

All Panel Members shall complete all training mandated by the Board of Supervisors, which may include police ride alongs. The Panel shall determine the calendar for the presentation and completion of the required training. The Panel shall conduct other training as it determines would be helpful.

B. Confidentiality.

Each Panel Member shall maintain the confidentiality of all confidential or privileged information that Panel Members receive during service on the Panel.

C. Conflicts of Interest.

Panel Members shall avoid conflicts of interest with the provisions of Chapter 31 – State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100, et seq. A Panel Member shall consult with counsel to the Panel if the Panel Member believes that the Panel Member has or may have a conflict of interest with respect to a matter that the Panel will consider. A Panel Member with a conflict of interest shall not participate in or vote on the matter.

D. Communications.

1. Only the Chair or the Chair's designee shall make public statements on behalf of the Panel. The primary means for the Panel to communicate to the public shall be the Panel's written reports that are approved by a majority of the Panel Members.
2. Except as expressly authorized by the Chair in furtherance of a Panel Member's duties, Panel Members shall make diligent efforts to avoid individual discussion of a matter before the Panel with any person with an interest in the matter, including but not

limited to a complainant, a witness to events giving rise to a complaint, or an FCPD officer that is the subject of a Complaint. The Panel Member shall inform the Chair if any interested party communication occurs and provide the Chair with any information about the communication that the Chair requests.

ARTICLE IX. RECORDKEEPING; ANNUAL REPORT

A. Recordkeeping.

1. All Panel meetings, including Panel Review Meetings and Public Comment Meetings, but excluding closed sessions within a Panel Meeting, shall be recorded and records maintained in accordance with the Library of Virginia Records Retention and Disposition Schedule.
2. The Auditor shall maintain a copy of all Complaints together with the reports detailing the disposition of each Complaint.

B. The Annual Report.

1. The Panel shall prepare the Annual Report describing its activities for the reporting year, including any recommendations to the Board of Supervisors, Auditor, and the Chief for revisions to FCPD policies, training, and practices that the Panel concludes are needed.
2. The Annual Report must be approved by a majority of the appointed Panel Members before the Annual Report is released publicly.
3. The Panel shall deliver the Annual Report to the Board of Supervisors through the Auditor and the Chair of the Board's Public Safety Committee. The Annual Report shall then be released to the public.
4. The initial Annual Report of the Panel shall be due on March 31, 2018. Subsequent Annual Reports shall be published in accordance with this section no later than March 1st of each year.

ARTICLE X. COMPLIANCE WITH LAW AND COUNTY POLICY; CONFLICTS OF LAW AND POLICY; PANEL IMMUNITY

A. Compliance with Law and County Policy.

The Panel and each Panel Member shall comply with all Virginia laws, including, but not limited to, VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100 through -3131, as amended, all County ordinances, the Panel Code of Ethics and with all County policies concerning the activities of its boards, authorities, and commissions.

B. Conflicts of Law and Policy.

These Bylaws are not intended to conflict with Laws or policies of the Board of Supervisors. To the extent there is a conflict between any Law or any other resolution or matter passed by the Board, and these Bylaws, the Law or Board action shall govern.

C. Panel Immunity.

Panel Members shall enjoy the protection of sovereign immunity to the extent allowed and provided under Virginia law whether common law or statutory, including, but not limited to, the Virginia State Government Volunteers Act, Virginia Code §§ 2.2-3600, *et seq.*, and the provisions of Virginia Code § 15.2-1405.

ARTICLE XI. DUTIES OF THE COUNTY EXECUTIVE ~~AND THE AUDITOR;~~ AND BOARD OF SUPERVISORS

A. The County Executive.

1. The County Executive shall cause the attendance of any County employee, other than the involved officer(s), at any Panel meeting whose appearance is requested by the Panel, unless the required attendance violates a statutory or constitutional right of the employee.
2. The County Executive shall cause the submission (from any County agency including the FCPD) of any relevant documents or other relevant materials requested by the Panel, including the full FCPD internal administrative investigative case file, unless legal privilege to withhold exists and is not waived.

~~B. The Auditor.~~

~~The staff of the Office of the Auditor shall provide administrative support for the Panel.~~

C.B. The Board of Supervisors.

1. The Board of Supervisors may conduct a review of the Panel at any time, except that the initial review shall be conducted within six months of receipt of the Panel's first annual report.
2. The Board of Supervisors shall ensure the Panel and Panel Members, as necessary, have the benefit of legal counsel.
3. The Board of Supervisors shall appoint an Executive Director for the Panel. Among other duties as assigned, the Executive Director will review and summarize all Police

Department investigations before the Panel undertakes its review. The Executive Director also will provide administrative support to the Panel.

ARTICLE XII. EFFECTIVE DATE OF THE BYLAWS; AMENDMENT OF THE BYLAWS

A. Effective Date of the Bylaws.

The Bylaws shall become effective upon approval by the Board of Supervisors.

B. Amendment of the Bylaws.

These Bylaws may be amended by the Panel by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to the Bylaws shall become effective upon approval of the Board of Supervisors.

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Exhibit A

DEFINED TERMS

The following terms used in these Bylaws of the Fairfax County Police Civilian Review Panel mean the following:

Abuse of Authority has the meaning assigned to the term in Article VI.B.

Annual Report means the written annual report the Panel shall deliver to the Board of Supervisors as described in Article IX.B.1.

Auditor means the Fairfax County Independent Police Auditor.

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

Bylaws means the Bylaws of the Fairfax County Police Civilian Review Panel

Chief means the FCPD Chief of Police.

Complaint means collectively, unless the context otherwise indicates, an Initial Complaint and a Review Request.

Counsel means the legal counsel that the Board of Supervisors designates to support the Panel.

FCPD means the Fairfax County Police Department.

FCSO means the Fairfax County Sheriff's Office.

Initial Complaint means a complaint from any person about the FCPD or its officers that has been first submitted to the Panel and not the FCPD.

Initial Disposition Notice means the notice that the Panel sends to a complainant detailing the Panel's disposition of the Review Request after the initial review described in Article VI.C.2.

Investigation(s) means a FCPD internal administrative investigation.

Investigation Report means the completed written FCPD report setting forth the findings of the Investigation.

Laws means collectively any Virginia or Fairfax County law, ordinance, regulation, resolution, or other Fairfax County policy duly authorized by the Board of Supervisors.

Meeting(s) has the meaning assigned to the term in VFOIA and includes work sessions, when sitting physically, or through telephonic or video equipment, as defined in VFOIA, as a body or entity, or as an informal assemblage of (i) as many as three Panel 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.

Panel means the Fairfax County Police Civilian Review Panel.

Panel Findings means those conclusions that the Panel can adopt in response to a Review Request that are delineated in Article VI.F.2(a).

Panel Meeting means a meeting of the Panel.

Panel Meeting Notice means the written notice stating the date, time, and location of a Panel Meeting.

Panel Member(s) means each of the persons that the Board of Supervisors appoints to the Panel.

Panel Review Meeting means a Panel Meeting where a Review Request is reviewed by the Panel, including a Panel Meeting where a complainant or FCPD representative is present to discuss an Investigation.

Panel Review Meeting Notice means the Panel Meeting Notice for a Panel Review Meeting.

Public Meeting(s) means a Panel Meeting open to the public conducted on issues within the Panel's jurisdiction and on law enforcement policies and practices where the public is invited to comment on such issues and policies and practices.

Receipt of the Investigation Report is deemed to occur at the first Panel meeting subsequent to FCPD making an Investigation Report available to the Panel in response to a Review Request.

Review Request means a person's request for the Panel to review an Investigation.

Serious Misconduct has the meaning assigned to the term in Article VI.B.

VFOIA means the Virginia Freedom of Information Act, as amended from time to time.

Board Agenda Item
July 27, 2021

ACTION - 15

Endorsement of Preliminary Design Plans (30% Complete) for the Richmond Highway Bus Rapid Transit (BRT) Project from the Huntington Metrorail Station to Fort Belvoir (Lee and Mount Vernon Districts)

ISSUE:

Board endorsement of the preliminary design plans for the 7.4-mile Richmond Highway Bus Rapid Transit Project along Richmond Highway between the Huntington Metrorail Station and Fort Belvoir.

RECOMMENDATION:

The County Executive recommends that the Board endorse the preliminary design plans for the typical BRT cross-section indicated in Attachment 1 for the Richmond Highway Bus Rapid Transit project administered by the Fairfax County Department of Transportation (FCDOT) as generally presented at the June 30, 2021, preliminary design meeting and as shown on the FCDOT project website, and authorize the Director of FCDOT to transmit the Board's endorsement to the Virginia Department of Transportation (VDOT) (Attachment 2) with the following exceptions:

- a. In conjunction with VDOT, continue to evaluate if the proposed extra turn lanes (above and beyond the typical BRT section, see Attachment 1) at the following locations are necessary:
 - Shields Avenue/North and South Highway/Fuhrman Lane
 - Southgate Drive
 - Beacon Hill Road
 - Memorial Street
 - Arlington Drive
 - Boswell Avenue
 - Sherwood Hall Lane
 - Ladson Lane
 - Buckman Road/Mt. Vernon Highway
 - Sacramento Drive/Cooper Road
 - Jeff Todd Way/Mt. Vernon Memorial Highway

Direct staff to return to the Richmond Highway BRT Executive Committee with additional information regarding the above listed intersections and obtain their approval before finalizing the BRT design.

Board Agenda Item
July 27, 2021

- b. Continue to work with Dominion Power and Woodlawn Plantation to minimize impacts to the plantation property.
- c. Incorporate the design refinements under evaluation for Boswell Avenue as presented on the June 30, 2021, virtual meeting.
- d. Continue to work with VDOT on the corridor-wide speed study to evaluate lowering of the speed on Richmond Highway from 45 miles per hour to 35 miles. Lowering the speed limit may impact certain design issues, including the need for Federally mandated sound walls; and
- e. Recognizing that community organizations are opposed to any Federally mandated sound walls, if noise mitigation measures are required, such as sound walls, and supported by the affected property owners and residents, staff will continue to work on the design details of the sound walls to minimize the aesthetic impacts of the walls.

TIMING:

The Board should act on this matter on July 27, 2021, to allow FCDOT to proceed with final design plans and enter the Right-of-Way (ROW) phase by late summer/early fall 2021 to keep the project on schedule.

BACKGROUND:

In 2013 and 2014, the DRPT conducted a multimodal study of the 16-mile Richmond Highway corridor in Fairfax County. Several alternatives were studied, including curb-running BRT, median-running BRT, light rail transit, and a hybrid median-running BRT with a Metrorail extension between Huntington Metrorail Station and Hybla Valley. The Virginia Department of Rail and Public Transportation (DRPT) published the *Route 1 Multimodal Alternatives* study in 2015 and recommended pursuing median-running BRT in the near term with a Metrorail extension from Huntington to Hybla Valley in the long term. The Board endorsed this recommendation in May 2015.

Subsequently, multiple County departments implemented the recommendations of the *Route 1 Multimodal Alternatives* study. Fairfax County commenced the Embark Comprehensive Plan Amendment (PA 2015-IV-MV1) to refine the recommendations in the DRPT study between Huntington Metrorail Station and Fort Belvoir, which included a consistent six lane section, BRT running down the center of Richmond Highway, and nine BRT stations. The adopted Embark Comprehensive Plan recommends the land use types and densities for the areas within a one-half mile of radius of the proposed BRT stations, corridor wide transportation systems, urban design, public facilities, and other elements supportive of BRT.

Board Agenda Item
July 27, 2021

The purpose and need of the project build upon the planning efforts of the 2015 Multimodal Alternatives Analysis conducted by DRPT. The project is to provide higher quality bus transit service along Richmond Highway from the Huntington Metrorail Station to Fort Belvoir. The project will provide improved transit reliability, speed, choice, user experience, and community connectivity.

The transportation needs for the project include:

- Improved transit service.
- Increased roadway capacity for transit.
- Better connections to transit for pedestrians and bicycle riders.

Since 2015, the needs have been further refined and are reflected in the current design. Improvements on Richmond Highway include a consistent six through-lane section, a transitway, nine BRT stations, intersection modifications, missing sidewalk links, and two-way cycle tracks on both sides of the road (see Attachment 1). These improvements will facilitate additional growth in the corridor envisioned by the Richmond Highway Comprehensive Plan Amendment approved by the Board in March 2018. In addition, extra turn lanes are proposed in the preliminary design. However, these turn lanes require further analysis and refinement before BRT Executive Committee endorsement.

The addition of the transitway and nine proposed BRT stations is included in the Board of Supervisors adopted 2017 Richmond Highway Corridor Area Plan (Amended through December 1, 2020). The Board of Supervisors included funding for the project as part of the County's Four-Year Transportation Program and Transportation Priorities Plan (collectively FY 2013-FY 2025). This project is part of the Metropolitan Washington Council of Governments (the Region's Metropolitan Planning Organization) Constrained Long Range Plan and the Transportation Improvement Plan. Additionally, the Northern Virginia Transportation Authority's regional transportation plan (TransAction 2040) includes the project. This project is also included in VDOT's VTrans2040 Vision Plan and Needs Assessment adopted by the Commonwealth Transportation Board in late 2015.

The preliminary design plans and summary of the public meeting comments have been presented to the BRT Executive Committee and on July 12, 2021, the committee voted to recommend Board endorsement of the plans. However, County staff continues to work with VDOT, the BRT Executive Committee, and other stakeholders regarding the various aspects of the project, including turn lanes and sound walls, among others.

PUBLIC MEETING COMMENTS:

A virtual design public meeting was held on June 30, 2021, in which FCDOT received comments on the preliminary design of the RHBRT project.

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Approximately 70 members of the public attended the virtual meeting. A total of 106 individuals or organizations provided comments through email, during the June 30, 2021, virtual meeting, or filled out the online survey during the open comment period which was available from June 11 to July 9, 2021. Of the 102 individuals or groups that provided comments, 52 members of the public provided general comments or had questions on the project. There were also 34 comments which were direct statements of support for the project and 16 comments in opposition. Four additional community members filled out some other aspect of the survey and did not provide comments. The responses included comments about utilities; roadway width and crossing safety, speed limit as tied to sound walls and lane width; cost; and property impacts, among other items. A copy of the public meeting flyer is attached (Attachment 3).

Other Richmond Highway BRT public meetings have included:

- April 17 and 18, 2018
Main Topic: Project overview, environmental evaluation
- January 23, 2019
Main Topic: General project updates
- Mini Meeting Series (surrounded at station locations/areas)
Mount Vernon Governmental Center, June 25, 2019
Bryant High School, July 24, 2019
Sacramento Community Center, July 31, 2019
Mt. Eagle Elementary School, August 7, 2019
South County Government Center, August 14, 2019
Good Shepherd Catholic Church, August 18, 2019 (Spanish)
 - Main Topic: Provide Project Status
- September 17, 2019
Main Topics: Station design themes, roadway design
(Design Roll Maps available on County website)
- October 20 (English) and 22 (Spanish), 2020 – Virtual
Main Topic: Right-of-way acquisition
- November 4 (English) and 5 (Spanish), 2020 – Virtual
Main Topic: Station design concepts
- December 8 (English) and 9 (Spanish), 2020 – Virtual
Main Topic: Corridor updates
(Interactive Map Available on website in addition to Static Roll Maps)
- January 27 (English) and 28 (Spanish), 2021 – Virtual
Main Topic: BRT Branding

- June 30, 2021 (English) - Virtual
Main Topic: Preliminary Design and modifications
(Interactive Map Available on website in addition to Static Roll Maps)

Board Agenda Item
July 27, 2021

In addition to the above list, there have been more than 25 other pop-events or briefings related to the Richmond Highway BRT project.

PROJECT SCHEDULE:

The current schedule is as follows:

- Board Endorsement of Preliminary Design Plans – July 27, 2021
- Begin Right-of-Way Acquisition – Late Summer/Early Fall 2021
- Utility Relocation – Spring 2023
- Begin Construction – Summer 2025
- Complete Construction – 2030

FISCAL IMPACT:

There is no specific fiscal impact associated with this action. Of the \$730 million estimated project cost, the County has secured over \$361 million in funding for the project from regional, state, federal, and local sources listed below. The County does not anticipate any major impacts to the General Fund to support any phase of this construction project. The remaining funds will be sought from external sources first, which should be sufficient to complete project funding.

- Northern Virginia Transportation Authority - \$250,000,000
- Smart Scale - \$50,000,000
- Federal Congestion Mitigation Air Quality (CMAQ) and Regional Surface Transportation Program Funds - \$61,000,000

Funding to complete the project is currently being sought from federal sources, including the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program (formerly TIGER/BUILD) and the Federal Transit Administration's Capital Improvement Grant (CIG)/New Starts program. Sufficient funding is currently available to continue to advance the project as scheduled.

ENCLOSED DOCUMENTS:

Attachment 1: Richmond Highway BRT Typical Cross-section

Attachment 2: Letter Transmitting Board Endorsement of the Richmond Highway Bus Rapid Transit Preliminary Project Design Plans

Attachment 3: June 30, 2021, Virtual Public Meeting Flyer

Board Agenda Item
July 27, 2021

STAFF:

Bryan J. Hill, County Executive

Rachel Flynn, Deputy County Executive

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

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

Michael J. Guarino, Chief, Capital Projects Section (CPS), FCDOT

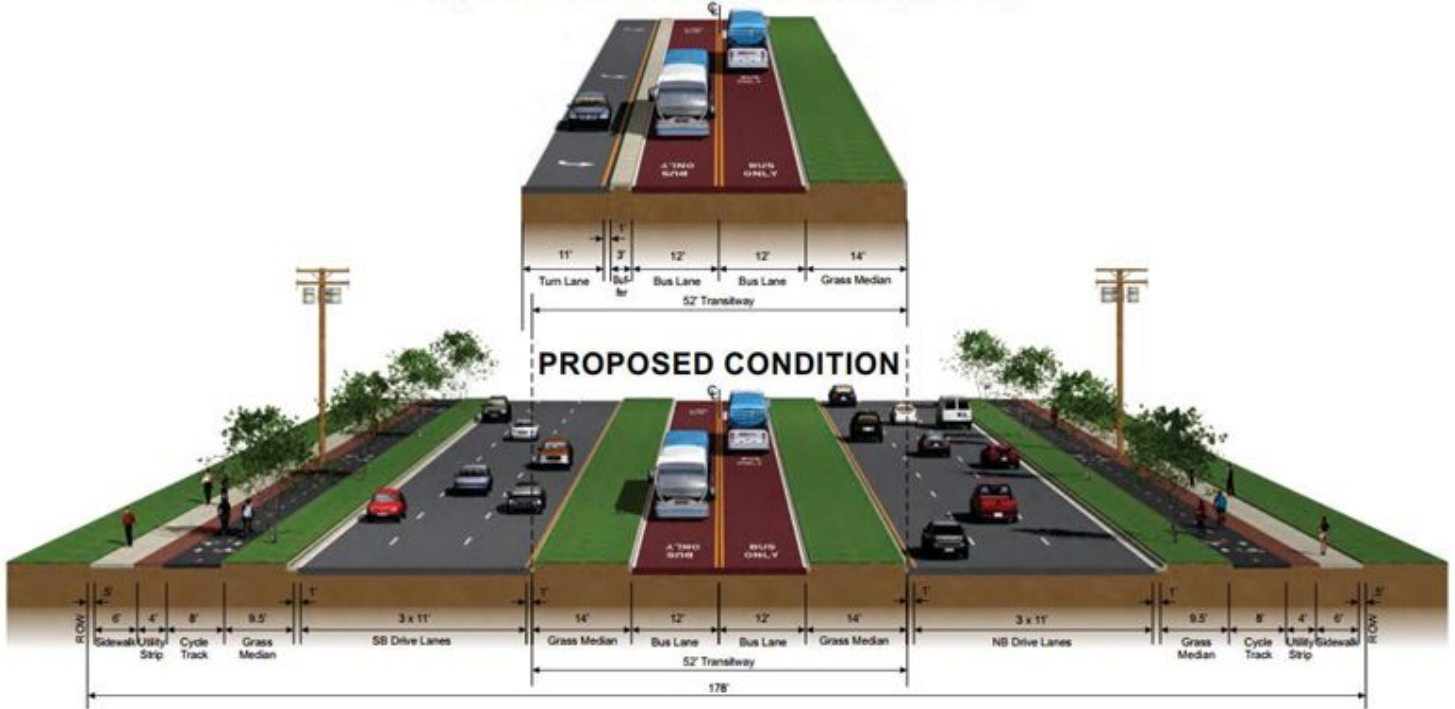
Vanessa Aguayo, CPS, FCDOT

Ajmal 'AJ' Hamidi, CPS, FCDOT

Andrew G. Beacher, Preliminary Engineering Manager, Virginia Department of Transportation (VDOT)

Richmond Highway BRT Typical Cross-section

PROPOSED CONDITION WITH TURN LANE





County of Fairfax, Virginia Attachment 2

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

July 27, 2021

Mr. John Lynch, P.E.
District Administrator
Northern Virginia District
Virginia Department of Transportation
4975 Alliance Drive
Fairfax, Virginia 22030

Subject: Board Endorsement of the Preliminary Richmond Highway (Route 1) Bus Rapid Transit (BRT) Design Plans

Dear Mr. Lynch:

On July 27, 2021, the Fairfax County Board of Supervisors endorsed the preliminary design plans for the Richmond Highway BRT project from Huntington Metrorail Station to Fort Belvoir, as generally presented at the June 30, 2021, virtual public meeting. Major features for the project included a consistent six lane section, a transitway running down the center of Richmond Highway, nine BRT stations, a continues sidewalk and two-way cycle tracks on either side generally through the limits of the project.

As result of public and agency input, County staff will:

- a. In conjunction with VDOT, continue to evaluate if the proposed extra turn lanes (above and beyond the typical BRT section) at the following locations are necessary:
 - a. Shields Avenue/North and South Highway/Fuhrman Lane
 - b. Southgate Drive
 - c. Beacon Hill Road
 - d. Memorial Street
 - e. Arlington Drive
 - f. Boswell Avenue
 - g. Sherwood Hall Lane
 - h. Ladson Lane
 - i. Buckman Road/Mt. Vernon Highway
 - j. Sacramento Drive/Cooper Road
 - k. Jeff Todd Way/Mt. Vernon Memorial Highway

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



Mr. John Lynch, P.E.
July 27, 2021
Page 2 of 2

Staff will return to the Richmond Highway BRT Executive Committee with additional information regarding the above listed intersections and obtain their approval before finalizing the BRT design.

- b. Continue to work with Dominion Power and Woodlawn Plantation to minimize impacts to the plantation property.
- c. Incorporate the design refinements under evaluation for Boswell Avenue as presented on the June 30, 2021, virtual meeting.
- d. Continue to work with VDOT on the corridor-wide speed study to evaluate lowering of the speed on Richmond Highway from 45 miles per hour to 35 miles. Lowering the speed limit may impact certain design issues, including the need for Federally mandated sound walls;
- e. Recognizing that community organizations are opposed to any Federally mandated sound walls, if noise mitigation measures are required, such as sound walls and supported by the affected property owners and residents, staff will continue to work on the design details of the sound walls to minimize the aesthetic impacts of the walls.

Please call Vanessa Aguayo 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: Board of Supervisors
Bryan J. Hill, County Executive
Rachel Flynn, Deputy County Executive
Andrew G. Beacher, Preliminary Engineering Manager, Virginia Department of Transportation (VDOT)
Dan Reinhard, Project Manager, VDOT
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Vanessa Aguayo, Transportation Planner, Capital Projects Section, FCDOT

RICHMOND HIGHWAY

Bus Rapid Transit (BRT)

BRT is an enhanced bus service. It operates much like rail service, with dedicated lanes, but with the flexibility and lower cost of bus vehicles. Fairfax County Department of Transportation (FCDOT) is implementing a bus rapid transit system along North Kings Highway and Richmond Highway from Huntington Metrorail Station to Fort Belvoir.



Review and Comment on the Preliminary Roadway Design!

Comment period open through July 9



Open your phone camera and hover over code, or see URL below.



Find out more: fairfaxcounty.gov/transportation/richmond-hwy-brt

PUBLIC MEETING & COMMENT PERIOD

Online Meeting (Presentation and Q&A)

Wednesday, June 30, 2021 | 6:30-8:00 PM

At this meeting, the project team will share information about the preliminary roadway design, as well as other project updates, including the process for right-of-way acquisition. A recorded presentation in Spanish will be available on the website on June 30.

Visit the interactive map (tinyurl.com/RHBRTmap) to view the draft roadway design, including details such as station platform locations, sidewalk and bicycle facilities, landscaped areas, and more.



Review and Comment on the Preliminary Design through July 9!

Visit the website to review the design and share any comments with the County.

✓ Register for the online meeting

tinyurl.com/RHBRTmtg

✓ View the preliminary design

tinyurl.com/RHBRTmap

✓ Provide your comments

tinyurl.com/RHBRT8en

Free translation is available for all meeting materials. Contact FCDOT at 703-877-5600, TTY 711. FCDOT ensures nondiscrimination in all programs and activities in accordance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA). If you need this information in an alternate format, contact FCDOT at 703-877-5600, TTY 711.



The Richmond Highway BRT project is funded in part by the Northern Virginia Transportation Authority.

For more information, visit: fairfaxcounty.gov/transportation/richmond-hwy-brt

Board Agenda Item
July 27, 2021

CONSIDERATION - 1

Approval of Bylaws and Resolution Restating the Purposes and Membership of the Reston Transportation Service District Advisory Board (RTSDAB)

ISSUE:

Approval of the proposed Bylaws for the Reston Transportation Service District Advisory Board (RTSDAB).

TIMING:

Board consideration is requested on July 27, 2021, so the Bylaws can become effective.

BACKGROUND:

The RTSDAB was established by the Board of Supervisors on April 4, 2017. The Board further clarified the membership of the RTSDAB on May 2, 2017.

On February 10, 2020, the Clerk for the Board of Supervisors distributed a copy of updated Model Bylaws for use by Boards, Authorities, and Commissions to comply with all Virginia laws, County ordinances, and County policies. The RTSDAB has conducted a comprehensive review of the Model Bylaws provided by the Clerk to the Board of Supervisors. The Bylaws were discussed and approved at the fall RTSDAB meeting held on November 16, 2020. The advisory board's approved Bylaws are included as Attachment 1.

Additionally, staff recommends that the purposes and membership of the RTSDAB be memorialized in a resolution. Doing so will be consistent with current practices, capture the membership of the RTSDAB in a single document, and confirm that members serve for two-year terms. The draft resolution incorporates the purposes of the RTSDAB as stated in the April 4, 2017, Board Item through which the Board established the RTSDAB, and states the membership of the RTSDAB as clarified in a Board Matter approved by motion on May 2, 2017 (Attachment 3). Therefore, staff recommends that the purposes, membership, and terms of office of the RTSDAB be confirmed through adopting the resolution appearing at Attachment 2.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

Board Agenda Item
July 27, 2021

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Reston Transportation Service District Advisory Board Bylaws

Attachment 2: Proposed Resolution restating the purposes and membership of the Reston Transportation Service District Advisory Board

Attachment 3: April 4, 2017 Board Item and Excerpt from Board Summary on RTSDAB's Creation and May 2, 2017 Excerpt from Board Summary on Amendment to RTSDAB's Membership

STAFF:

Rachel Flynn, Deputy County Executive

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

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Ray Johnson, Chief, Funding Section, FCDOT

Smitha Chellappa, Senior Transportation Planner, Funding Section, FCDOT

Mei Fang, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Martin Desjardins, Assistant County Attorney

**BYLAWS OF THE RESTON TRANSPORTATION SERVICE DISTRICT
ADVISORY BOARD**

Draft of July 27, 2021

ARTICLE I – NAME

The name of this organization is the Reston Transportation Service District Advisory Board, hereinafter referred to as the “Advisory Board.” These bylaws are effective as of July 27, 2021.

ARTICLE II – PURPOSE

The Advisory Board has been established by the Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”), pursuant to Virginia Code § 15.2-1411, for the purpose of providing input to the Board on: the annual tax rate for the Reston Transportation Service District; the transportation project priorities funded all or in part by the Reston Transportation Service District tax; and project implementation schedules.

ARTICLE III – MEMBERSHIP AND TERM OF OFFICE

Appointments. Membership and appointments to the Advisory Board shall be made by the Board of Supervisors, and members shall serve for such term or terms as established by the Board of Supervisors, currently two years. The Advisory Board must include representation from both Dranesville and Hunter Mill magisterial districts, as well as include a cross section of stakeholders in the Reston area. The Advisory Board will consist of 14 members as follows:

- One member from the Dranesville District;
- Two members from the Hunter Mill District;
- Three members to represent residential owners and homeowner/civic associations;
- One member to represent apartment or rental owner associations;
- Three members to represent commercial or retail ownership interests;
- One member from the Reston Chamber of Commerce to represent lessees of non-residential space;
- One member from the Reston Association;
- One member from the Reston Town Center Association.
- One homeowner member from the Reston Town Center Association.

Resignations and Vacancies. In the event a member cannot serve or resigns from office, then the chairperson, the clerk or the secretary, or the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing.

Holdovers. In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

ARTICLE IV – OFFICERS AND THEIR DUTIES

Elections. The Advisory Board shall be served by three officers: a Chairperson, a Vice-Chairperson, and a Secretary. The Chairperson shall be elected in accordance with the voting provisions of Article V by the Advisory Board members annually and such election shall be scheduled at the first meeting of each calendar year. At the meeting prior to the election meeting, a slate of candidates shall be nominated during a meeting held pursuant to Article V. After nomination, each candidate shall be polled on his or her willingness and ability to serve as Chairperson of the Advisory Board. At the election meeting, the Chairperson shall be elected from among the willing nominees in accordance with the voting provisions of Article V. At the meeting immediately following the election of the Chairperson, the Chairperson shall nominate the Vice Chairperson and Secretary. After nomination, each candidate shall be polled on his or her willingness and ability to serve as an officer of the Advisory Board. The Vice Chairperson and Secretary shall then be elected from among the willing nominees in accordance with the voting provisions of Article V.

Chairperson. The Chairperson presides over meetings of the Advisory Board and is eligible to vote at all times. The Chairperson has the authority to delegate appropriate functions to Advisory Board members and to request assistance from the County staff supporting the Advisory Board.

Vice-Chairperson. In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson. In the event that neither the Chairperson nor the Vice-Chairperson is available, the member present with the longest tenure on the Advisory Board shall act as Chairperson.

Secretary. The Secretary, or a duly appointed agent, shall be responsible for recording the minutes of meetings.

Replacement Officers. If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

ARTICLE V – MEETINGS

VFOIA. All meetings shall be open to the public except as provided under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA"). Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings

including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, 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. The Advisory Board may hold public hearings and report its findings to the Board of Supervisors on Advisory Board issues that affect the public interest.

Notice and Agenda. Notice and the agenda of all meetings shall be provided as required under the VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to Advisory Board members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Frequency. The Advisory Board shall meet at least annually or as determined by the Chairperson. Meetings shall be held at a time agreed to by a majority of the Advisory Board's members, and at a place arranged by the staff of the supporting County department.

Voting. A quorum is necessary for a vote. A majority of the membership of the Advisory Board shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Advisory Board members present and voting. Upon the request of any member, the vote of each member on any issue shall be recorded in the minutes. All votes of Advisory Board members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Conduct. Except as otherwise provided by Virginia law or these bylaws, all meetings shall be conducted in accordance with *Robert's Rules of Order, Newly Revised*, and except as specifically authorized by the VFOIA or other applicable Virginia law, 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.

Public Access. For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under the VFOIA, all materials furnished to Advisory Board members shall be made available for public inspection at the same time such documents are furnished to the Advisory Board members. Pursuant to the VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Advisory Board proceedings.

Records. The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under the VFOIA. Minutes 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. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The supporting County department shall provide staff support to review and approve records and minutes of the meeting.

Attorney-Client Privilege. Records containing legal advice from counsel to the Advisory Board, and advice provided in closed session by legal counsel to the Advisory Board, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Advisory Board to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the Advisory Board's legal counsel.

ARTICLE VI - ATTENDANCE AND PARTICIPATION

Any Advisory Board member who misses three consecutive meetings, or who fails to participate in the work of the Advisory Board without good cause acceptable to a majority of the other Advisory Board members may be subject to removal from the Advisory Board.

ARTICLE VII - REMOVAL

Any Advisory Board member(s) may be recommended to the Board of Supervisors for removal from the Advisory Board for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the Advisory Board members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Advisory Board as provided by law.

ARTICLE VIII – COMMITTEES

Standing. The Chairperson may appoint standing committees and a Chairperson for each with the consent of a majority of the Advisory Board members present and voting.

Special. The Chairperson may appoint special committees and a Chairperson for each with the consent of a majority of the Advisory Board members present and voting.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the Chairperson or at the request of two members, with notice to all members.

ARTICLE IX – ANNUAL REPORT

The Advisory Board shall prepare an annual written recommendation to the Board of Supervisors for the Reston Transportation Service District tax rate for the subsequent fiscal year. This recommendation shall be provided prior to the close of public hearings for the subsequent fiscal year Adopted Budget Plan, and to the Clerk for the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

ARTICLE X – COMPLIANCE WITH LAW AND COUNTY POLICY

The Advisory Board shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

ARTICLE XI – AMENDMENT OF BYLAWS

These bylaws may be amended by the Advisory Board by adopting the proposed amendment or amendments by a two-thirds (2/3) vote of those present and voting and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to bylaws shall become effective upon approval by the Board of Supervisors. Prior to any vote by the Advisory Board, notice of the proposed changes must be given to each member in writing, which can include notice by email, no less than seven days before the meeting at which the changes are considered.

These Bylaws were approved by the Fairfax County Board of Supervisors during a public meeting held on 27th day of July, 2021.

GIVEN under my hand this _____ day of _____, 2021.

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

**RESOLUTION
STATING THE PURPOSES, MEMBERSHIP, AND PROCEDURES OF THE RESTON
TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia ("Board"), held in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway in Fairfax, Virginia, on July 27, 2021, the following resolution was adopted:

WHEREAS, the Board created the Reston Transportation Service District Advisory Board ("RTSDAB") on April 4, 2017, and

WHEREAS, the Board clarified the membership of the RTSDAB by motion on May 2, 2017, and

WHEREAS, the Board has authority to establish the RTSDAB under Virginia Code § 15.2-1411, and

WHEREAS, it is appropriate for the Board to adopt a resolution stating the purposes, membership, and procedures of the RTSDAB,

NOW THEREFORE BE IT RESOLVED that the RTSDAB is authorized to function under the following provisions:

1. PURPOSES. The purpose of the RTSDAB is to provide input to the Board on: the annual tax rate for the Reston Transportation Service District; the transportation project priorities funded all or in part by the Reston Transportation Service District tax; and project implementation schedules.

2. MEMBERSHIP. The RTSDAB must include representation from both Dranesville and Hunter Mill magisterial districts, as well as include a cross section of stakeholders in the Reston area. The RTSDAB shall consist of 14 members as follows, and members shall serve terms of two years:

- One member from the Dranesville District;
- Two members from the Hunter Mill District;
- Three members to represent residential owners and homeowner/civic associations;
- One member to represent apartment or rental owner associations;
- Three members to represent commercial or retail ownership interests;
- One member from the Reston Chamber of Commerce to represent lessees of non-residential space;
- One member from the Reston Association;
- One member from the Reston Town Center Association.
- One homeowner member from the Reston Town Center Association.

3. PROCEDURES. The RTSDAB shall determine its own rules of procedure subject to the following:

(A) The RTSDAB shall have bylaws. All bylaws of the RTSDAB are subject to the approval of the Board.

(B) The RTSDAB shall comply with all Virginia laws, including, but not limited to, the Virginia Freedom of Information Act, Va. Code § 2.2-3700, *et. seq.*, as amended (“VFOIA”), and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100, *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions.

(C) The Fairfax County Department of Transportation shall provide support to the RTSDAB, including a staff coordinator. The staff coordinator shall ensure compliance with the notice, meetings, and recordkeeping requirements of the VFOIA.

GIVEN under my hand this ____ day of _____, 2021.

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

Board Agenda Item
April 4, 2017

REVISED

ACTION – 5

Creation of a Reston Transportation Service District Advisory Board (Dranesville and Hunter Mill Districts)

ISSUE:

Board of Supervisors creation of a Reston Transportation Service District Advisory Board to work with Fairfax County staff and provide input to the Board of Supervisors on the annual tax rate for the Reston Transportation Service District; transportation project priorities funded all or in part by the Service District; and issues related to the Reston Road Fund.

RECOMMENDATION:

The County Executive recommends that the Board create a Reston Transportation Service District Advisory Board (Advisory Board), upon approval of the Reston Transportation Service District (Service District).

TIMING:

Board action on the Advisory Board is requested on April 4, 2017, after the conclusion of the public hearing to consider the adoption of an ordinance creating the Service District. If the Board adopts the ordinance and creates the Service District, the establishment of the Advisory Board will give the Board of Supervisors the opportunity to appoint a full complement of members no later than September 12, 2017. Appointments should be completed by that date so that the Advisory Board can provide input to the Board during the FY2019 Budget process.

BACKGROUND:

On February 28, 2017, the Board endorsed the Reston Transportation Funding Plan and authorized advertisement of an ordinance to create Reston Transportation Service District No. 1. The public hearing will be held on April 4, 2017, at 2:00 p.m. The purpose of the Service District is to generate revenue to fund transportation improvements identified in the Reston Phase I Comprehensive Plan Amendment approved by the Board of Supervisors on February 11, 2014, and the Reston Transportation Funding Plan. The improvements will be constructed over the next 40 years. Staff recommends that if a Service District is created, the Board should establish an advisory board to provide input on the annual tax rate for the Service District, the transportation project priorities funded all or in part by the Service District tax, and project implementation schedules. In addition, staff recommends that the advisory board may provide input on the annual adjustment of road fund rates generating revenue for the grid of streets network.

To ensure a sustainable balance between development and transportation and infrastructure, staff, with input from the Advisory Board, will periodically update the Reston Transportation Funding Plan (Funding Plan), endorsed by the Board of Supervisors on February 28, 2017, to review priorities, construction schedules, and project cash flows analyses for the grid of streets and intersection improvements. The Funding Plan review will be based on the most current data and information available at the time of the review. This review should incorporate participation from the Advisory Board. These reviews are intended to ensure that the estimated funding levels for such improvements are coordinated with the anticipated construction spending and the timing of construction; that the funding is being spent in an appropriate and efficient manner; and that the pace of the transportation improvements and the pace of the residential and non-residential development are proceeding substantially in tandem.

As a part of implementing the aforementioned recommendations, staff recommends that the Advisory Board include representation from both magisterial districts and a cross section of stakeholders in the Reston area. The Advisory Board would consist of ~~13~~ **12** members:

- One member from the Dranesville District;
- Two members from the Hunter Mill District;
- Three members to represent residential owners and homeowner/civic associations;
- One member to represent apartment or rental owner associations;
- Three members to represent commercial or retail ownership interests;
- One member from the Reston Chamber of Commerce to represent lessees of non-residential space;
- One member from the Reston Association;
- ~~One member from the Reston Town Center Association.~~

Summary of Previous Actions Related to Reston Transportation Improvements

On February 11, 2014, the Board of Supervisors adopted the Reston Phase I Comprehensive Plan Amendment (CPA). This amendment included revised land use and additional transportation facilities for the three Reston Transit Station Areas (TSAs): Wiehle-Reston East, Reston Town Center, and Herndon.

The CPA optimizes development opportunities associated with the availability of mass transit, while maintaining the stability of existing land uses outside of the TSAs. The TSA designation allows a mixture of residential, office, retail and other commercial uses and provides opportunities for joint public-private development.

The CPA envisions these revised land uses will be served by a multimodal transportation system. To support that vision, the CPA recommended multimodal

roadway improvements, a grid network, intersection improvements, and supporting transit service.

After the Board's action, the Hunter Mill District Supervisor appointed a Reston Network Analysis Advisory Group (Advisory Group) to refine the transportation network included in the CPA and assist in developing the funding plan. The Advisory Group served as a diversified stakeholder group representing various interests in Reston.

As directed by the Board, FCDOT staff solicited community feedback, through the Advisory Group and the larger community, on the funding structure for the necessary transportation improvements. As a result of this multi-year process, FCDOT staff, and the Advisory Group agreed that the transportation improvements should be funded through a combination of proffer and service district revenue streams.

Staff prepared the proposed Funding Plan in a manner that balances the feedback received. The Board endorsed the Funding Plan on February, 28, 2017. The main aspects of the Funding Plan are as follows:

- The Funding Plan has three categories of improvements:
 - Roadway Improvements;
 - Intersection Improvements; and
 - A Grid of Streets Network.
- Staff assumed that existing transit resources in Reston and Herndon will be re-allocated to increase feeder and circulation service when Phase II of the Metrorail Silver Line opens. As a result, no additional funding in transit was included in the Funding Plan.
- Primary responsibility for funding of Roadway Improvements will come from public revenue sources such as federal, state, regional, and local funding allocated by the County for use on countywide transportation projects.
- Primary responsibility for funding the Grid Network and Intersection Improvements will come from private revenue sources, such as revenues generated within the Reston TSAs and used exclusively for projects in the Reston TSAs. The private funding comprises:
 - Actual construction of grid segments by developers with new development or redevelopment, donation of right-of-way, and/or services.
 - Road Fund: pooled cash proffers on a per residential unit or per commercial square foot basis of new development for use on the Grid Network.
 - Initial recommended rate per residential dwelling unit: \$2,090
 - Initial recommended rate per commercial square foot: \$9.56
 - Service District (to be created): ad-valorem tax, a tax per \$100 of assessed value, on all properties within the Reston TSAs.
 - Rate per \$100 of assessed value: \$0.021

Immediately after approving the Funding Plan on February 28, 2017, the Board approved the Road Fund Guidelines and authorized advertisement of a public hearing for the Service District.

With the creation of the Service District, Board may then levy and collect an annual tax upon the property in the Service District that is subject to local taxation. See Va. Code Ann. § 2.2-2403(6) (Supp. 2016). A Service District tax rate of \$0.021 per \$100 of assessed value is included as part of the FY 2018 Advertised Budget Plan for Board consideration as part of the FY 2018 Adopted Budget Plan.

The County will conduct an annual review of the status of projects related to the Funding Plan, yearly tax rates, prioritization of projects and their timing, and the pace of construction as related to new development. Staff recommends that an Advisory Board be created to advise the Board on such matters.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

None.

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Ray Johnson, Senior Transportation Planner, FCDOT
Janet Nguyen, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Erin C. Ward, Senior Assistant County Attorney
Patricia Moody McCay, Assistant County Attorney

AGENDA ITEMS

56. 2 P.M. – PH ON THE PROPOSED CREATION OF A RESTON TRANSPORTATION SERVICE DISTRICT (DRANESVILLE AND HUNTER MILL DISTRICTS)

AND

A-5 – CREATION OF A RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD (DRANESVILLE AND HUNTER MILL DISTRICTS)

(2:11 p.m.)

(O)
(BACs)

(NOTE: Earlier in the meeting, the Board deferred action on A-5 until after the public hearing. See Clerk’s Summary Item #17.)

A Certificate of Publication was filed from the editor of the *Washington Times* showing that notice of said public hearing was duly advertised in that newspaper in the issues of March 10, March 17, and March 24, 2017.

Tom Biesiadny, Director, Department of Transportation, presented the staff report, noting that a revised Action Item A-5 was distributed.

Discussion ensued, with input from Mr. Biesiadny, concerning the history of the discussions on the Transit Station Area; the geographic boundaries of the District; the funding plan for roadway improvements, intersection improvements, and the grid of streets; responsibilities of the Advisory Board; and, collaboration with the Reston Network Analysis Advisory Group in developing the funding plan with community input.

Following the public hearing, which included testimony by two speakers, discussion ensued, with input from Mr. Biesiadny, concerning boundaries of the District and the funding plan.

Supervisor Hudgins stated that she had items for the record.

Following comments, Supervisor Hudgins moved adoption of the Ordinance creating the Reston Transportation Service District. Chairman Bulova and Supervisor Foust jointly seconded the motion.

Following discussion, the question was called on the motion and it **CARRIED** by a recorded vote of eight, Supervisor Cook, Supervisor Foust, Supervisor Gross, Supervisor Hudgins, Supervisor McKay, Supervisor K. Smith, Supervisor Storck, and Chairman Bulova voting “**AYE**,” Supervisor Herrity and Supervisor L. Smyth abstaining.

Supervisor Hudgins moved that the Board concur in the recommendation of staff and create a Reston Transportation Service District Advisory Board, with one additional resident member from the Reston Town Center Association. The Advisory Board will consist of 13 members, as follows:

- One member from the Dranesville District
- Two members from the Hunter Mill District
- Three members to represent residential owners and homeowner/civic associations
- One member to represent apartment or rental owner associations
- Three members to represent commercial or retail ownership interests
- One member from the Reston Chamber of Commerce to represent lessees of non-residential space
- One member from the Reston Association
- One Resident member from the Reston Town Center Association

Chairman Bulova seconded the motion. Discussion ensued, with input from Mr. Biesiadny, regarding the additional member.

Supervisor Foust asked unanimous consent that the Board direct staff to include input from both the Dranesville and Hunter Mill Supervisors in the selection and deliberations of the group. Without objection, it was so ordered.

Following comments, Supervisor Hudgins asked unanimous consent that the Board direct staff to improve communication with residents throughout the process. Without objection, it was so ordered.

The question was called on the motion and it **CARRIED** by a recorded vote of eight, Supervisor Herrity and Supervisor L. Smyth abstaining.

36. AMENDMENT TO THE RESTON TRANSPORTATION SERVICE ADVISORY BOARD (HUNTER MILL DISTRICT) (11:39 a.m.)

Supervisor Hudgins said that on April 4, 2017, the Board approved the creation of a Reston Transportation Service District Advisory Board. At the time, she suggested amendments to the proposed Advisory Board Structure. She has since learned that there was a miscommunication – her intent was misunderstood.

Supervisor Hudgins clarified her support for the following revised Advisory Board that would consist of 14 members as outlined below:

- One member from the Dranesville District
- Two members from the Hunter Mill District
- Three members to represent residential owners and homeowner/civic associations
- One member to represent apartment or rental owner associations
- Three members to represent commercial or retail ownership interests
- One member from the Reston Chamber of Commerce to represent lessees of non-residential space
- One member from the Reston Association
- One member from the Reston Town Center Association
- **One homeowner member from the Reston Town Center Association**

Therefore, Supervisor Hudgins moved that the Board authorize the proposed amendment to the Reston Transportation Service District Advisory Board as outlined above. Supervisor Foust seconded the motion and it carried by unanimous vote.

Board Agenda Item
July 27, 2021

CONSIDERATION - 2

Approval of Bylaws and Resolution Restating the Purposes and Membership of the Tysons Transportation Service District Advisory Board (TTSDAB)

ISSUE:

Approval of the attached, proposed Bylaws and adoption of a resolution for the Tysons Transportation Service District Advisory Board (TTSDAB).

TIMING:

Board consideration is requested on July 27, 2021, so the Bylaws can be approved, and the proposed resolution can be adopted.

BACKGROUND:

The TTSDAB was established by the Board of Supervisors on January 8, 2013 (Attachment 3). On February 10, 2020, the Clerk for the Board of Supervisors distributed a copy of updated Model Bylaws for use by Boards, Authorities, and Commissions to comply with all Virginia laws, County ordinances, and County policies. The TTSDAB has conducted a comprehensive review of the Model Bylaws provided by the Clerk to the Board of Supervisors. The Bylaws were discussed in late 2020, and the TTSDAB's approved Bylaws are included as Attachment 1.

Additionally, staff recommends that the stated membership of the TTSDAB recognize that the representatives for the Town of Vienna and McLean Citizens Association serve as the two members representing adjacent communities, which was not set out in the January 8, 2013, Board Item but has been the Board's practice. Finally, the purposes of the TTSDAB have been taken from both the 2013 Board item and an amendment to the Motion on that item as reported in the minutes. Therefore, staff therefore recommends that the purposes, membership, and terms of office of the TTSDAB be confirmed through adopting the resolution appearing as Attachment 2.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

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ENCLOSED DOCUMENTS:

Attachment 1: Proposed Tysons Transportation Service District Advisory Board Bylaws

Attachment 2: Proposed resolution restating the purposes and membership of the Tysons Transportation Service District Advisory Board

Attachment 3: January 8, 2013 Board Item and Excerpt from Board Summary on TTSDAB's Creation

STAFF:

Rachel Flynn, Deputy County Executive

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

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Ray Johnson, Chief, Funding Section, FCDOT

Christina Farrar, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Martin Desjardins, Assistant County Attorney

**BYLAWS OF THE TYSONS TRANSPORTATION SERVICE DISTRICT
ADVISORY BOARD**

Draft of July 27, 2021

ARTICLE I – NAME

The name of this organization is the Tysons Transportation Service District Advisory Board, hereinafter referred to as the “Advisory Board”. These bylaws are effective as of July 27, 2021.

ARTICLE II – PURPOSE

The Advisory Board has been established by the Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”), pursuant to Virginia Code § 15.2-1411, for the purpose of providing input to the Board on: the annual tax rate for the Tysons Transportation Service District; the transportation project priorities for projects funded all or in part by the Tysons Transportation Service District; project implementation schedules; and other potential sources of revenue that the Board could explore to possibly help offset the cost for the Tysons Transportation Service District. The Advisory Board may also provide input on the annual adjustment of road fund rates related to generating revenue for the local street network and the Tysons-wide transportation improvements.

ARTICLE III – MEMBERSHIP AND TERM OF OFFICE

Appointments. Membership and appointments to the Advisory Board shall be made by the Board of Supervisors, and members shall serve for such term or terms as established by the Board of Supervisors, currently two years. The Advisory Board must include representation from both the Providence and Hunter Mill magisterial districts, as well as include a cross section of stakeholders in the Tysons area. The Advisory Board consists of 17 members as follows:

- One member from the Dranesville District
- Two members that represent adjacent communities and selected from:
 - Town of Vienna
 - McLean Citizens Association
- Two members from the Providence District;
- Two members from the Hunter Mill District;
- Three members to represent residential owners and homeowner/civic associations;
- One member to represent apartment or rental owner associations;
- Three members to represent commercial or retail ownership interests;

- One member from the Northern Virginia Chamber of Commerce to represent lessees of non-residential space;
- Two members from the Tysons Partnership to represent that organization.

Resignations and Vacancies. In the event a member cannot serve or resigns from office, then the chairperson, the clerk or the secretary, or the County staff coordinator shall advise the Clerk for the Board of Supervisors of the vacancy in writing.

Holdovers. In the event a member completes his or her term of office, remains qualified to serve as a member, and the Board of Supervisors has not reappointed that member to another term or appointed a successor member, then that person may continue to serve until such time as the member is reappointed or a successor member is appointed.

ARTICLE IV – OFFICERS AND THEIR DUTIES

Elections. The Advisory Board shall be served by three officers: a Chairperson, a Vice-Chairperson, and a Secretary. The Chairperson shall be elected in accordance with the voting provisions of Article V by the Advisory Board members annually and such election shall be scheduled at the first meeting of each calendar year. At the meeting prior to the election meeting, a slate of candidates shall be nominated during a meeting held pursuant to Article V. After nomination, each candidate shall be polled on his or her willingness and ability to serve as Chairperson of the Advisory Board. At the election meeting, the Chairperson shall be elected from among the willing nominees in accordance with the voting provisions of Article V. At the meeting immediately following the election of the Chairperson, the Chairperson shall nominate the Vice Chairperson and Secretary. After nomination, each candidate shall be polled on his or her willingness and ability to serve as an officer of the Advisory Board. The Vice Chairperson and Secretary shall then be elected from among the willing nominees in accordance with the voting provisions of Article V.

Chairperson. The Chairperson presides over meetings of the Advisory Board and is eligible to vote at all times. The Chairperson has the authority to delegate appropriate functions to Advisory Board members and to request assistance from the County staff supporting the Advisory Board.

Vice-Chairperson. In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson. In the event that neither the Chairperson nor the Vice-Chairperson is available, the member present with the longest tenure on the Advisory Board shall act as Chairperson.

Secretary. The Secretary, or a duly appointed agent, shall be responsible for recording the minutes of meetings.

Replacement Officers. If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly

elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

ARTICLE V – MEETINGS

VFOIA. All meetings shall be open to the public except as provided under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, as amended ("VFOIA"). Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, 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. The Advisory Board may hold public hearings and report its findings to the Board of Supervisors on Advisory Board issues that affect the public interest.

Notice and Agenda. Notice and the agenda of all meetings shall be provided as required under the VFOIA. All meetings shall be preceded by properly posted notice stating the date, time, and location of each meeting. Notice of a meeting shall be given at least three working days prior to the meeting. Notice of emergency meetings, reasonable under the circumstances, shall be given contemporaneously with the notice provided to the Advisory Board members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. All meetings shall be conducted in public places that are accessible to persons with disabilities.

Frequency. The Advisory Board shall meet at least annually or as determined by the Chairperson. Meetings shall be held at a time agreed to by a majority of the Advisory Board members, and at a place arranged by the staff of the supporting County department.

Voting. A quorum is necessary for a vote. A majority of the membership of the Advisory Board shall constitute a quorum. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Advisory Board members present and voting. Upon the request of any member, the vote of each member on any issue shall be recorded in the minutes. All votes of Advisory Board members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

Conduct. Except as otherwise provided by Virginia law or these bylaws, all meetings shall be conducted in accordance with *Robert's Rules of Order, Newly Revised*, and except as specifically authorized by the VFOIA or other applicable Virginia law, 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.

Public Access. For any meeting, at least one copy of the agenda, all agenda packets, and, unless exempt under the VFOIA, all materials furnished to Advisory Board members shall be made available for public inspection at the same time such documents are furnished to the Advisory Board members. Pursuant to the VFOIA, any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Advisory Board proceedings.

Records. The Secretary or an appointed representative shall ensure that minutes of meetings are recorded as required under the VFOIA. Minutes 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. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The supporting County department shall provide staff support to review and approve records and minutes of the meeting.

Attorney-Client Privilege. Records containing legal advice from counsel to the Advisory Board and advice provided in closed session by legal counsel to the Advisory Board, are protected by the attorney-client privilege and from disclosure under the VFOIA. Any such records or advice should not be disclosed by members of the Advisory Board to any third party, or the privilege against disclosure may be waived. Questions regarding the handling of records or advice subject to attorney-client privilege should be directed to the Advisory Board's legal counsel.

ARTICLE VI - ATTENDANCE AND PARTICIPATION

Any Advisory Board member who misses three consecutive meetings, or who fails to participate in the work of the Advisory Board without good cause acceptable to a majority of the other Advisory Board members may be subject to removal from the Advisory Board.

ARTICLE VII - REMOVAL

Any Advisory Board member(s) may be recommended to the Board of Supervisors for removal from the Advisory Board for cause, including but not limited to cause as set forth in Article VI, by a two-thirds majority vote of all of the Advisory Board members. The members' authority to recommend removal under these bylaws neither limits nor waives the Board of Supervisors' authority to remove members from the Advisory Board as provided by law.

ARTICLE VIII – COMMITTEES

Standing. The Chairperson may appoint standing committees and a Chairperson for each with the consent of a majority of the Advisory Board members present and voting.

Special. The Chairperson may appoint special committees and a Chairperson for each with the consent of a majority of the Advisory Board members present and voting.

All meetings of any such committees shall comply with the notice and other requirements of the VFOIA. To the extent practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the Chairperson or at the request of two members, with notice to all members.

ARTICLE IX – ANNUAL REPORT

The Advisory Board shall prepare an annual written recommendation to the Board of Supervisors for the Tysons Transportation Service District tax rate for the subsequent fiscal year. This recommendation shall be provided prior to the close of public hearings for the subsequent fiscal year Adopted Budget Plan, and to the Clerk for the Board of Supervisors for distribution to the members of the Board of Supervisors and to the County Executive.

ARTICLE X – COMPLIANCE WITH LAW AND COUNTY POLICY

The Advisory Board shall comply with all Virginia laws, including, but not limited to, the VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions. In case of a conflict between a provision of these bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall control.

ARTICLE XI – AMENDMENT OF BYLAWS

These bylaws may be amended by the Advisory Board by adopting the proposed amendment or amendments by a two-thirds (2/3) vote of those present and voting and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to bylaws shall become effective upon approval by the Board of Supervisors. Prior to any vote by the Advisory Board, notice of the proposed changes must be given to each member in writing, which can include notice by email, no less than seven days before the meeting at which the changes are considered.

These Bylaws were approved by the Fairfax County Board of Supervisors during a public meeting held on 27th day of July, 2021.

GIVEN under my hand this _____ day of _____, 2021.

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

**RESOLUTION
STATING THE PURPOSES, MEMBERSHIP, AND PROCEDURES OF THE TYSONS
TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia ("Board"), held in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway in Fairfax, Virginia, on July 27, 2021, the following resolution was adopted:

WHEREAS, the Board created the Tysons Transportation Service District Advisory Board ("TTSDAB") on January 8, 2013, and

WHEREAS, the Board approved the membership, purposes, and terms of the TTSDAB by motion, and

WHEREAS, the Board has authority to establish the TTSDAB under Virginia Code § 15.2-1411, and

WHEREAS, it is appropriate for the Board to adopt a resolution stating the purposes, membership, and procedures of the TTSDAB,

NOW THEREFORE BE IT RESOLVED that the TTSDAB is authorized to function under the following provisions:

1. PURPOSES. The purposes of the TTSDAB are to provide input to the Board on: the annual tax rate for the Tysons Transportation Service District; the transportation project priorities for projects funded all or in part by the Tysons Transportation Service District; project implementation schedules; and other potential sources of revenue that the Board could explore to possibly help offset the cost for the Tysons Transportation Service District. The TTSDAB may also provide input on the annual adjustment of road fund rates related to generating revenue for the local street network and the Tysons-wide transportation improvements.

2. MEMBERSHIP. The TTSDAB shall consist of 17 members as follows, and members shall serve terms of two years:

- One member from the Dranesville District
- Two members that represent adjacent communities and selected from:
 - Town of Vienna
 - McLean Citizens Association
- Two members from the Providence District;
- Two members from the Hunter Mill District;
- Three members to represent residential owners and homeowner/civic associations;
- One member to represent apartment or rental owner associations;
- Three members to represent commercial or retail ownership interests;
- One member from the Fairfax County Chamber of Commerce to represent lessees of non-residential space;
- Two members from the Tysons Partnership to represent that organization.

3. PROCEDURES. The TTSDAB shall determine its own rules of procedure subject to the following:

(A) The TTSDAB shall have bylaws. All bylaws of the TTSDAB are subject to the approval of the Board.

(B) The TTSDAB shall comply with all Virginia laws, including, but not limited to, the Virginia Freedom of Information Act, Va. Code § 2.2-3700, *et. seq.*, as amended (“VFOIA”), and the Virginia State and Local Government Conflict of Interests Act, Virginia Code § 2.2-3100, *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and commissions.

(C) The Fairfax County Department of Transportation shall provide support to the TTSDAB, including a staff coordinator. The staff coordinator shall ensure compliance with the notice, meetings, and recordkeeping requirements of the VFOIA.

GIVEN under my hand this ____ day of _____, 2021.

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

Board Agenda Item
January 8, 2013

ACTION — 1

Creation of a Tysons Transportation Service District Advisory Board

ISSUE:

Board of Supervisors (the Board) creation of a Tysons Transportation Service District Advisory Board to work with Fairfax County staff and provide input to the Board on the annual tax rate for the Tysons Transportation Service District; transportation project priorities for projects funded all or in part by the Service District; and, issues related to the Tysons road funds.

RECOMMENDATION:

The County Executive recommends that the Board create a Tysons Transportation Service District Advisory Board (Advisory Board), pending Board approval of the Tysons Transportation Service District (Service District).

TIMING:

Board action on the Advisory Board is requested subsequent to the creation of the Service District. If such a district is created, creation of an Advisory Board and appointments to it should be made by March 2013, so that the Advisory Board can provide input to the Board during the FY2014 Budget process.

BACKGROUND:

The Planning Commission recommended to the Board that a Service District be created to generate revenue to fund a portion of the anticipated transportation and transit needs within Tysons over the next 40 years. The Planning Commission also recommended that if a Service District was created, the Board should establish an advisory board to provide input on the annual tax rate for the proposed service district, the transportation project priorities of that project funding all or in part by the tax district, and project implementation schedules. In addition, the Planning Commission recommended that the advisory board may provide input on the annual adjustment of road fund rates related to generating revenue for the local street network and the Tysons-wide transportation improvements.

To ensure a sustainable balance between development and transportation infrastructure, the Planning Commission also recommended that staff maintain a Tysons' Transportation Funding Plan (Funding Plan) to include priorities, a schedule of construction, and a cash flow analysis for the Tysons-wide road improvements, based

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upon the recommendations in Table 7 of the Tysons Comprehensive Plan amendment adopted by the Board on June 22, 2010, and the recommendations of the Planning Commission. The Planning Commission further recommended that the Board review the pace and location of residential and non-residential development as part of the annual CIP and budget processes. The Funding Plan review should be based on the most current data and information available at the time of the review, and should include a process that incorporates participation from all stakeholders. These reviews may result in adjustments to the Funding Plan to ensure that the estimated funding levels for such improvements are coordinated with the anticipated construction spending and the timing of construction; that the funding is being spent in an appropriate and efficient manner; and that the pace of the transportation improvements and the pace of the residential and non-residential development are proceeding substantially in tandem.

On October 16, 2012, the Board endorsed the Planning Commission's recommendations and directed staff to implement them and to advertise the creation of the Service District, as authorized by Va. Code Ann. §§ 15.2-2400 to 15.2-2403.1 (2008). If such a service district is adopted, the Board would have the option to levy a Service District tax as part of the annual budget process to provide a stable funding source for transportation infrastructure investments within the Service District.

As a part of implementing the aforementioned recommendations and in keeping with the Board's goal of allowing for flexibility in funding options and sources and making adjustments to the funding plan based upon pace of development, it is recommended that the Advisory Board consist of 17 members, including two members who represent adjacent communities, one member from the Dranesville District and 14 members who own, or represent the owners of, real property within the Service District, as follows:

- Two members from the Providence District;
- Two members from the Hunter Mill District;
- Three members to represent residential owners and homeowner/civic associations;
- One member to represent apartment or rental owner associations;
- Three members to represent commercial or retail ownership interests;
- One member from the Fairfax County Chamber of Commerce to represent lessees of non-residential space;
- Two members from the Tysons Partnership to represent that organization.

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January 8, 2013

FISCAL IMPACT:

The proposed Advisory Board is an integral part of a multi-faceted plan to fund transportation infrastructure improvements in Tysons. If enacted, the Advisory Board would assist the Board in making recommendations for allocating Service District revenue to fund approximately \$253 Million worth of improvements out of a projected total estimated cost of \$3.1 Billion (in 2012 dollars). If enacted, the option to levy a service district tax for 2013 on taxable property within the Service District and the tax rate would be established as part of the FY2014 Budget.

ENCLOSED DOCUMENTS:

None.

STAFF:

Robert A. Stalzer, Deputy County Executive
Barbara A. Byron, Director, Office of Community Revitalization (OCR)
Tom Biesiadny, Director, Department of Transportation
James McGettrick, Assistant County Attorney
Scott Sizer, Revitalization Program Manager, OCR

51. **A-1 – CREATION OF A TYSONS TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD**

AND

A-2 – ESTABLISHMENT OF THE “TYSONS-WIDE” AND “TYSONS GRID OF STREETS” TRANSPORTATION FUNDS, ADOPTION OF THEIR RESPECTIVE GUIDELINES, AND ANNUAL RATE ADJUSTMENT FOR THE EXISTING TYSONS TRANSPORTATION FUND (DRANESVILLE, HUNTER MILL, AND PROVIDENCE DISTRICTS) (4:47 p.m.)

(BACs) (NOTE: Earlier in the meeting, the Board deferred action regarding these items. See Clerk’s Summary Items #12 and #13.)

Chairman Bulova relinquished the Chair to Vice-Chairman Gross and moved the creation of a Tysons Transportation Service District Advisory Board, with the initial membership terms to be for a period of two years, and requested that Board Members submit their proposed members to the Tysons Transportation Service District Advisory Board for action by the Board of Supervisors no later than at its February 12, 2013, meeting, so that the Advisory Board can meet and provide recommendations on a proposed tax rate to the Board in time for its Fiscal Year 2014 budget deliberations. Supervisor Foust seconded the motion.

Supervisor Smyth asked to amend the motion to direct the Tysons Transportation Service District Advisory Board to provide input on other potential sources of revenue that the Board could explore to possibly help offset the cost for the tax district. Following discussion regarding the amendment, with input from Barbara Byron, Director, Office of Community Revitalization, this was accepted.

The question was called on the motion, as amended, and it carried by a vote of nine, Supervisor Herrity being out of the room.

Chairman Bulova moved to:

- Approve the “Tysons-Wide” and “Grid of Streets” Transportation funds
- Adopt the guidelines associated with each fund
- Adjust the annual rate on the existing fund to reflect inflation

The new funds, the guidelines, and the rate change will become effective on February 1, 2013. Supervisor Foust seconded the motion.

Supervisor Gross noted that Appendix A of Action Item A-2 was revised.

Following a query to Ms. Byron, regarding reconstruction of an improved site, the question was called on the motion and it carried by a vote of nine, Supervisor Herrity being out of the room.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

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. *David Berry, Carol A. Hawn, Helen H. Webb, and Adrienne A. Whyte v. Board of Supervisors of Fairfax County*, Case No. CL-2021-0003366 (Fx. Co. Cir. Ct.) (Countywide)
 - 2. *Barry McCabe v. Fairfax County, Fairfax County Animal Shelter, Fairfax County Board of Supervisors, David Rohrer, Ed Roessler, Anthony Matos, Barbara Hutcherson, Amanda Novotny, and John Doe(s)*, Record Nos. 201283, 201134 (Va. Sup. Ct.)
 - 3. *Lamonta Gladney v. Tyler Tyan Timberlake*, Case No. 1:21-cv-287 (E.D. Va.)
 - 4. *Hua Xu aka Eileen Hua Xu Weithers v. The County of Fairfax, Virginia*, Case No. CL-2021-0001014 (Fx. Co. Cir. Ct.)
 - 5. *County of Fairfax, Virginia, ex rel. Joseph A. Glean v. Fairfax County Board of Supervisors*, Case No. CL-2021-0004227 (Fx. Co. Cir. Ct.)
 - 6. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Victor Silva and Rocio Sarmiento*, Case No. GV21-008320 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
 - 7. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Huu D. Tran and Nhanh T. Le*, Case No. GV21-10214 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
 - 8. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Ahmad Mojarrad and Amaneh Mojarrad*, Case No. GV21-010215 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
 - 9. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Izzet Burak Temel*, Case No. GV21-005601 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)

10. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Lejlifer Sinani and Brunilda Bajraktari, Case No. GV21-010613 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)*
11. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia and Leslie B. Johnson, Fairfax County Zoning Administrator v. Alwadi, LLC, Case No. CL-2019-0017284 (Fx. Co. Cir. Ct.) (Lee District)*
12. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Keun Hoon Lee and Yong Ja Lee, Case No. CL-2019-0000700 (Fx. Co. Cir. Ct.) (Lee District)*
13. *Hiba Aziz, Building Official for Fairfax County, Virginia v. NV Flagging, Inc., f/k/a NV Flagging, LLC, Case No. GV21-010612 (Fx. Co. Gen. Dist. Ct.) (Lee District)*
14. *Brian F. Foley, Building Official for Fairfax County, Virginia v. Rosa E. Coreas, Case No. GV21-005234 (Fx. Co. Gen. Dist. Ct.) (Mason District)*
15. *Brian F. Foley, Building Official for Fairfax County, Virginia v. Douglas E. Larios and Alexandria J. Larios, Case No. GV21-005238 (Fx. Co. Gen. Dist. Ct.) (Mason District)*
16. *Brian F. Foley, Building Official for Fairfax County, Virginia v. 3SELS Properties, LLC, Case No. GV21-005233 (Fx. Co. Gen. Dist. Ct.) (Mason District)*
17. *Elizabeth Perry, Fairfax County Property Maintenance Code Official v. Jeffrey D. Holt, Case No. CL-2019-0017203 (Fx. Co. Cir. Ct.) (Mount Vernon District)*
18. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Douglas 2817 LLC, Case No. CL-2021-0009574 (Fx. Co. Cir. Ct.) (Mount Vernon District)*
19. *In Re: May 26, 2021, Decision of the Board of Zoning Appeals of Fairfax County, Virginia, Case No. CL-2021-0009367 (Fx. Co. Cir. Ct.) (Providence District)*
20. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Lisa Kuniyoshi Sullivan, Case No. GV21-010213 (Fx. Co. Gen. Dist. Ct.) (Providence District)*
21. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Nezar A. Arabi and Jalilah H. Asaad, Case No. GV21-010216 (Fx. Co. Gen. Dist. Ct.) (Providence District)*
22. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Thomas E. Carmel and Deborah M. Carmel, Case No. GV21-010614 (Fx. Co. Gen. Dist. Ct.) (Providence District)*

23. *Hiba Aziz, Building Official for Fairfax County, Virginia v. William A. Taylor and Elisa Taylor*, Case No. GV21-10212 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
24. *Board of Supervisors of Fairfax County and William Hicks, Director of the Fairfax County Department of Land Development Services v. Loren W. Hershey and Birgit Hershey*, Case No. CL-2019-0016688 (Fx. Co. Cir. Ct.) (Sully District)
25. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Arash Saffari Ashtiani and Nahal Moussavi*, Case No. GV21-005602 (Fx. Co. Gen. Dist. Ct.) (Sully District)
26. *Hiba Aziz, Building Official for Fairfax County, Virginia v. Tajinder K. Sharma and Barjinder Kumar*, Case No. GV21-005603 (Fx. Co. Gen. Dist. Ct.) (Sully District)
27. *Board of Supervisors of Fairfax County v. MilitaryByOwner Advertising, Inc.*, Case No. GV21-004943 (Fx. Co. Gen. Dist. Ct.) (Braddock, Mount Vernon, Hunter Mill, Providence Districts)

Board Agenda Item
July 27, 2021

3:30 p.m.

Public Hearing on SE 2020-DR-022 (Turner Farmhouse Foundation) to Permit a Public Benefit Association and Modification of the Front Yard Setback for the Existing Farmhouse, Located on Approximately 4.95 Acres of Land Zoned R-1 (Dranesville District)

This property is located at 10609 Georgetown Pike, Great Falls, 22066. Tax Map 12-1 ((1)) 24D (pt.).

On June 22, 2021, the Board of Supervisors deferred this public hearing to July 27, 2021, at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On July 14, 2021, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Bennett were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2020-DR-022, subject to the proposed development conditions dated July 13, 2021, and approval of a waiver of the transitional screening and barrier requirements along the northern lot line.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Catherine Lewis, Branch Chief, DPD

3:30 p.m.

Public Hearing on SE 2021-DR-004 (Falls Church Propco LLC) to Permit a Change in Ownership for an Existing Medical Care Facility, Located on Approximately 7.67 Acres of Land Zoned R-1 and R-4 (Dranesville District)

This property is located at 2100 Powhatan St., Falls Church, 22043. Tax Map 41-1 ((1)) 62B.

PLANNING COMMISSION RECOMMENDATION:

On July 21, 2021, the Planning Commission voted 11-0 (Commissioner Sargeant was absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of SE 2021-DR-004, subject to the proposed development conditions dated July 6, 2021;
- Modification of Additional Standard #5 for medical care facilities;
- Modification of the transitional screening requirements along all property lines in favor of the landscaping shown on the Conceptual Landscape Plan attached to the development conditions contained in Appendix 1 of the Staff Report; and
- Waiver of the barrier requirements along all property lines.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Curtis Rowlette, Planner, DPD

Board Agenda Item
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3:30 p.m.

Public Hearing on SEA 93-Y-036-02 (Trustees of Fairfax Church of Christ) to Amend SE 93-Y-036, Previously Approved for a Place of Worship and a Nursery School with Child Care, to Permit an Increase in Enrollment from 60 up to 200 and Associated Modifications to Site Design and Development Conditions, Located on Approximately 7.72 Acres of Land Zoned R-2, WS and HC (Sully District) (Concurrent with RZ 2020-SU-014)

and

Public Hearing on RZ 2020-SU-014 (Trustees of Fairfax Church of Christ) to Rezone from R-1, WS and HC to R-2, WS and HC to Permit a Place of Worship with Nursery School with Child Care with an Overall Floor Area Ratio of 0.18, Located on Approximately 7.72 Acres of Land (Sully District) (Concurrent with SEA 93-Y-036-02)

This property is located at 3901 and 3919 Rugby Rd., Fairfax, 22033. Tax Map 45-2 ((2)) 31 and 32A.

This property is located on the E. side of Rugby Rd. and S. side of Fairfax County Pkwy. Tax Map 45-2 ((2)) 31 and 32A.

PLANNING COMMISSION RECOMMENDATION:

On July 14, 2021, the Planning Commission voted 10-0-1 (Commissioner Strandlie abstained from the vote and Chairman Murphy and Commissioner Bennett were absent from the meeting) to recommend to the Board of Supervisors the following actions:

- Approval of RZ 2020-SU-014, subject to the execution of proffered conditions consistent with those dated July 9, 2021;
- Approval of SEA 93-Y-036-02, subject to the proposed development conditions dated June 15, 2021;
- Modification of transitional screening requirements along the western, eastern, and southern boundaries of the subject property and a waiver of the barrier requirements along all property lines in favor of landscaping shown on the GDP/SEA Plat;

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- Modification of the requirement for a designated bicycle lane on Rugby Road consistent with existing conditions; and
- Modification of current sight distance requirements for an existing left turn to remain at the northern site entrance which was designed and approved with a site plan under prior VDOT standards.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)

Emma Estes, Planner, DPD

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3:30 p.m.

Public Hearing on AF 2021-SP-001 (Rebecca Crump) to Permit the Creation of an Agricultural and Forestal District, Located on Approximately 22.01 Acres of Land Zoned R-C and WS (Springfield District)

This property is located at 12000 Henderson Rd., Clifton, 20124. Tax Map 95-3 ((1)) 2, 2A, and 2B.

PLANNING COMMISSION RECOMMENDATION:

On July 14, 2021, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Bennett were absent from the meeting) to recommend to the Board of Supervisors approval of AF 2021-SP-001 to amend Appendix F of the Fairfax County Code to establish the Crump Local Agricultural and Forestal District, subject to proposed ordinance provisions dated June 1, 2021.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<https://www.fairfaxcounty.gov/planning-development/board-packages>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Development (DPD)
Ellen Alster, Planner, DPD

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3:30 p.m.

Decision Only on a Proposed Zoning Ordinance Amendment Re: Historic Overlay Districts – State Code Revisions

ISSUE:

The proposed Zoning Ordinance Amendment is initiated in response to a Virginia Code amendment. This year, the General Assembly adopted SB1457, which amended Virginia Code § 15.2-2306: Preservation of historical sites and architectural areas, to add a new subsection (D). This new subsection, which became effective on April 7, 2021, authorizes a locality utilizing the urban county executive form of government to include a provision in an ordinance adopted under § 15.2-2306 that would (i) allow public access to any historic area, landmark, building, structure, or land; or (ii) provide that no subdivision may occur within any historic district unless approved by the review board or, on appeal, by the governing body of the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures therein. This provision applies only to a parcel or parcels that collectively are (i) adjacent to a navigable river and a national park and (ii) in part or as a whole subject to an easement granted to the National Park Service or Virginia Outdoors Foundation on or after January 1, 1973.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held its public hearing on June 9, 2021, and deferred the decision until June 16, 2021. On June 16, 2021, the Planning Commission voted 10-0 (Commissioners Spain and Strandlie were absent from the meeting) to recommend to the Board adoption of the staff recommendation for the Zoning Ordinance Amendment titled “Historic Overlay Districts – State Code Revisions,” as set forth in the Staff Report dated May 19, 2021 (Attachment 1), and subject to revision to subsection 3101.19.C(4) of the proposed text to read as follows:

- (4)** In association with a proposed development, the Board may impose or accept any condition it deems necessary to ensure any proposed use will satisfy the general and additional standards applicable to this HOD. This may include a condition to allow public access to the Wellington at River Farm HOD and its landmark, buildings, structures, or land to the extent permitted by local, state, or federal law.

Attachment 2 incorporates the Planning Commission recommendation into the proposed text of the amendment.

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The Planning Commission also recommended the Board adopt the proposed Zoning Ordinance Amendment with a delayed effective date of 12:01 a.m. on July 1, 2021.

The verbatim of the Planning Commission's June 9 and June 16, 2021, meetings can be found as Attachment 3 and Attachment 4.

RECOMMENDATION:

The County Executive recommends the Board adopt the proposed Zoning Ordinance Amendment with an effective date of 12:01 a.m. on the day following adoption.

TIMING:

Board's authorization to advertise – April 13, 2021; Planning Commission Public Hearing – June 9, 2021, decision deferred to June 16, 2021; Board's Public Hearing – June 22, 2021, at 4:30 p.m., decision deferred to July 27, 2021.

BACKGROUND:

On April 13, 2021, the Board adopted a Resolution directing staff to analyze the changes in SB1457, which took effect on April 7, 2021. SB1457 authorizes the County to include a provision in its historic overlay district (HOD) ordinance to allow public access to such historic area, landmark, building, structure, or land subject to the HOD provisions, or provide that no subdivision may occur within an HOD unless approved by the Architectural Review Board (ARB) or, on appeal, by the Board as being compatible with the historic nature of the area, landmarks, buildings, or structures within an HOD when a property or HOD is adjacent to a navigable river and a national park and, in part or as a whole, subject to an easement granted by the National Park Service or the Virginia Outdoors Foundation on or after January 1, 1973. Considering SB1457's grant of additional authority, the Board directed staff to study and propose an amendment to the Zoning Ordinance that corresponds with this new legislation.

The proposed amendment would grant the ARB additional authority to hear and decide applications for any proposed subdivision—including any subdivision plat, plan, or construction plan—of any parcel or parcels within a HOD whose district-specific regulations require such ARB approval. This additional authority will ensure the ARB's approval will protect the historic district by making a determination that any proposed subdivision would be compatible with the historic nature of the district, including with its landmarks, buildings, or structures. Furthermore, the proposed amendment would require ARB approval of any proposed subdivision in the Wellington at River Farm Historic Overlay District (WHOD). It would also allow the Board, in association with a proposed development, to impose or accept any condition it deems necessary to ensure

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any proposed use will satisfy the general and additional standards applicable to this HOD and may include a condition to allow public access to the WHOD.

REGULATORY IMPACT:

The proposed amendment would give the ARB additional authority to hear and decide applications for any proposed subdivision—including any subdivision plat, plan, or construction plan—of any parcel or parcels within an HOD whose district-specific regulations require such ARB approval and would revise the regulations governing the WHOD to include such a requirement. Furthermore, the proposed amendment would allow the Board, in conjunction with proposed development or as otherwise appropriate, to impose or accept any condition or restriction it deems necessary to ensure any use proposed within the WHOD will be compatible with and will not adversely impact any residential area and may include a condition to allow public access to the WHOD.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report can be found online at:

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zoning%20ordinance/proposed%20amendments/historic-overlay-districts-staff-report.pdf>

Attachment 2 – Proposed Text with Planning Commission Recommendation

Attachment 3 – June 9, 2021, Planning Commission Verbatim can be found online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim060921zoa-historicoverlaydistricts.pdf>

Attachment 4 – June 16, 2021, Planning Commission Verbatim can be found online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim61621zoahistoricoverlaydistrictsstatecodevisions.pdf>

STAFF:

Rachel Flynn, Deputy County Executive

Barbara Byron, Director, Department of Planning and Development (DPD)

Leslie B. Johnson, Zoning Administrator, DPD

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William Mayland, Deputy Zoning Administrator, DPD
Laura Arseneau, Branch Chief, Heritage Resources and Plan Development, DPD
Lily Yegazu, Senior Planner, Zoning Administration Division, DPD

ASSIGNED COUNSEL:

T. David Stoner, Deputy County Attorney
Laura Gori, Senior Assistant County Attorney

In the amendment shown below, text to be deleted is identified with strike-through and highlighting and text to be added is shown in red and underlined.

INSTRUCTION:

1. Amend subsection 3101.6.B to require ARB approval of certain subdivisions as shown below.
2. Amend subsection 3101.19.C by adding new subsections (1) and (4) and renumber the remaining subsections as shown below.

Article 3 – Overlay and Commercial Revitalization Districts

3101. Historic Overlay Districts

6. Administration of Historic Overlay District Regulations

B. Zoning Applications, and Site, Subdivision, Grading and Sports Illumination Plans

(1) ARB review and recommendation is required on applications for a rezoning, special exception, special permit, and variance, and for site plans, subdivision plats (except when review and approval is expressly required), grading plans (except when review and approval is expressly required), and sports illumination plans. This review must include consideration of the potential impact of the proposal on the historical, architectural, or archaeological significance of the district. In addition, the following should also be considered:

~~(1)~~ (a) The impact of the proposed use, including the intensity, density, and scale of development, on existing conditions in the district;

~~(2)~~ (b) Any change to the visual character of the district including views to and from historic, contributing, and non-contributing properties;

~~(3)~~ (c) The location of buildings, structures, streets, parking areas, and planting and landscape features;

~~(4)~~ (d) Any change to existing grades, drainage patterns, landscaping, or similar features as a result of permanent or temporary site construction activities; and

1 ~~(5)~~ (e) Any change to non-structural site elements, such as vehicular access, yard
2 requirements, or utility easements that may affect the historic character of the
3 district.

4 (2) ARB review and approval is required of any application for a proposed subdivision—
5 including any subdivision plat, plan, or construction plan—of any parcel or parcels
6 within a Historic Overlay District whose district-specific regulations require such ARB
7 approval.

8 (a) Any ARB approval must include a determination that the proposed subdivision
9 would be compatible with the historic nature of the district, including with its
10 landmarks, buildings, or structures.

11 (b) In addition, the ARB’s review also includes consideration of the standards in
12 subsection 3101.6.B(1) above.

13 **19. Wellington at River Farm Historic Overlay District**

14 **C. Additional Standards**

15 (1) Any application for a proposed subdivision—including a subdivision plat, subdivision
16 plan or construction plan—requires review and approval by the ARB, in accordance
17 with subsection 3101.6.B(2).

18 ~~(1)~~ (2) Any use approved must utilize the existing historic resources on the property and
19 demonstrate that the use, including any proposed new improvements or
20 additions, will be in harmony with the district-specific purpose of the Wellington
21 at River Farm HOD.

22 ~~(2)~~ (3) Any new improvement and addition—including structure, sign, fence, street
23 furniture, outdoor graphic, and public and private utilities—must be in
24 conformance with adopted Design Guidelines for the Wellington at River Farm
25 HOD ~~Historic Overlay District~~ and must be designed in a manner that will protect
26 and preserve the existing historic resources, viewshed, archaeological resources,
27 and historical character of the area.

28 (4) In association with a proposed development, the Board may impose or accept any
29 condition it deems necessary to ensure any proposed use will satisfy the general and
30 additional standards applicable to this HOD. This may include a condition to allow

1 public access to the Wellington at River Farm HOD and its landmark, buildings,
2 structures, or land to the extent permitted by local, state, or federal law.

3
4 **INSTRUCTION: Revise subsection 8103.4.C to add a new subsection (3) and renumber remaining**
5 **subsections accordingly, as shown below.**

6 **Article 8 – Administration,** 7 **Procedures, and Enforcement**

8 **8103. Review and Decision-Making Bodies**

9 **4. Architectural Review Board**

10 **B. Powers and Duties**

11 The ARB has the following powers and duties:

- 12 **(1)** In a Historic Overlay District, to hear and decide applications for building permits and
13 sign permits.
- 14 **(2)** To review and make recommendations on all applications for rezoning, special
15 exception, special permit, and variance, and any site plan, subdivision plat, grading plan,
16 and sports illumination plan in Historic Overlay Districts.
- 17 **(3)** To hear and decide applications for any proposed subdivision—including any subdivision
18 plan, plat, or construction plan—of any parcel or parcels within a Historic Overlay
19 District whose district-specific regulations require such ARB approval.
- 20 **(3) (4)** To propose, as deemed appropriate, the establishment of additional Historic Overlay
21 Districts and revisions to existing Historic Overlay Districts.
- 22 **(4) (5)** To assist and advise the Board, the Planning Commission, and other County
23 departments and agencies in matters involving historically, architecturally, culturally, or
24 archaeologically significant sites and buildings such as appropriate land usage, parking
25 facilities, and signs.

1 ~~(5)~~ (6) To assist the Zoning Administrator in reviewing of applications for new utility
2 distribution or transmission poles 50-feet or lower in height proposed to be constructed
3 within the right-of-way of a Virginia Byway, or on property that is both adjacent to a
4 Virginia Byway and listed on the County Inventory of Historic Sites. To assist the Zoning
5 Administrator, the ARB may provide application specific recommendations or formulate
6 general recommended criteria or design guidelines for the installation of such poles in
7 these areas.

8 ~~(6)~~ (7) To advise owners of historic buildings or structures on problems of preservation.

9 ~~(7)~~ (8) To formulate recommendations concerning the establishment of an appropriate
10 system of markers for Historic Overlay Districts and selected historic sites and buildings,
11 including proposals for the installation and care of such markers.

12 ~~(8)~~ (9) To advise the Board of Supervisors in the preservation, restoration, and conservation
13 of historic, cultural, or archaeological buildings, sites, or areas in the County by
14 cooperating with and enlisting assistance from the Fairfax County History Commission,
15 the Virginia Department of Historic Resources, the National Trust for Historic
16 Preservation, and other interested parties, both public and private.

17 ~~(9)~~ (10) To make available to the Fairfax County Library, on request, copies of reports, maps,
18 drawings, and other documents bearing on the historical significance and architectural
19 history of landmarks considered by or brought to the attention of the ARB, and permit
20 copies to be made for permanent keeping in the library's historical collection.

21 ~~(10)~~ (11) To employ secretarial assistance and pay salaries, wages, and other incurred
22 necessary expenses, in accordance with appropriations by the Board.

23

Board Agenda Item
July 27, 2021

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2021-00007, 2550 Huntington Avenue,
Located on Huntington Avenue, West of Metroview Parkway (Mount Vernon District)

ISSUE:

Plan Amendment (PA) 2021-00007 proposes to amend the Comprehensive Plan (Plan) for Tax Map Parcels 83-1 ((1)) 34D, 34E and 34F located on the north side of Huntington Avenue, south of Cameron Run, west of Metroview Parkway and east of Robinson Way, such that additional residential development could be achieved. The Plan currently recommends mixed-use development at a 2.0 to a 3.0 floor area ratio (FAR) with residential use not to exceed one-half of the total development and other conditions. If the Plan amendment is adopted, up to an additional 360,000 square feet of residential or some combination of residential and nonresidential uses would be recommended if certain conditions are met.

PLANNING COMMISSION RECOMMENDATION:

On June 23, 2021, the Planning Commission voted 11-0 (Commissioner Bennett was absent from the meeting) to recommend that the Board of Supervisors adopt the Staff recommendation with one modification as shown in the Planning Commission handout, dated June 23, 2021 (included in Attachment 1). The modification would replace the Staff recommendation for the inclusion of independent living and/or assisted living units with a recommendation for universal design in a portion of total residential units.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the Planning Commission recommendation.

TIMING:

Routine.

BACKGROUND:

On January 26, 2021, the Board authorized PA 2021-00007 for the subject property. The subject property is located in Land Unit G of the Huntington Transit Station Area (TSA) in the Mount Vernon Supervisor District and is developed with a 370-unit apartment building (the Parker) and a temporary park space where office and hotel buildings are entitled but remain unbuilt. The adopted Plan for the subject property recommends a mixture of residential, office and restaurant/retail uses at 2.0 to 3.0 FAR

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and a maximum height of 165 feet subject to conditions relating to the provision of high-quality architecture and pedestrian focused design, affordable and workforce housing, revegetation of the Resource Protection Area, urban parks and mitigation of parks impacts, integrated pedestrian and bicycle systems, accommodation of telecommunications antennas, and adherence to adopted Transit Oriented Development policies in the Policy Plan. The Board authorization directed staff to consider a Plan amendment that would remove or modify the limitation on residential development. The Board further directed that the amendment should evaluate the viability of the office market in the Huntington and North Gateway area and as well as the adopted watershed plans. The amendment resulted from a nomination for a land use change through the 2019-2020 South County Site-Specific Plan Amendment (SSPA) process.

Staff recommends adding guidance to the Plan that would allow for residential use above the current recommendation of one-half of the total development with conditions related to first and to the maximum extent feasible second floor community-serving uses retail and/or community use; the inclusion of independent and/or assisted living units; additional urban park improvements and a ¼ acre urban park at the corner of Huntington Avenue and Metroview Parkway, and additional park and planting enhancements to the Cameron Run Trail.

The Mount Vernon District SSPA Task Force supported the staff recommendation with modification to remove the proposed Plan language related to the second-floor non-residential uses and the provision of independent and/or assisted living units.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

The June 23, 2021, Planning Commission verbatim excerpt and handout is available online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim062321pa2021-00007-2550huntingtonavenue.pdf>

The Staff Report for PA 2021-00007 has been previously furnished and is available online at:

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/2550-huntington-ave/2021-00007-staff-report.pdf>

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The Mount Vernon SSPA Task Force Report is available online at:
<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/complanamend/sspa/south/mv%20tf/2550huntingtonavesignedreport.pdf>

STAFF:

Barbara Byron, Director, Department of Planning and Zoning (DPD)

Leanna O'Donnell, Director, Planning Division (PD), DPD

Meghan Van Dam, Branch Chief, Policy & Plan Development Branch (PPDB), PD, DPD

Aaron Klibaner, Planner II, PPDB, PD, DPD

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4:00 p.m.

Public Hearing on Proposed Plan Amendment 2021-00006, 2806 Popkins Lane,
Located on Popkins Lane, West of Bryant Town Court (Mount Vernon District)

ISSUE:

Plan Amendment (PA) 2021-00006 considers adding a Comprehensive Plan (Plan) option for residential use at a density of 5-8 dwelling units per acre (du/ac) on Tax Map Parcel 93-1 ((1)) 7, located on the north side of Popkins Lane, approximately ¼-mile east of Richmond Highway, generally east of Memorial Heights Drive, and west of Bryant Town Court, in the Mount Vernon District. The adopted Plan recommends residential development at 3-4 du/ac on the subject property, if developed as part of the adjacent Memorial Heights neighborhood to the west. The Staff Report, dated June 2, 2021, recommends an alternative for residential use up to 6 du/ac with conditions. The Mount Vernon Site-specific Plan Amendment (SSPA) Task Force voted to retain the current Comprehensive Plan or, if additional conversations are had with the Northern Virginia Conservation Trust, defer the amendment into the SSPA standard track to allow for the review of a potential conservation easement on the property.

PLANNING COMMISSION RECOMMENDATION:

On June 23, 2021, the Planning Commission held a public hearing on the Plan Amendment, and the decision was deferred to July 14, 2021. On July 14, 2021, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Bennett were absent from the meeting) to recommend that the Board of Supervisors adopt the Staff Recommendation as contained in the Staff Report dated June 2, 2021.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the Planning Commission Recommendation.

TIMING:

Routine

BACKGROUND:

On January 26, 2021, the Board authorized PA 2021-00006 for the subject property, located at 2806 Popkins Lane (Tax Map Parcel 93-1 ((1)) 7) in the Mount Vernon District, to evaluate an increase in planned density, as described in the Issue section.

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The Board directed staff to consider workforce housing, the watershed management plan for the area, optimal points of site access, and the potential impacts to the local transportation network.

The area is planned for residential use at a density of 2-3 dwelling units per acre (du/ac) on the Plan Map and 3-4 du/ac if part of the adjacent Memorial Heights neighborhood. The site is zoned R-3, which allows for residential uses at 3 du/ac by-right and light public utility uses (telecommunication facilities) pursuant to the previous approval of a special exception. The site is developed with a Verizon switching station and associated surface parking in a 1.3-acre portion of the site fronting on Popkins Lane. The remaining 4.2 acres in the site's interior and rear are undeveloped, wooded land.

The proposed Plan amendment was reviewed by the Mount Vernon SSPA Task Force in a series of virtual public meetings held from March through May 2021. Task force deliberations centered on the tree cover present on the site and opportunities to preserve as much of the tree cover as possible through a potential conservation easement as an alternative to development of the site under either the current or proposed plan recommendation. At its meeting on May 10, 2021, the task force voted 7-1-2 to retain the existing Plan recommendations and not to recommend a plan amendment due to concerns with the impacts of the proposed amendment to traffic, the environment, and tree cover. The Task Force also voted 7-0-3 to recommend that the study be moved into the SSPA standard track (which contains a longer timeframe of review) to allow for potential discussions to take place between the property owner and the Northern Virginia Conservation Trust regarding a potential conservation easement on the property. Notwithstanding this second task force motion, the Board's authorization for the study included an expedited review, and as a result, the proposed amendment has been scheduled for public hearing.

Staff recommends adding a development option for single family attached or a combination of single family detached and attached units up to a density of 6 du/ac on a 4.2 acre portion of the property with the preservation of approximately 35% of the existing tree cover on the parcel, supplemented through native plantings and management of invasive species. Stormwater management measures should avoid conflicts with the preserved trees. Primary access to the site should be provided from Popkins Lane, with potential secondary access to Preston Avenue or East Lee Avenue.

FISCAL IMPACT:
None

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ENCLOSED DOCUMENTS:

The Planning Commission verbatim excerpt from the public hearing on June 23, 2021 can be found online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim062321pa2021-00006-2806popkinslane.pdf>

The Planning Commission verbatim excerpt of their decision on July 14, 2021 can be found online at:

[https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim071421pa2021-00006-2806popkinslane\(deonly\).pdf](https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim071421pa2021-00006-2806popkinslane(deonly).pdf)

The Staff Report has been previously furnished and is available online at:

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/2806-popkins-lane/2021-00006-staff-report.pdf>

The SSPA Mount Vernon Task Force Report for PA 2021-00006 is available online at:

<https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/sspa/south/mv%20tf/2806popkinslsignedreport.pdf>

STAFF:

Barbara Byron, Director, Department of Planning and Zoning (DPD)

Leanna O'Donnell, Director, Planning Division (PD), DPD

Meghan Van Dam, Branch Chief, Policy & Plan Development Branch (PPDB), PD, DPD

Graham Owen, Planner III, PPDB, PD, DPD

Cedric Suzuki, Planner II, PPDB, PD, DPD

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4:00 p.m.

Public Hearing on Proposed Plan Amendment 2021-00009, 4312 & 4316 Ravensworth Road, South of Little River Turnpike, West of Ravensworth Road (Mason District)

ISSUE:

Plan Amendment (PA) 2021-00009 proposes to amend the Comprehensive Plan (Plan) guidance for Tax Map Parcels (TM) 71-1 ((1)) 20 and 20A in the Annandale Community Business Center (CBC). These two parcels, approximately 2.2-acres combined, are planned for commercial or residential mixed-use up to six stories in height and are developed with a self-storage facility and automobile service station. The Annandale CBC Plan lists self-storage facilities as a discouraged use. The amendment considers an option for both subject parcels to develop with a self-storage facility as one component of a mixed-use development, provided that parcel consolidation and coordinated development are pursued along with conditions addressing streetscape, high-quality architecture, and mid-block connections for pedestrians and cyclists.

PLANNING COMMISSION RECOMMENDATION:

On June 23, 2021, the Planning Commission voted 11-0 (Commissioner Bennett was absent from the meeting) to recommend that the Board of Supervisors adopt the staff and task force recommendation for Plan Amendment 2021-00009, as shown on page 19 of the Staff Report dated June 2, 2021.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the Planning Commission recommendation.

TIMING:

Routine.

BACKGROUND:

On January 26, 2021, the Board authorized PA 2021-00009 for the subject site to consider a four-story self-storage facility use up to 153,332 square feet. The Board's authorization requested that staff evaluate the area's planned new streets and pedestrian corridors; consider a potential design for the self-storage facility that allows for conversion to the commercial or residential uses envisioned for the CBC; and review

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the adopted watershed plan for the area to identify the need for any site-specific recommendations.

The staff recommendation proposes an option for both subject parcels to develop with a self-storage facility as one component of a mixed-use development provided that parcel consolidation and coordinated development are pursued, along with other conditions that address streetscape, high-quality architecture, and mid-block connections for pedestrians and cyclists.

The proposed plan amendment was evaluated in consultation with the Mason District SSPA Task Force, which met three times in March and April 2021. On April 14, 2021, the task force voted 8-1 to concur with the staff recommendation.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:

The June 23, 2021, Planning Commission verbatim excerpt is available online at: www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2021%20verbatim/verbatim062321pa2021-00009-4312and4316ravensworthroad.pdf

The Staff Report for PA 2021-00009 has been previously furnished and is available online at: www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/4312-ravensworth-rd/2021-00009-staff-report.pdf

The Mason SSPA Task Force Report is available online at: www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/compplanamend/4312-ravensworth-rd/mason%20sspa%20-%20pa%202019-00009.pdf

STAFF:

Barbara Byron, Director, Department of Planning and Development (DPD)
Leanna O'Donnell, Director, Planning Division (PD), DPD
Clara Quintero Johnson, Branch Chief, Monitoring and Plan Development Branch, PD, DPD
Bryan Botello, Planner II, Public Facilities and Plan Development Branch, PD, DPD

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4:00 p.m.

Public Hearing to Consider Adoption of Amendments to an Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the Novel Coronavirus Disease 2019 (COVID-19) Emergency and Its Aftermath by Temporarily Approving Outdoor Dining and Outdoor Fitness and Exercise Activities Subject to Certain Conditions, Thereby Suspending Any Requirement for Individualized Approvals of Such Activities

ISSUE:

Virginia Code § 15.2-1413 authorizes the County to adopt ordinances that “provide a method to assure continuity in its government” in the event of a disaster. The COVID-19 emergency is a type of disaster contemplated by this statute. This ordinance temporarily approves outdoor dining and outdoor fitness and exercise activities subject to certain conditions, thereby temporarily suspending the need for individualized approvals for such activities, and thus enables County agencies and deliberative bodies to devote their limited resources to maintaining continuity in government.

RECOMMENDATION:

The County Executive and County Attorney recommend that the Board adopt the ordinance provided as Attachment 1.

TIMING:

Board action is requested on July 27, 2021.

BACKGROUND:

As this Board is aware, on March 12, 2020, the Governor declared a State of Emergency due to COVID-19, and on March 30, he ordered all individuals in Virginia to remain at their place of residence until June 10. He also extended prior orders limiting gatherings to no more than ten people and closing certain businesses until that same date. The Governor later extended the State of Emergency indefinitely.

On May 8, 2020, the Governor issued Executive Order 61, introducing Phase One in the state’s strategy to ease some of the temporary restrictions instituted in Second Amended Executive Order 53 and Executive Order 55 (orders referred to collectively as Phase Zero). On May 12, 2020, the Governor issued Executive Order 62 extending

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Phase Zero for Northern Virginia through May 28, 2020. That order was amended on May 14, 2020, to extend Phase Zero for certain other jurisdictions.

As part of Phase One, restaurants were permitted to reopen to the extent they have seating in outdoor spaces with limited capacity and adequate spacing. Phase One also allowed fitness and exercise facilities to reopen for outdoor activities only. The Governor's executive orders provided additional procedural and regulatory discretion to the Virginia Alcoholic Beverage Control Authority, which has issued guidance for outdoor dining in Topic 16.

With the impending expiration of Phase Zero in Northern Virginia, the Board held a special meeting on May 28 to consider an uncodified emergency ordinance to provide a method to assure continuity in Fairfax County government during the COVID-19 emergency by temporarily approving outdoor dining and outdoor fitness and exercise activities subject to certain conditions, thereby suspending any requirement for individualized approvals of such activities. The Board adopted the emergency ordinance, which would have expired after 60 days unless repealed or readopted.

The Governor allowed Amended Executive Order 62 to expire, moving Northern Virginia into Phase One on May 28, 2020. In Executive Order 65, issued on June 2, the Governor ordered that most of the Commonwealth, but not including Northern Virginia, would move into Phase Two on June 5. Under Phase Two, among other things, indoor dining and indoor fitness and exercise activities were allowed subject to capacity limits; given these limits, the continued allowance for outdoor dining and outdoor fitness and exercise activities remains critical to sustain these businesses. On June 9, 2020, the Governor amended Executive Order 65 to order Northern Virginia's entry into Phase Two on June 12. In Executive Order 67, issued on June 30, the Governor ordered the Commonwealth's entry into Phase Three.

At a regular meeting on July 14, 2020, the Board held a public hearing and adopted this ordinance. As originally adopted, the ordinance allowed only tents with all sides open. With impending cold fall and winter weather, however, establishments will need to be able to enclose tents for the comfort of their patrons and staff. Allowing tents to be enclosed and expressly allowing the use of heaters will promote the ability of establishments to continue in business while following social distancing requirements. On October 20, 2020, the Board adopted amendments clarifying the circumstances when a permit from the fire official is required for a tent or group of tents; allowing tents to be closed on one or more sides; and adding provisions regarding the use of heaters, both inside and outside tents.

Since then, the Governor issued Executive Order 72 and a series of amendments establishing and then easing "Commonsense Surge Restrictions" applicable to

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businesses, public and private in-person gatherings, schools, and institutions of higher education. With the widespread distribution of effective vaccines, the state has now made tremendous progress in combatting COVID-19.

But even as the Governor's Executive Order 79 anticipates the end of statewide public health restrictions, it recognizes that the virus remains a serious risk to unvaccinated people. In addition, new COVID-19 variants continue to be discovered and account for a significant portion of cases in the U.S. It is not yet known to what extent current vaccines will be successful against these variants. In the Fairfax Health District alone, there have been more than 78,000 confirmed and probable cases of COVID-19, and the virus has taken the lives of more than 1,100. While more than half the County's residents have been fully vaccinated, a substantial portion have not received even one dose, including children less than 12 years old, who are not yet eligible to receive vaccinations. Given these factors, there remains an unquantifiable risk of a resurgence of the virus.

The virus's economic impacts have also been particularly dire. The County sustained approximately 50,000 job losses and experienced unemployment claims 28 times the normal rate. A disproportionate number of these job losses were in service industries--particularly the restaurant industry. Although some of these jobs have been recovered, there is still a significant need to address and ameliorate the economic impacts experienced in this sector of the County's economy.

But for this ordinance, under current County ordinances and regulations, business owners would typically be required to pursue a range of applications to allow outdoor dining and outdoor fitness and exercise activities. In the midst of the COVID-19 emergency and its aftermath, the cost and time to meet such requirements would compound the stress on economically challenged businesses, hinder the opportunity presented by relaxed state restrictions to revitalize the County's economy, and likely result in the de facto closure of more such businesses. At the same time, processing and deciding such a multitude of applications on an urgent basis would be extremely difficult, if not impossible, for the County government and would consume extraordinary amounts of time and attention on the part of the County's staff and its deliberative bodies, at a time when they are also strained by the emergency and its impacts. These factors, separately and collectively, would threaten the County's continuity in government if the ordinance were to expire too soon.

The impacts of the COVID-19 emergency are expected to continue well into the future, far beyond the six-month period during which this ordinance was originally designed to be effective. A 2021 amendment to Virginia Code § 15.2-1413 expanded, from six to twelve months, the period within which an ordinance adopted under the statute must cease effect. In keeping with this statutory change, the proposed ordinance

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amendments provide that the ordinance will remain in effect no longer than twelve months after the Board of Supervisors terminates the local Declaration of Emergency. Within that period, the Board will restore normal governmental authority by repealing the ordinance.

As amended, the ordinance would continue not to apply to any town—Clifton, Herndon, or Vienna—unless and until the town’s governing body, by ordinance, decides to be subject to the ordinance.

FISCAL IMPACT:

There is no anticipated direct fiscal impact on the FY 2021 or 2022 County budget; however, it is likely that failure to adopt the proposed amendments—and thus extend the potential effective period of the ordinance to twelve months—the ability of those businesses’ to operate could be severely affected, and they could be forced to seek numerous individualized approvals that would subject various County agencies and deliberative bodies to extraordinary demands.

ENCLOSED DOCUMENTS:

Attachment 1— Proposed Amendments to Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the Novel Coronavirus Disease 2019 (COVID-19) Emergency and Its Aftermath by Temporarily Approving Outdoor Dining and Outdoor Fitness and Exercise Activities Subject to Certain Conditions, Thereby Suspending Any Requirement for Individualized Approvals of Such Activities

STAFF:

Rachel Flynn, Deputy County Executive
Barbara A. Byron, Director, Department of Planning and Development (DPD)
William D. Hicks, P.E., Director, Department of Land Development Services (LDS)
John L. Walser, Battalion Chief, Fire and Rescue Department
Jay Riat, PE, PMP, CBO, Building Official, LDS
Leslie B. Johnson, Zoning Administrator, DPD

ASSIGNED COUNSEL:

T. David Stoner, Deputy County Attorney

1 **AMENDMENTS TO AN UNCODIFIED ORDINANCE TO PROVIDE A METHOD TO**
2 **ASSURE CONTINUITY IN FAIRFAX COUNTY GOVERNMENT DURING THE NOVEL**
3 **CORONAVIRUS DISEASE 2019 (COVID-19) EMERGENCY AND ITS AFTERMATH**
4 **BY TEMPORARILY APPROVING OUTDOOR DINING AND OUTDOOR FITNESS**
5 **AND EXERCISE ACTIVITIES SUBJECT TO CERTAIN CONDITIONS, THEREBY**
6 **SUSPENDING ANY REQUIREMENT FOR INDIVIDUALIZED APPROVALS OF SUCH**
7 **ACTIVITIES**

8 AMENDMENTS TO AN UNCODIFIED ORDINANCE to provide a method to assure
9 continuity in Fairfax County government during the COVID-19 Emergency and its
10 aftermath, as authorized by Virginia Code § 15.2-1413, by temporarily approving
11 outdoor dining and outdoor fitness and exercise activities subject to certain conditions,
12 thereby temporarily suspending the need for individualized approvals for such activities.

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

14 **1. That the following amendments to the this uncodified ordinance are hereby**
15 **adopted:**

16 **A. Purpose of the Ordinance.**

17 This ordinance is intended to provide a method to assure continuity in Fairfax County
18 government as the County continues to address and recover from during the COVID-19
19 emergency. Fairfax County government comprises not only the Board of Supervisors,
20 but also numerous County agencies and deliberative bodies that fulfill essential
21 government functions and provide essential government services within the locality.
22 These provisions are intended to sustain the County's economy and ensure the
23 continued ability of County agencies and deliberative bodies to carry out their functions
24 during this emergency and its aftermath without compromising public safety.

25 This ordinance ~~is~~ was being adopted in response to the COVID-19 outbreak. The World
26 Health Organization declared COVID-19 a global pandemic on March 11, 2020. On
27 March 13, 2020, the President of the United States declared that the COVID-19
28 outbreak in the United States constitutes a National Emergency beginning March 1,
29 2020. On March 12, 2020, Governor Ralph Northam issued a Declaration of a State of
30 Emergency due to Novel Coronavirus (COVID-19). The Governor declared the
31 emergency "to continue to prepare and coordinate our response to the potential spread
32 of COVID-19, a communicable disease of public health threat" and he found that "[t]he
33 anticipated effects of COVID-19 constitute a disaster as described in § 44-146.16 of the
34 Code of Virginia." ~~The Governor's Declaration of a State of Emergency remains in~~
35 ~~effect indefinitely, until amended or rescinded.~~ Effective March 16, 2020, Governor

36 Northam and the State Health Commissioner jointly issued an Order declaring a state
37 public health emergency. On March 17, 2020, the Fairfax County Director of
38 Emergency Management, with the consent of the Board of Supervisors, declared a local
39 state of emergency due to the potential spread of COVID-19. The local Declaration of
40 Emergency remains in effect until the Board of Supervisors takes appropriate action to
41 end the declared emergencyit.

42 ~~The Public Health Emergency Order issued jointly by the Governor and the State Health~~
43 ~~Commissioner effective March 16, 2020, consistent with all other expert opinions,~~
44 ~~observes that COVID-19 spreads from person to person, transmitted via respiratory~~
45 ~~droplets, and can be spread from an infected person who does not have symptoms to~~
46 ~~another person. The Order states that no vaccine or known treatment options exist at~~
47 ~~this time.~~

48 On March 23, 2020, the Governor issued Executive Order 53, which ordered all public
49 and private schools closed for the remainder of the 2019–20 school year and imposed
50 temporary restrictions on restaurants, recreational entertainment, public and private
51 gatherings, and non-essential retail businesses. By virtue of amendments on April 15
52 and May 4, 2020, the restrictions on restaurants and non-essential businesses
53 remained in effect until May 14, 2020. On March 30, 2020, the Governor issued
54 Executive Order 55, which ordered all individuals in Virginia to remain at their places of
55 residence until June 10, 2020, except as set forth in that order and Executive Order 53.

56 On May 8, 2020, the Governor issued Executive Order 61, introducing Phase One in the
57 state’s strategy to ease some of the temporary restrictions instituted in Second
58 Amended Executive Order 53 and Executive Order 55 (orders referred to collectively as
59 Phase Zero). On May 12, 2020, the Governor issued Executive Order 62 extending
60 Phase Zero for Northern Virginia through May 28, 2020. That order was amended on
61 May 14, 2020, to extend Phase Zero for certain other jurisdictions.

62 As part of Phase One, restaurants ~~are~~were permitted to reopen to the extent they have
63 seating in outdoor spaces with limited capacity and adequate spacing. Phase One also
64 ~~allows~~allowed fitness and exercise facilities to reopen for outdoor activities only. The
65 Governor’s executive orders ~~have~~ provided additional procedural and regulatory
66 discretion to the Virginia Alcoholic Beverage Control Authority, which has issued
67 guidance for outdoor dining in Topic 16.

68 With the impending expiration of Phase Zero in Northern Virginia, the Board held a
69 special meeting on May 28 to consider an uncodified emergency ordinance to provide a
70 method to assure continuity in Fairfax County government during the COVID-19
71 emergency by temporarily approving outdoor dining and outdoor fitness and exercise
72 activities subject to certain conditions, thereby suspending any requirement for

73 individualized approvals of such activities. The Board adopted the emergency
74 ordinance, which would have expired after 60 days unless repealed or readopted.

75 The Governor allowed Amended Executive Order 62 to expire, moving Northern Virginia
76 into Phase One on May 28, 2020. In Executive Order 65, issued on June 2, the
77 Governor ordered that most of the Commonwealth, but not including Northern Virginia,
78 would move into Phase Two on June 5. Under Phase Two, among other things, indoor
79 dining and indoor fitness and exercise activities were allowed subject to capacity limits;
80 given these limits, the continued allowance for outdoor dining and outdoor fitness and
81 exercise activities remained critical to sustain these businesses. On June 9, 2020, the
82 Governor amended Executive Order 65 to order Northern Virginia's entry into Phase
83 Two on June 12. In Executive Order 67, issued on June 30, 2020, the Governor
84 ordered the Commonwealth's entry into Phase Three, which further relaxed restrictions
85 on activities.

86 ~~In Executive Order 67, issued on June 30, the Governor ordered the Commonwealth's~~
87 ~~entry into Phase Three. While Phase Three further relaxes restrictions on indoor dining~~
88 ~~and on indoor fitness and exercise activities, they are not completely lifted. In addition,~~
89 ~~there is no assurance against a tightening of state restrictions—as happened with the~~
90 ~~Eastern Region of the Commonwealth in Executive Order 68, issued on July 28 and not~~
91 ~~lifted until September 10. In addition, some patrons might choose to dine or exercise~~
92 ~~outdoors rather than indoors.~~

93 At a regular meeting on July 14, 2020, the Board held a public hearing and adopted this
94 ordinance. As originally adopted, the emergency ordinance allowed only tents with all
95 sides open. With impending cold fall and winter weather, however, establishments will
96 need to be able to enclose tents for the comfort of their patrons and staff. Allowing tents
97 to be enclosed will promote the ability of establishments to continue in business while
98 following social distancing requirements. At a regular meeting on October 20, 2020, the
99 Board held a public hearing and adopted amendments clarifying the circumstances
100 when a permit from the fire official is required for a tent or group of tents; allowing tents
101 to be closed on one or more sides; and adding provisions regarding the use of heaters,
102 both inside and outside tents.

103 Since then, the Governor issued Executive Order 72 and a series of amendments
104 establishing and then easing "Commonsense Surge Restrictions" applicable to
105 businesses, public and private in-person gatherings, schools, and institutions of higher
106 education. With the widespread distribution of effective vaccines, the state has now
107 made tremendous progress in combatting COVID-19.

108 But even as the Governor's Executive Order 79 anticipates the end of statewide public
109 health restrictions, it recognizes that the virus remains a serious risk to unvaccinated

110 people. In addition, new COVID-19 variants continue to be discovered and account for
111 a significant portion of cases in the U.S. It is not yet known to what extent current
112 vaccines will be successful against these variants. In the Fairfax Health District alone,
113 there have been more than 78,000 confirmed and probable cases of COVID-19, and the
114 virus has taken the lives of more than 1,100. While more than half the County's
115 residents have been fully vaccinated, a substantial portion have not received even one
116 dose, including children less than 12 years old, who are not yet eligible to receive
117 vaccinations. Given these factors, there remains an unquantifiable risk of a resurgence
118 of the virus.

119 The virus's economic impacts have also been particularly dire. The County sustained
120 approximately 50,000 job losses and experienced unemployment claims 28 times the
121 normal rate. A disproportionate number of these job losses were in service industries--
122 particularly the restaurant industry. Although some of these jobs have been recovered,
123 there is still a significant need to address and ameliorate the economic impacts
124 experienced in this sector of the County's economy.

125 But for this ordinance, under current County ordinances and regulations, business
126 owners would typically be required to pursue a range of applications to allow outdoor
127 dining and outdoor fitness and exercise activities. In the midst of the COVID-19
128 emergency and its aftermath, the cost and time to meet such requirements would
129 compound the stress on economically challenged businesses, hinder the opportunity
130 presented by relaxed state restrictions to revitalize the County's economy, and likely
131 result in the de facto closure of more such businesses. At the same time, processing
132 and deciding such a multitude of applications on an urgent basis would be extremely
133 difficult, if not impossible, for the County government and would consume extraordinary
134 amounts of time and attention on the part of the County's staff and its deliberative
135 bodies, at a time when they are also strained by the emergency and its impacts. These
136 factors, separately and collectively, would threaten the County's continuity in
137 government if the emergency-ordinance were to expire and not be replaced too soon.

138 The Board of Supervisors desires to continue reducing these impacts of the COVID-19
139 emergency impacts and its aftermath to business owners, to the communities those
140 businesses serve and who wish to support them, and to County government. To that
141 end, this ordinance, like the emergency ordinance it replaced, automatically approves
142 outdoor dining and outdoor fitness and exercise activities that meet certain conditions,
143 including those established by the Governor in Phases One, Two, and Three any
144 applicable executive order of the Governor.

145 Many County businesses have made or are anticipated to make substantial investments
146 in modifying their activities and uses, as allowed by this ordinance, to respond to

147 pandemic and its impacts. Extending this ordinance's effective period—from six months
148 to twelve months after the end of the local state of emergency—will enhance the ability
149 of these businesses to realize a return on their investments while maintaining COVID-
150 related health protocols; the extension will also defer or avoid the need for County
151 processing of numerous applications for such modifications.

152 It is not the intent of this ordinance to infringe on the ability of any town—Clifton,
153 Herndon, or Vienna—to provide a method to assure continuity in its own government.
154 For that reason, the ordinance will not apply in any of those towns unless and until the
155 town's governing body, by ordinance, decides to be subject to this ordinance.

156 **B. Virginia Statutory Authority for the Ordinance.**

157 Virginia Code § 15.2-1413 authorizes localities to adopt an ordinance to “provide a
158 method to assure continuity in its government, in the event of an enemy attack or other
159 disaster,” “[n]otwithstanding any contrary provision of law, general or special.” The
160 Governor's Declaration of a State of Emergency found that “[t]he anticipated effects of
161 COVID-19 constitute a disaster as described in § 44-146.16 of the Code of Virginia.” A
162 2021 amendment to § 15.2-1413 expanded, from six to twelve months, the period within
163 which an ordinance adopted under the statute must cease effect.

164 The Virginia Attorney General has defined “continuity in government” as coordinated
165 efforts undertaken to assure the continuation of local government's essential functions
166 during an emergency.

167 **C. Definitions.**

168 “Continuity in Fairfax County government” includes, without limitation, those actions,
169 and the coordination of actions, that are necessary to assure the continuation of the
170 County's essential functions and services. By way of example and not limitation, such
171 necessary actions include those related to (1) the County's finances, such as the public
172 hearings and adoption of the FY 2021 budget, tax rate, and utilities fees; appropriations
173 of funds; and funding requests; (2) contracts that need Board action; (3) applications,
174 appeals, or other requests that are subject to mandatory or directory time frames for
175 action; (4) satisfying due process or other constitutional requirements; (5) public safety;
176 and (6) measures that help sustain the County's economy.

177 “Emergency” means the outbreak of the respiratory illness referred to as the novel
178 coronavirus or COVID-19, as described in the Governor's Declaration of a State of
179 Emergency and the local Declaration of Emergency, and the spread and effects of
180 COVID-19, which constitute a disaster as defined in Virginia Code § 44-146.16.

181 “Outdoor dining” means delivery, takeout, and outdoor dining and beverage services
182 operated by any restaurant, as defined in this ordinance. The term does not include
183 outdoor entertainment.

184 “Restaurant” includes any restaurant, dining establishment, food court, brewery,
185 microbrewery, distillery, winery, or tasting room.

186 “Fitness and exercise activities” means fitness and exercise activities conducted by any
187 fitness center, gymnasium, recreation center, sports facility, or exercise facility.

188 **D. Expansion of Outdoor Dining and Outdoor Fitness and Exercise Activities.**

189 1. The Board of Supervisors hereby approves, without the need for any
190 individualized determinations, the expanded use of outdoor space for outdoor
191 dining and for fitness and exercise activities, all subject to the following
192 conditions:

193 a. This approval is valid only for establishments located in zoning districts where
194 they are already approved to operate by right, by a proffer condition, by
195 special exception, by special permit, or by other development approval. No
196 further administrative approval, proffer condition amendment, special
197 exception amendment, special permit amendment, or any other development
198 approval is required as long as the outdoor activity complies with all of the
199 conditions of this ordinance. Further, no temporary special permit or other
200 zoning permit is required to close one or more private streets for the purpose
201 of allowing outdoor dining or outdoor fitness and exercise activities. To
202 qualify under this ordinance, an establishment must have a valid Non-
203 Residential Use Permit/Certificate of Occupancy and, in the case of outdoor
204 dining, a Food Establishment Permit.

205 b. This emergency approval automatically expires upon the repeal of this
206 ordinance.

207 c. Occupancy of the outdoor dining area(s) for any single establishment may not
208 exceed 50% of the lowest occupancy load specified on the establishment’s
209 Non-residential Use Permit/Certificate of Occupancy or Maximum Occupancy
210 Certificate. For any outdoor dining area(s) serving multiple establishments,
211 total seating must be no more than 50% of the total combined lowest
212 occupancy loads for all the establishments.

213 d. Seating area(s) must be accessible for disabled patrons.

- 214 e. Any area used for outdoor dining or for fitness and exercise activities must be
215 clearly delineated by cordon, marking or other means.
- 216 f. If a tent is no larger than 900 square feet and is at least 12 feet from any another
217 tent, it requires no permit. If a tent is larger than 900 square feet, it requires a permit
218 from the fire official, through the Office of the Fire Marshal. If multiple tents are
219 separated by less than 12 feet but their combined area does not exceed 900 square
220 feet, no permit is required. If multiple tents are separated by less than 12 feet and
221 their combined area exceeds 900 square feet, a permit from the fire official is
222 required. The normal fee for such a permit is hereby waived for any
223 establishment applying under this ordinance. If the fire official has issued a
224 permit for one or more tents but there is a material change to what was
225 approved, including closure on any side, a new permit is required.
- 226 g. Any tent must be located at least 20 feet from any building that is on a
227 separate lot and be securely anchored to prevent collapse or uplift during
228 inclement weather. Any tent or tent area larger than 900 square feet must be
229 flame resistant with appropriate labeling affixed to the tent material.
- 230 h. No cooking or open flame is permitted under any tent unless approved by the
231 fire official. One or more heaters are allowed as long as they are listed by a
232 nationally recognized testing laboratory for the use and comply with the
233 requirements of the Statewide Fire Prevention Code. Those requirements
234 include, but are not limited to, that any such heater be maintained at least 10
235 feet from any tent exit or combustible material.
- 236 i. All tables, chairs, umbrellas, tents, lighting, and other accessories must be
237 removable and maintained in good visual appearance and condition. The
238 outdoor area must be kept free of trash and debris, and any trash containers
239 must be removed or appropriately stored at the end of each business day.
- 240 j. Any heater used outdoors must comply with the Statewide Fire Prevention
241 Code and the Uniform Statewide Building Code, as applicable. In particular,
242 portable outdoor gas-fired heating appliances, known as patio heaters, are
243 allowed subject to those regulations, which include such requirements as not
244 using the heater within 20 feet of a tent; not storing the heater within a tent;
245 maintaining a five-foot clearance from buildings, combustibles, and exits;
246 ensuring it is a device listed by a nationally recognized testing laboratory; and
247 ensuring that it is used with an integral fuel tank.
- 248 k. No outdoor dining area, outdoor fitness and exercise area, or associated
249 equipment or activity may obstruct a fire lane or fire equipment, such as fire

250 hydrants and fire department connections; any building entrance or exit or
251 any other area marked or designated for life safety or ADA accessibility; or
252 pedestrian passage on any trail, right-of-way, or sidewalk, without adequate
253 alternative pedestrian passage. Street access must be maintained for fire
254 department vehicular response.

255 l. Any outdoor dining area must be located entirely on impervious surfaces,
256 such as existing patios, sidewalks, or paved parking spaces. No additional
257 physical alteration—including, for example, addition or enlargement of any
258 deck or paved surface—may be made to the site to accommodate outdoor
259 dining or fitness and exercise. Outdoor fitness and exercise activities are
260 allowed on impervious surfaces and on adjacent open space as appropriate.

261 m. Adequate onsite parking must be maintained for onsite users. This ordinance
262 does not permit any reduction in the number or accessibility of parking spaces
263 designated for individuals with disabilities. Relocation of any such space
264 requires approval by the County’s building official, must not compromise
265 accessibility, and must not violate any other legal requirement.

266 n. No additional business sign or advertisement is permitted except as permitted
267 under Article 12 (Signs) of the Zoning Ordinance.

268 o. Before using any outdoor area for outdoor dining or for fitness and exercise
269 activities under this ordinance, each establishment is responsible for ensuring
270 that it has the necessary right to do so under this ordinance and that it has
271 permission from the property owner. Each property owner is also responsible
272 for ensuring that no such use occurs on the owner’s property without
273 permission.

274 p. The use must comply with all other requirements of any executive order of the
275 Governor (including but not limited to requirements for social distancing, use
276 of face coverings, and cleaning and disinfection); any rules promulgated by
277 the Virginia Alcoholic Beverage Control Authority (including but not limited to
278 Topic 16); and any other applicable code or ordinance.

279 2. No establishment may operate under this ordinance unless it fully complies with
280 the ordinance and with all other applicable requirements as referenced in
281 paragraph 1(o). Any establishment that fails to fully comply may be subject to
282 criminal and/or civil enforcement, including injunctive relief.

283 **E. Scope of Application.**

284 It is not the intent of this ordinance to infringe on the ability of any town—Clifton,
285 Herndon, or Vienna—under Virginia Code § 15.2-1413 to provide a method to assure
286 continuity in its own government. For that reason, the ordinance will not apply in any of
287 those towns unless and until the town’s governing body, by ordinance, decides to be
288 subject to this ordinance.

289 **F. Supersession of Inconsistent Requirements.**

290 The provisions of this Ordinance apply notwithstanding any contrary provision of law,
291 general or special, as authorized in Virginia Code § 15.2-1413.

292 **2. That these ordinance amendments will become effective upon adoption.**

293 **3. That this ordinance will remain in effect no longer than ~~six~~12 months after the**
294 **Board of Supervisors terminates the local Declaration of Emergency. Within**
295 **that ~~six~~12-month period, the Board will resume normal governmental authority**
296 **in accordance with Virginia Code § 15.2-1413 by repealing this ordinance in**
297 **compliance with Virginia Code § 15.2-1427.**

298 **4. That the sections, subsections, paragraphs, sentences, clauses, phrases, and**
299 **words of this ordinance are severable. If any section, subsection, paragraph,**
300 **sentence, clause, phrase, or word is declared unconstitutional or otherwise**
301 **invalid by the lawful judgment or decree of any court of competent**
302 **jurisdiction, its unconstitutionality or invalidity shall not affect the validity of**
303 **any of the remaining sections, subsections, paragraphs, sentences, clauses,**
304 **phrases, and words of this ordinance, since the same would have been**
305 **enacted by the Board of Supervisors without and irrespective of any**
306 **unconstitutional or otherwise invalid section, subsection, paragraph,**
307 **sentence, clause, phrase or word being included.**

308 GIVEN under my hand this _____ day of _____ 2021.
309
310

311 _____
312 Jill G. Cooper
313 Clerk for the Board of Supervisors
314 Department of Clerk Services

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July 27, 2021

4:00 p.m.

Public Hearing to Consider Adoption of an Amendments to an Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the COVID-19 Emergency and Its Aftermath, as Authorized by Virginia Code § 15.2-1413, by Approving Temporary County-Operated Hypothermia Prevention Shelters, Authorizing a Streamlined Process for Approving Temporary Modifications to Activities, Uses, and Structures in Response to the Emergency and Its Impacts, and Reducing Certain Zoning and Development Fees

ISSUE:

Virginia Code § 15.2-1413 authorizes the County to adopt ordinances that “provide a method to assure continuity in its government” in the event of a disaster. The COVID-19 emergency is a type of disaster contemplated by this statute, and in 2020 the County adopted an ordinance approving temporary County-operated hypothermia prevention shelters and authorizing a streamlined process for approving temporary use modifications in response to the emergency. This ordinance amends the previously adopted ordinance to reflect the expanded timeframe granted by the General Assembly under Virginia Code § 15.2-1413 and to respond more generally to the COVID Emergency and its impacts, as well as to address fee reductions for the hospitality industry.

RECOMMENDATION:

The County Executive and County Attorney recommend that the Board adopt the ordinance provided as Attachment 2.

TIMING:

Board action is requested on July 27, 2021, to enable the County to take advantage of the expanded timeframe granted by the General Assembly, to assure the Zoning Administrator’s ability to allow temporary modifications to activities, uses, and structures where they are needed to address COVID-related impacts, and to reduce certain zoning and development fees to support the recovery of the hospitality industry.

BACKGROUND:

At a meeting on October 6, 2020, the Board of Supervisors adopted an emergency ordinance to establish methods to assure continuity in Fairfax County government by approving temporary County-operated hypothermia prevention shelters and authorizing

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a streamlined process for approving temporary use modifications in response to the emergency. Because an emergency ordinance cannot be enforced for more than 60 days unless it is readopted in conformity with the usual provisions of law, an uncodified ordinance was adopted by the Board on November 17, 2020, to repeal and replace the emergency ordinance.

The proposed amendments to that ordinance are intended to provide a method to assure continuity in Fairfax County government as the County continues to address and recover from the COVID-19 emergency. The World Health Organization declared COVID-19 a global pandemic on March 11, 2020. On March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a National Emergency beginning March 1, 2020. On March 12, 2020, Governor Ralph Northam issued a Declaration of a State of Emergency due to Novel Coronavirus (COVID-19). The Governor declared the emergency “to continue to prepare and coordinate our response to the potential spread of COVID-19, a communicable disease of public health threat” and he found that “[t]he anticipated effects of COVID-19 constitute a disaster as described in § 44-146.16 of the Code of Virginia.” Effective March 16, 2020, Governor Northam and the State Health Commissioner jointly issued an Order declaring a state public health emergency. On March 17, 2020, the Fairfax County Director of Emergency Management, with the consent of the Board of Supervisors, declared a local state of emergency due to the potential spread of COVID-19. The local Declaration of Emergency remains in effect until the Board of Supervisors takes appropriate action to end it.

On March 23, 2020, the Governor issued Executive Order 53, which ordered all public and private schools closed for the remainder of the 2019–20 school year and imposed temporary restrictions on restaurants, recreational entertainment, public and private gatherings, and non-essential retail businesses. By virtue of amendments on April 15 and May 4, 2020, the restrictions on restaurants and non-essential businesses remained in effect until May 14, 2020. On March 30, 2020, the Governor issued Executive Order 55, which ordered all individuals in Virginia to remain at their places of residence until June 10, 2020, except as set forth in that order and Executive Order 53.

On May 8, 2020, the Governor issued Executive Order 61, introducing Phase One in the state’s strategy to ease some of the temporary restrictions instituted in Second Amended Executive Order 53 and Executive Order 55 (orders referred to collectively as Phase Zero). On May 12, 2020, the Governor issued Executive Order 62 extending Phase Zero for Northern Virginia through May 28, 2020. That order was amended on May 14, 2020, to extend Phase Zero for certain other jurisdictions.

The Governor allowed Amended Executive Order 62 to expire, moving Northern Virginia into Phase One on May 28, 2020. In Executive Order 65, issued on June 2, the

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Governor ordered that most of the Commonwealth, but not including Northern Virginia, would move into Phase Two on June 5. On June 9, 2020, the Governor amended Executive Order 65 to order Northern Virginia's entry into Phase Two on June 12. In Executive Order 67, issued on June 30, 2020, the Governor ordered the Commonwealth's entry into Phase Three, which further relaxed restrictions on activities.

Beginning in December 2020, the Governor issued Executive Order 72 and a series of amendments establishing and eventually easing "Commonsense Surge Restrictions" applicable to businesses, public and private in-person gatherings, schools, and institutions of higher education. With the widespread distribution of effective vaccines, the state has now made tremendous progress in combatting COVID-19.

But even as the Governor's Executive Order 79 anticipates the end of statewide public health restrictions, it recognizes that the virus remains a serious risk to unvaccinated people. In addition, new COVID-19 variants continue to be discovered and account for a significant portion of cases in the U.S. It is not yet known to what extent current vaccines will be successful against these variants. In the Fairfax Health District alone, there have been more than 78,000 confirmed and probable cases of COVID-19, and the virus has taken the lives of more than 1,100 people. While more than half the County's residents have been fully vaccinated, a substantial portion have not received even one dose, including children less than 12 years old, who are not yet eligible to receive vaccinations. Given these factors, there remains an unquantifiable risk of a resurgence of the virus.

The virus's economic impacts have also been particularly dire. The County sustained approximately 50,000 job losses and experienced unemployment claims 28 times the normal rate. A disproportionate number of these job losses were in service industries--particularly the restaurant industry. Although some of these jobs have been recovered, there is still a significant need to address and ameliorate the economic impacts experienced in this sector of the County's economy.

Executive Order 68, like earlier such orders, recognized the need "to protect the health, safety, and well-being of Virginians experiencing homelessness during this pandemic." To that end, the Hypothermia Prevention Program is an integral part of Fairfax County's Housing Crisis Response System. Serving over 1,000 people who seek shelter from cold every winter, the program operates from November through March. It operates in some full-time emergency shelters and a series of overflow shelters, the latter typically located in churches and County-owned or -leased buildings. In most years, faith communities have typically provided temporary hypothermia prevention shelters. But in the pandemic, they faced new challenges that rendered them either unable to participate in the program or able to do so only at significantly reduced capacity. To accommodate COVID-related protective measures and a potential increase in the

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number of people needing this service, in 2020 the County anticipated enlarging the program to include more locations and larger facilities. Given the then-imminent cold weather, it was impractical to subject those sites to the time-consuming, individualized approval processes that might ordinarily apply. This ordinance thus identified those sites and included measures to enable their use as emergency shelters around the winter of 2020–21. No changes are proposed to this portion of the ordinance; should modifications to the hypothermia prevention program be necessary for the winter of 2021-22, additional amendments might be necessary.

The Board of Supervisors desires to remove unnecessary obstacles to businesses that seek to return to and stay in business. This ordinance was originally adopted in part to address various modifications to uses, activities, and structures required to comply with COVID-related government requirements and guidelines. With the end of the emergency now seemingly in sight, other modifications will be needed to facilitate businesses' recovery in the face of the emergency's lingering impacts, including public expectations related to public health and safety. Businesses are particularly vulnerable to the risk of a resurgence of disease and its attendant requirements for social distancing, occupancy limitations, and increased ventilation among others. Even if these additional features are not statutory requirements, there is a general expectation in the public and in many businesses that additional precautions are desirable and expected.

This ordinance, as amended, is needed to establish a clear, simple process for determining the permissibility of such modifications under zoning regulations. To that end, this ordinance suspends any proffer, development condition, or ordinance provision to the extent it would otherwise preclude a temporary modification to an activity, use, or structure where the Zoning Administrator determines the modification is needed to respond to the COVID-19 emergency or its impacts. The cost and time to meet ordinary requirements for such modifications would compound the stress on economically challenged businesses, hinder opportunities to revitalize the County's economy, and risk the closure of such businesses. At the same time, processing and deciding a multitude of applications on an urgent basis would be extremely difficult, if not impossible, for the County government. It would consume extraordinary amounts of time and attention on the part of the County's staff and its deliberative bodies, at a time when they are also strained by the emergency and its aftermath. And without a simplified process, there would likely be increased noncompliance, leading to yet more avoidable expenditures of staff time and resources to enforce zoning regulations. These factors, separately and collectively, would threaten the County's continuity in government.

Because various hospitality uses were especially impacted by the COVID-19 emergency, these amendments reduce or waives certain zoning and development fees

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for those businesses, defined in Section C, as they work to reestablish, reconfigure, or expand their spaces during the emergency and its aftermath.

The Department of Planning and Development will reduce fees by 75% for special permits and special exceptions for specific hospitality uses. This includes new special permits and special exceptions as well as amendments to existing approvals. This ordinance identifies the uses eligible for fee reductions as existing hotels; motels; restaurants; catering establishments; craft beverage establishments; indoor commercial recreation establishments; and health and exercise facilities, large or small; all as defined in Chapter 112.1 (Zoning Ordinance) of the Fairfax County Code. The Zoning Administrator will determine eligibility for specific projects for the reduction in fees via requests submitted in writing. Zoning Evaluation Division staff will endeavor to coordinate the reviews for eligible projects and schedule public hearings as quickly as possible.

Land Development Services (LDS) will process more eligible projects than the Department of Planning and Development, as many will be by right or will not need special permit or special exception approval. LDS had initially proposed, as advertised, to reduce fees by 75% for building and trades permit, site permit, construction-related Fire Marshal fees. Working within the confines of the legacy permit application system, FIDO, however, LDS has found a more efficient process than originally proposed for building permit fee reductions in the existing system. Collection of the initial 35% submission fee is proposed, as per Appendix Q, Section I.B(F); and the remaining 65% of fees, which is charged prior to issuance of the building permit, will be waived. All associated resubmissions and trades permits will not be reduced, incentivizing the applicant to submit quality plans ready for approval on the first submission. Trades permits, when plan review is not required, are issued automatically in FIDO, which provides no mechanism other than a refund to reduce fees for eligible projects. Consequently, a reduction in fees for trades permits places a larger burden on staff in multiple business areas than the proposed building permit reduction and is not recommended. For the sake of consistency, site-related fees are also proposed to be reduced by 65%, as are Fire Marshal fees for initial architectural plan review; other Fire Marshal fees would continue to be charged in full—for review of shop drawings, resubmissions, acceptance testing, inspections, and after-hours plan reviews and inspections. LDS fees will be reduced for all eligible permits, plan reviews, and inspections; however, wastewater fixture unit fees, bonding and agreements amounts, and approved proffer amounts will not be reduced by this ordinance. As advertised, the ordinance amendments include an option to waive these LDS fees.

An LDS Project Manager will be assigned as a point of contact for the hospitality industry for the duration of this ordinance, to answer questions and provide guidance in navigating the land development process, as an additional resource. LDS will create a

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webpage that outlines the benefits available by this ordinance, and the process to request them.

The impacts of the COVID-19 emergency are expected to continue well into the future, far beyond the six-month period during which this ordinance was originally designed to be effective. Many County businesses have made or are anticipated to make substantial investments in modifying their activities, uses, and facilities to respond to the pandemic and its impacts. Extending this ordinance's effective period—from six months to twelve months after the end of the local state of emergency—will enhance the ability of these businesses to realize a return on their investments while maintaining COVID-related protocols; the extension will also defer or avoid the need for County processing of numerous applications for such modifications.

Virginia Code § 15.2-1413 expressly authorizes the adoption of the attached ordinance amendments, which provide a means for assuring continuity in County government on multiple fronts. By authorizing the Zoning Administrator to approve modifications needed to meet challenges to the private sector and by reducing certain fees, the ordinance amendments will advance public health, safety, and welfare and support economic recovery, without unduly burdening the various agencies and deliberative bodies that would be involved in processing and approving countless individualized applications.

As amended, the ordinance would continue not to apply to any town—Clifton, Herndon, or Vienna—unless and until the town's governing body, by ordinance, decides to be subject to the ordinance.

FISCAL IMPACT:

Assuming that DPD processes six to eight hospitality industry zoning applications over the life of the ordinance, it can be estimated that \$98,250 to \$131,000 would be forfeited in zoning fee revenue.

Assuming that LDS processes one hospitality industry tenant fit-out per month over the ordinance coverage period, with an average of \$20,000 in permit fees waived, it can be estimated that \$300,000 would be forfeited in permit revenue. Additionally, the staff time needed to manually adjust fees and permit data in our permit and finance offices will equate to approximately 0.5 full time employee (FTE), or about \$75,000.

It is expected that the revenue impact of these fee reductions for the hospitality industry to reestablish, reconfigure or expand a building configuration will not be significant due to the fact that a small number of requests are anticipated in comparison to the total number of permits processed per year. Department of Planning and Development,

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Land Development Services and Fire Marshal staff will work with staff from the Department of Management and Budget to monitor these fees and reductions and any budgetary adjustments will be made at future quarterly reviews as appropriate.

ENCLOSED DOCUMENTS:

Attachment 1—Amendments to an Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the COVID-19 Emergency and Its Aftermath, as Authorized by Virginia Code § 15.2-1413, by Approving Temporary County-Operated Hypothermia Prevention Shelters, Authorizing a Streamlined Process for Approving Temporary Modifications to Activities, Uses, and Structures in Response to the Emergency and Its Impacts, and Reducing Certain Zoning and Development Fees.

Attachment 2—Amendments to an Uncodified Ordinance to Provide a Method to Assure Continuity in Fairfax County Government During the COVID-19 Emergency and Its Aftermath, as Authorized by Virginia Code § 15.2-1413, by Approving Temporary County-Operated Hypothermia Prevention Shelters, Authorizing a Streamlined Process for Approving Temporary Modifications to Activities, Uses, and Structures in Response to the Emergency and Its Impacts, and Reducing Certain Zoning and Development Fees (65% LDS and Fire Marshal fee reductions).

STAFF:

Rachel Flynn, Deputy County Executive
Chris Leonard, Deputy County Executive
Barbara A. Byron, Director, Department of Planning and Development (DPD)
William D. Hicks, Director, Department of Land Development Services (LDS)
Thomas E. Fleetwood, Director, Department of Housing and Community Development
John L. Walser, Battalion Chief, Fire and Rescue Department
Jay Riat, PE, PMP, CBO, Building Official, LDS
Leslie B. Johnson, Zoning Administrator, DPD
Tracy Strunk, Director Zoning Evaluation Division, DPD

ASSIGNED COUNSEL:

T. David Stoner, Deputy County Attorney

1 **AMENDMENTS TO AN UNCODIFIED ORDINANCE TO PROVIDE A METHOD TO**
 2 **ASSURE CONTINUITY IN FAIRFAX COUNTY GOVERNMENT DURING THE NOVEL**
 3 **CORONAVIRUS DISEASE 2019 (COVID-19) EMERGENCY AND ITS AFTERMATH**
 4 **BY APPROVING TEMPORARY COUNTY-OPERATED HYPOTHERMIA**
 5 **PREVENTION SHELTERS AND, AUTHORIZING A STREAMLINED PROCESS FOR**
 6 **APPROVING TEMPORARY USE MODIFICATIONS TO ACTIVITIES, USES, AND**
 7 **STRUCTURES IN RESPONSE TO THE EMERGENCY, AND TO REPEAL THE**
 8 **EMERGENCY ORDINANCE ON THE SAME SUBJECT ADOPTED ON OCTOBER 6,**
 9 **2020, WHICH IS HEREBY REPLACED AND ITS IMPACTS, AND REDUCING**
 10 **CERTAIN ZONING AND DEVELOPMENT FEES**

11 AMENDMENTS TO AN UNCODIFIED ORDINANCE to provide a method to assure
 12 continuity in Fairfax County government during the COVID-19 Emergency and its
 13 aftermath, as authorized by Virginia Code § 15.2-1413, by approving temporary County-
 14 operated hypothermia prevention shelters and, authorizing a streamlined process for
 15 approving temporary use modifications in response to the emergency, and to repeal the
 16 emergency uncodified ordinance on the same subject, which was adopted on
 17 October 6, 2020, and is hereby replaced by this ordinance and its impacts, and reducing
 18 certain zoning and development fees.

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

20 **1. That the following amendments to this uncodified ordinance isare hereby**
 21 **adopted:**

22 **A. Purpose of the Ordinance.**

23 This ordinance is intended to provide a method to assure continuity in Fairfax County
 24 government duringas the County continues to address and recover from the COVID-19
 25 emergency. Fairfax County government comprises not only the Board of Supervisors,
 26 but also numerous County agencies and deliberative bodies that fulfill essential
 27 government functions and provide essential government services within the locality.
 28 These provisions are intended to address significant public health issues, sustain the
 29 County's economy, and ensure the continued ability of County agencies and
 30 deliberative bodies to carry out their functions during this emergency and its aftermath
 31 without compromising public health, safety, and welfare.

32 This ordinance ~~is being~~was adopted in response to the COVID-19 outbreak. The World
 33 Health Organization declared COVID-19 a global pandemic on March 11, 2020. On
 34 March 13, 2020, the President of the United States declared that the COVID-19
 35 outbreak in the United States constitutes a National Emergency beginning
 36 March 1, 2020. On March 12, 2020, Governor Ralph Northam issued a Declaration of
 37 a State of Emergency due to Novel Coronavirus (COVID-19). The Governor declared

38 the emergency “to continue to prepare and coordinate our response to the potential
39 spread of COVID-19, a communicable disease of public health threat” and he found that
40 “[t]he anticipated effects of COVID-19 constitute a disaster as described in § 44-146.16
41 of the Code of Virginia.” ~~The Governor’s Declaration of a State of Emergency remains~~
42 ~~in effect indefinitely, until amended or rescinded.~~ Effective March 16, 2020, Governor
43 Northam and the State Health Commissioner jointly issued an Order declaring a state
44 public health emergency. On March 17, 2020, the Fairfax County Director of
45 Emergency Management, with the consent of the Board of Supervisors, declared a local
46 state of emergency due to the potential spread of COVID-19. The local Declaration of
47 Emergency remains in effect until the Board of Supervisors takes appropriate action to
48 end the declared emergencyit.

49 ~~The Public Health Emergency Order issued jointly by the Governor and the State Health~~
50 ~~Commissioner effective March 16, 2020, consistent with all other expert opinions,~~
51 ~~observes that COVID-19 spreads from person to person, transmitted via respiratory~~
52 ~~droplets, and can be spread from an infected person who does not have symptoms to~~
53 ~~another person. The Order states that no vaccine or known treatment options exist at~~
54 ~~this time.~~

55 On March 23, 2020, the Governor issued Executive Order 53, which ordered all public
56 and private schools closed for the remainder of the 2019–20 school year and imposed
57 temporary restrictions on restaurants, recreational entertainment, public and private
58 gatherings, and non-essential retail businesses. By virtue of amendments on April 15
59 and May 4, 2020, the restrictions on restaurants and non-essential businesses
60 remained in effect until May 14, 2020. On March 30, 2020, the Governor issued
61 Executive Order 55, which ordered all individuals in Virginia to remain at their places of
62 residence until June 10, 2020, except as set forth in that order and Executive Order 53.

63 On May 8, 2020, the Governor issued Executive Order 61, introducing Phase One in the
64 state’s strategy to ease some of the temporary restrictions instituted in Second
65 Amended Executive Order 53 and Executive Order 55 (orders referred to collectively as
66 Phase Zero). On May 12, 2020, the Governor issued Executive Order 62 extending
67 Phase Zero for Northern Virginia through May 28, 2020. That order was amended on
68 May 14, 2020, to extend Phase Zero for certain other jurisdictions.

69 The Governor allowed Amended Executive Order 62 to expire, moving Northern Virginia
70 into Phase One on May 28, 2020. In Executive Order 65, issued on June 2, the
71 Governor ordered that most of the Commonwealth, but not including Northern Virginia,
72 would move into Phase Two on June 5. On June 9, 2020, the Governor amended
73 Executive Order 65 to order Northern Virginia’s entry into Phase Two on June 12. In
74 Executive Order 67, issued on June 30, 2020, the Governor ordered the
75 Commonwealth’s entry into Phase Three, which further relaxed restrictions on activities.

76 ~~In Executive Order 67, issued on June 30, the Governor ordered the Commonwealth's~~
77 ~~entry into Phase Three. While Phase Three further relaxed restrictions on activities,~~
78 ~~they are not completely lifted. In addition, there is no assurance against a retightening~~
79 ~~of state restrictions—as happened with the Eastern Region of the Commonwealth in~~
80 ~~Executive Order 68, issued on July 28 and not lifted until September 10.~~

81 ~~Although the Governor's executive orders have typically included exceptions for the~~
82 ~~operation of government and for access to essential services for low income residents,~~
83 ~~the County has nonetheless endeavored to observe and encourage sound public health~~
84 ~~and safety practices in all its operations. Between the Governor's executive orders and~~
85 ~~state guidelines for all business sectors, the practices required or recommended involve~~
86 ~~such measures as physical distancing, enhanced cleaning and disinfection, health~~
87 ~~screening, occupancy limits, and other limits on the size of groups. Together, these~~
88 ~~practices significantly increase the amount of space needed for various activities.~~

89 ~~Executive Order 68, like earlier such orders, recognizes~~Beginning in December 2020,
90 the Governor issued Executive Order 72 and a series of amendments establishing and
91 eventually easing "Commonsense Surge Restrictions" applicable to businesses, public
92 and private in-person gatherings, schools, and institutions of higher education. With the
93 widespread distribution of effective vaccines, the state has now made tremendous
94 progress in combatting COVID-19.

95 But even as the Governor's Executive Order 79 anticipates the end of statewide public
96 health restrictions, it recognizes that the virus remains a serious risk to unvaccinated
97 people. In addition, new COVID-19 variants continue to be discovered and account for
98 a significant portion of cases in the U.S. It is not yet known to what extent current
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102 residents have been fully vaccinated, a substantial portion have not received even one
103 dose, including children less than 12 years old, who are not yet eligible to receive
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186 to twelve months after the end of the local state of emergency—will enhance the ability
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188 related health protocols; the extension will also defer or avoid the need for County
189 processing of numerous zoning applications for such modifications.

190 It is not the intent of this ordinance to infringe on the ability of any town—Clifton,
191 Herndon, or Vienna—to provide a method to assure continuity in its own government.
192 For that reason, the ordinance will not apply in any of those towns unless and until the
193 town's governing body, by ordinance, decides to be subject to this ordinance.

194 **B. Virginia Statutory Authority for the Ordinance.**

195 Virginia Code § 15.2-1413 authorizes localities to adopt an ordinance to “provide a
196 method to assure continuity in its government, in the event of an enemy attack or other
197 disaster,” “[n]otwithstanding any contrary provision of law, general or special.” The
198 Governor’s Declaration of a State of Emergency found that “[t]he anticipated effects of
199 COVID-19 constitute a disaster as described in § 44-146.16 of the Code of Virginia.” A
200 2021 amendment to § 15.2-1413 expanded the time, from six to twelve months, the
201 period within which an ordinance adopted under the statute must cease effect.

202 The Virginia Attorney General has defined “continuity in government” as coordinated
203 efforts undertaken to assure the continuation of local government’s essential functions
204 during an emergency.

205 **C. Definitions.**

206 “Continuity in Fairfax County government” includes, without limitation, those actions,
207 and the coordination of actions, that are necessary to assure the continuation of the
208 County’s essential functions and services. By way of example and not limitation, such
209 necessary actions include those related to (1) the County’s finances, such as the public
210 hearings and adoption of the ~~FY 2021~~ County budget, tax rate, and utilities fees;
211 appropriations of funds; and funding requests; (2) contracts that need Board action;
212 (3) applications, appeals, or other requests that are subject to mandatory or directory
213 time frames for action; (4) satisfying due process or other constitutional requirements;
214 (5) public health and safety; and (6) measures that help sustain the County’s economy.

215 “Emergency” means the outbreak of the respiratory illness referred to as the novel
216 coronavirus or COVID-19, as described in the Governor’s Declaration of a State of
217 Emergency and the local Declaration of Emergency, and the spread and effects of
218 COVID-19, which constitute a disaster as defined in Virginia Code § 44-146.16.

219 “Hospitality uses” means any hotel or motel; restaurant, catering establishment, or craft
220 beverage establishment; indoor commercial recreation establishment; or health and
221 exercise facility, large or small—as these uses are defined in the County’s Zoning
222 Ordinance (Chapter 112.1 of the County Code).

223 “Hypothermia prevention shelter” means any facility that provides a temporary shelter
224 for people experiencing homelessness, does not require occupants to sign leases or
225 occupancy agreements, and is operated by Fairfax County during the fall and winter
226 seasons to prevent injury, illness, and death due to cold weather. This use includes
227 providing transportation to or from the shelter via van or other means; space for
228 overnight stays; warming centers during the day; and provision of meals or other food to
229 shelter occupants, staff, and volunteers.

230 “Temporary” means not exceeding the period this ordinance is in effect.

231 “Zoning Administrator” means the County’s Zoning Administrator or her designee within
232 the Department of Planning and Development.

233 **D. Hypothermia prevention shelters.**

234 1. The Board of Supervisors hereby approves the establishment of one or more
235 temporary, hypothermia prevention shelters on any of the sites identified in
236 **Appendix A** from November 1, 2020, until April 1, 2021. The use in such a
237 location is hereby deemed a feature shown on the Comprehensive Plan. No
238 further administrative approval, proffer condition amendment, special exception
239 amendment, special permit amendment, or any other development approval is
240 required as long as the hypothermia prevention shelter complies with all of the
241 conditions of this ordinance.

242 2. For purposes of this ordinance, the Board hereby temporarily suspends any
243 proffer, development condition, or ordinance provision that would otherwise
244 restrict the establishment of a hypothermia shelter under this ordinance.

245 3. Any hypothermia prevention shelter established under this ordinance or the prior
246 emergency ordinance must operate primarily within one or more existing
247 buildings.

248 4. Operating a hypothermia prevention shelter changes the application of the state
249 building code such that the facility would temporarily become one of transient
250 overnight housing. In doing so, additional life safety measures apply. Review,
251 inspection, and approval of each building, or portion thereof, by the building
252 official and fire official is required to ensure that the temporary use is safe and
253 meets the spirit and functional intent of the current Uniform Statewide Building
254 Code. Approval is not guaranteed and may be conditional, such as, but not
255 necessarily limited to, requiring the installation of smoke and carbon monoxide
256 detectors/alarms, requiring panic hardware on doors, and limiting the occupant
257 load.

258 **E. Temporary, COVID-necessitated use modifications.**

259 1. The Board of Supervisors hereby suspends any proffer, development condition,
260 or ordinance provision to the extent it would otherwise preclude a temporary
261 modification to an activity, use, or structure where the Zoning Administrator
262 determines the modification is needed to ~~comply with state or other~~
263 governmental respond to the COVID-related guidelines 19 emergency and
264 requirements its impacts. In making such a determination the Zoning
265 Administrator may impose reasonable conditions. Any request for a modification

266 must be submitted in writing to the Zoning Administrator, who may require
267 additional submission material.

268 2. This provision does not generally apply to property zoned to any R district or to
269 the residential portion of any P district; however, it does apply to any approved
270 public use, child care center, independent or assisted living facility, school, place
271 of worship, or other ~~place of public assembly~~ nonresidential use, regardless of
272 zoning district.

273 3. The Zoning Administrator may revoke an approval given under this ordinance or
274 the prior emergency ordinance if the Zoning Administrator determines that an
275 establishment is being operated in a manner that is inconsistent with the
276 approval or that otherwise adversely impacts the health, safety, and welfare of
277 the community.

278 **F. Fee Reductions [Option: “and Waivers”].**

279 1. Special exception and special permit application fees, as set forth in
280 Section 8102 of the Zoning Ordinance, are hereby reduced by 75% of the
281 prevailing fee for hospitality uses, as defined in Section C above. A request for
282 reduction in special exception or special permit fees must be submitted in writing
283 to the Zoning Administrator.

284 2. The following fees, —established in Appendix Q of the County Code and
285 collected by Land Development Services and the Office of the Fire Marshal, —
286 are hereby reduced by 75% [Option: “waived”] when they are being incurred to
287 reestablish, reconfigure or expand a building configuration for a hospitality use,
288 as defined in Subsection- C above:

289 I. Building Development Fees

290 A. Standard Fees

291 B. Building Permit and Other Fees

292 C. Mechanical Permit Fees

293 D. Electrical Permit Fees

294 E. Plumbing Permit Fees

295 G. Vertical Transportation Permit Fees

296 H. Fire Prevention Division (Fire Marshal) Fees

297

298 II. Site Development Fees

299 A. Plan and Document Review Fees

- 300 C. Site Inspection Fees
- 301 D. Fire Prevention Division (Fire Marshal) Fees
- 302 E. Site Permit Fees
- 303 F. Waiver, Exception, Modification and Exemption Fees

304

305 III. Miscellaneous Fees

306 These fee reductions do not include fees paid to the Department of Public Works
307 and Environmental Services, Wastewater Management Planning & Monitoring
308 Branch per Chapter 67, article 10, of the County Code. A request for any fee
309 reduction must be submitted in writing to the Director of Land Development
310 Services.

311 **F.G. Scope of Application.**

312 It is not the intent of this ordinance to infringe on the ability of any town—Clifton,
313 Herndon, or Vienna—under Virginia Code § 15.2-1413 to provide a method to assure
314 continuity in its own government. For that reason, the ordinance will not apply in any of
315 those towns unless and until the town’s governing body, by ordinance, decides to be
316 subject to this ordinance.

317 **G.H. Supersession of Inconsistent Requirements.**

318 The provisions of this Ordinance apply notwithstanding any contrary provision of law,
319 general or special, as authorized in Virginia Code § 15.2-1413.

320 **2. That this ordinance will become effective upon adoption.**

321 **3. That this ordinance will remain in effect no longer than ~~six~~12 months after the**
322 **Board of Supervisors terminates the local Declaration of Emergency. Within**
323 **that ~~six~~12-month period, the Board will resume normal governmental authority**
324 **in accordance with Virginia Code § 15.2-1413 by repealing this ordinance in**
325 **compliance with Virginia Code § 15.2-1427.**

326 **4. That the sections, subsections, paragraphs, sentences, clauses, phrases, and**
327 **words of this ordinance are severable. If any section, subsection, paragraph,**
328 **sentence, clause, phrase, or word is declared unconstitutional or otherwise**
329 **invalid by the lawful judgment or decree of any court of competent**
330 **jurisdiction, its unconstitutionality or invalidity shall not affect the validity of**
331 **any of the remaining sections, subsections, paragraphs, sentences, clauses,**
332 **phrases, and words of this ordinance, since the same would have been**

333 **enacted by the Board of Supervisors without and irrespective of any**
334 **unconstitutional or otherwise invalid section, subsection, paragraph,**
335 **sentence, clause, phrase or word being included.**

336 GIVEN under my hand this _____ day of _____ 2021.

337

338

339

340

341

342

343

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

AMENDMENTS TO AN UNCODIFIED ORDINANCE TO PROVIDE A METHOD TO ASSURE CONTINUITY IN FAIRFAX COUNTY GOVERNMENT DURING THE NOVEL CORONAVIRUS DISEASE 2019 (COVID-19) EMERGENCY AND ITS AFTERMATH BY APPROVING TEMPORARY COUNTY-OPERATED HYPOTHERMIA PREVENTION SHELTERS AND, AUTHORIZING A STREAMLINED PROCESS FOR APPROVING TEMPORARY USE MODIFICATIONS TO ACTIVITIES, USES, AND STRUCTURES IN RESPONSE TO THE EMERGENCY AND ITS IMPACTS, AND REDUCING CERTAIN ZONING AND DEVELOPMENT FEES, AND TO REPEAL THE EMERGENCY ORDINANCE ON THE SAME SUBJECT ADOPTED ON OCTOBER 6, 2020, WHICH IS HEREBY REPLACED

Appendix A

Potential Hypothermia Prevention Shelter Sites by Human Services Region

Region 1:

1. South County Building – 8350 Richmond Highway, Alexandria, VA 22309

Region 2:

2. Lincolnia Senior Center – 4710 N Chambliss Street, Alexandria, VA 22312

Region 3:

3. North County Human Services Building – 1850 Cameron Glen Drive, Reston, VA 20190

Region 4:

4. Braddock Glen (Senior Center) – 4027-B Olley Lane, Fairfax, VA 22032

Countywide Backup:

1. Government Center – 12000 Government Center Parkway, Fairfax, VA 22035
2. Pennino Building – 12011 Government Center Parkway, Fairfax, VA 22035
3. Herrity Building – 12055 Government Center Parkway, Fairfax, VA 22035
4. Former Container Store – 8508 Leesburg Pike, Vienna, VA 22182

1 **AMENDMENTS TO AN UNCODIFIED ORDINANCE TO PROVIDE A METHOD TO**
 2 **ASSURE CONTINUITY IN FAIRFAX COUNTY GOVERNMENT DURING THE NOVEL**
 3 **CORONAVIRUS DISEASE 2019 (COVID-19) EMERGENCY AND ITS AFTERMATH**
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 8 **EMERGENCY ORDINANCE ON THE SAME SUBJECT ADOPTED ON OCTOBER 6,**
 9 **2020, WHICH IS HEREBY REPLACED AND ITS IMPACTS, AND REDUCING**
 10 **CERTAIN ZONING AND DEVELOPMENT FEES**

11 AMENDMENTS TO AN UNCODIFIED ORDINANCE to provide a method to assure
 12 continuity in Fairfax County government during the COVID-19 Emergency and its
 13 aftermath, as authorized by Virginia Code § 15.2-1413, by approving temporary County-
 14 operated hypothermia prevention shelters and, authorizing a streamlined process for
 15 approving temporary use modifications in response to the emergency, and to repeal the
 16 emergency uncodified ordinance on the same subject, which was adopted on
 17 October 6, 2020, and is hereby replaced by this ordinance and its impacts, and reducing
 18 certain zoning and development fees.

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

20 **1. That the following amendments to this uncodified ordinance isare hereby**
 21 **adopted:**

22 **A. Purpose of the Ordinance.**

23 This ordinance is intended to provide a method to assure continuity in Fairfax County
 24 government duringas the County continues to address and recover from the COVID-19
 25 emergency. Fairfax County government comprises not only the Board of Supervisors,
 26 but also numerous County agencies and deliberative bodies that fulfill essential
 27 government functions and provide essential government services within the locality.
 28 These provisions are intended to address significant public health issues, sustain the
 29 County's economy, and ensure the continued ability of County agencies and
 30 deliberative bodies to carry out their functions during this emergency and its aftermath
 31 without compromising public health, safety, and welfare.

32 This ordinance is beingwas adopted in response to the COVID-19 outbreak. The World
 33 Health Organization declared COVID-19 a global pandemic on March 11, 2020. On
 34 March 13, 2020, the President of the United States declared that the COVID-19
 35 outbreak in the United States constitutes a National Emergency beginning
 36 March 1, 2020. On March 12, 2020, Governor Ralph Northam issued a Declaration of
 37 a State of Emergency due to Novel Coronavirus (COVID-19). The Governor declared

38 the emergency “to continue to prepare and coordinate our response to the potential
39 spread of COVID-19, a communicable disease of public health threat” and he found that
40 “[t]he anticipated effects of COVID-19 constitute a disaster as described in § 44-146.16
41 of the Code of Virginia.” ~~The Governor’s Declaration of a State of Emergency remains~~
42 ~~in effect indefinitely, until amended or rescinded.~~ Effective March 16, 2020, Governor
43 Northam and the State Health Commissioner jointly issued an Order declaring a state
44 public health emergency. On March 17, 2020, the Fairfax County Director of
45 Emergency Management, with the consent of the Board of Supervisors, declared a local
46 state of emergency due to the potential spread of COVID-19. The local Declaration of
47 Emergency remains in effect until the Board of Supervisors takes appropriate action to
48 end the declared emergencyit.

49 ~~The Public Health Emergency Order issued jointly by the Governor and the State Health~~
50 ~~Commissioner effective March 16, 2020, consistent with all other expert opinions,~~
51 ~~observes that COVID-19 spreads from person to person, transmitted via respiratory~~
52 ~~droplets, and can be spread from an infected person who does not have symptoms to~~
53 ~~another person. The Order states that no vaccine or known treatment options exist at~~
54 ~~this time.~~

55 On March 23, 2020, the Governor issued Executive Order 53, which ordered all public
56 and private schools closed for the remainder of the 2019–20 school year and imposed
57 temporary restrictions on restaurants, recreational entertainment, public and private
58 gatherings, and non-essential retail businesses. By virtue of amendments on April 15
59 and May 4, 2020, the restrictions on restaurants and non-essential businesses
60 remained in effect until May 14, 2020. On March 30, 2020, the Governor issued
61 Executive Order 55, which ordered all individuals in Virginia to remain at their places of
62 residence until June 10, 2020, except as set forth in that order and Executive Order 53.

63 On May 8, 2020, the Governor issued Executive Order 61, introducing Phase One in the
64 state’s strategy to ease some of the temporary restrictions instituted in Second
65 Amended Executive Order 53 and Executive Order 55 (orders referred to collectively as
66 Phase Zero). On May 12, 2020, the Governor issued Executive Order 62 extending
67 Phase Zero for Northern Virginia through May 28, 2020. That order was amended on
68 May 14, 2020, to extend Phase Zero for certain other jurisdictions.

69 The Governor allowed Amended Executive Order 62 to expire, moving Northern Virginia
70 into Phase One on May 28, 2020. In Executive Order 65, issued on June 2, the
71 Governor ordered that most of the Commonwealth, but not including Northern Virginia,
72 would move into Phase Two on June 5. On June 9, 2020, the Governor amended
73 Executive Order 65 to order Northern Virginia’s entry into Phase Two on June 12. In
74 Executive Order 67, issued on June 30, 2020, the Governor ordered the
75 Commonwealth’s entry into Phase Three, which further relaxed restrictions on activities.

76 ~~In Executive Order 67, issued on June 30, the Governor ordered the Commonwealth's~~
77 ~~entry into Phase Three. While Phase Three further relaxed restrictions on activities,~~
78 ~~they are not completely lifted. In addition, there is no assurance against a retightening~~
79 ~~of state restrictions—as happened with the Eastern Region of the Commonwealth in~~
80 ~~Executive Order 68, issued on July 28 and not lifted until September 10.~~

81 ~~Although the Governor's executive orders have typically included exceptions for the~~
82 ~~operation of government and for access to essential services for low income residents,~~
83 ~~the County has nonetheless endeavored to observe and encourage sound public health~~
84 ~~and safety practices in all its operations. Between the Governor's executive orders and~~
85 ~~state guidelines for all business sectors, the practices required or recommended involve~~
86 ~~such measures as physical distancing, enhanced cleaning and disinfection, health~~
87 ~~screening, occupancy limits, and other limits on the size of groups. Together, these~~
88 ~~practices significantly increase the amount of space needed for various activities.~~

89 ~~Executive Order 68, like earlier such orders, recognizes~~Beginning in December 2020,
90 the Governor issued Executive Order 72 and a series of amendments establishing and
91 eventually easing "Commonsense Surge Restrictions" applicable to businesses, public
92 and private in-person gatherings, schools, and institutions of higher education. With the
93 widespread distribution of effective vaccines, the state has now made tremendous
94 progress in combatting COVID-19.

95 But even as the Governor's Executive Order 79 anticipates the end of statewide public
96 health restrictions, it recognizes that the virus remains a serious risk to unvaccinated
97 people. In addition, new COVID-19 variants continue to be discovered and account for
98 a significant portion of cases in the U.S. It is not yet known to what extent current
99 vaccines will be successful against these variants. In the Fairfax Health District alone,
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189 processing of numerous applications for such modifications.

190 It is not the intent of this ordinance to infringe on the ability of any town—Clifton,
191 Herndon, or Vienna—to provide a method to assure continuity in its own government.
192 For that reason, the ordinance will not apply in any of those towns unless and until the
193 town's governing body, by ordinance, decides to be subject to this ordinance.

194 **B. Virginia Statutory Authority for the Ordinance.**

195 Virginia Code § 15.2-1413 authorizes localities to adopt an ordinance to “provide a
196 method to assure continuity in its government, in the event of an enemy attack or other
197 disaster,” “[n]otwithstanding any contrary provision of law, general or special.” The
198 Governor’s Declaration of a State of Emergency found that “[t]he anticipated effects of
199 COVID-19 constitute a disaster as described in § 44-146.16 of the Code of Virginia.” A
200 2021 amendment to § 15.2-1413 expanded, from six to twelve months, the period within
201 which an ordinance adopted under the statute must cease effect.

202 The Virginia Attorney General has defined “continuity in government” as coordinated
203 efforts undertaken to assure the continuation of local government’s essential functions
204 during an emergency.

205 **C. Definitions.**

206 “Continuity in Fairfax County government” includes, without limitation, those actions,
207 and the coordination of actions, that are necessary to assure the continuation of the
208 County’s essential functions and services. By way of example and not limitation, such
209 necessary actions include those related to (1) the County’s finances, such as the public
210 hearings and adoption of the ~~FY 2021~~ County budget, tax rate, and utilities fees;
211 appropriations of funds; and funding requests; (2) contracts that need Board action;
212 (3) applications, appeals, or other requests that are subject to mandatory or directory
213 time frames for action; (4) satisfying due process or other constitutional requirements;
214 (5) public health and safety; and (6) measures that help sustain the County’s economy.

215 “Emergency” means the outbreak of the respiratory illness referred to as the novel
216 coronavirus or COVID-19, as described in the Governor’s Declaration of a State of
217 Emergency and the local Declaration of Emergency, and the spread and effects of
218 COVID-19, which constitute a disaster as defined in Virginia Code § 44-146.16.

219 “Hospitality uses” means any hotel or motel; restaurant, catering establishment, or craft
220 beverage establishment; indoor commercial recreation establishment; or health and
221 exercise facility, large or small—as these uses are defined in the County’s Zoning
222 Ordinance (Chapter 112.1 of the County Code).

223 “Hypothermia prevention shelter” means any facility that provides a temporary shelter
224 for people experiencing homelessness, does not require occupants to sign leases or
225 occupancy agreements, and is operated by Fairfax County during the fall and winter
226 seasons to prevent injury, illness, and death due to cold weather. This use includes
227 providing transportation to or from the shelter via van or other means; space for
228 overnight stays; warming centers during the day; and provision of meals or other food to
229 shelter occupants, staff, and volunteers.

230 “Temporary” means not exceeding the period this ordinance is in effect.

231 “Zoning Administrator” means the County’s Zoning Administrator or her designee within
232 the Department of Planning and Development.

233 **D. Hypothermia prevention shelters.**

234 1. The Board of Supervisors hereby approves the establishment of one or more
235 temporary, hypothermia prevention shelters on any of the sites identified in
236 **Appendix A** from November 1, 2020, until April 1, 2021. The use in such a
237 location is hereby deemed a feature shown on the Comprehensive Plan. No
238 further administrative approval, proffer condition amendment, special exception
239 amendment, special permit amendment, or any other development approval is
240 required as long as the hypothermia prevention shelter complies with all of the
241 conditions of this ordinance.

242 2. For purposes of this ordinance, the Board hereby temporarily suspends any
243 proffer, development condition, or ordinance provision that would otherwise
244 restrict the establishment of a hypothermia shelter under this ordinance.

245 3. Any hypothermia prevention shelter established under this ordinance or the prior
246 emergency ordinance must operate primarily within one or more existing
247 buildings.

248 4. Operating a hypothermia prevention shelter changes the application of the state
249 building code such that the facility would temporarily become one of transient
250 overnight housing. In doing so, additional life safety measures apply. Review,
251 inspection, and approval of each building, or portion thereof, by the building
252 official and fire official is required to ensure that the temporary use is safe and
253 meets the spirit and functional intent of the current Uniform Statewide Building
254 Code. Approval is not guaranteed and may be conditional, such as, but not
255 necessarily limited to, requiring the installation of smoke and carbon monoxide
256 detectors/alarms, requiring panic hardware on doors, and limiting the occupant
257 load.

258 **E. Temporary, COVID-necessitated use modifications.**

259 1. The Board of Supervisors hereby suspends any proffer, development condition,
260 or ordinance provision to the extent it would otherwise preclude a temporary
261 modification to an activity, use, or structure where the Zoning Administrator
262 determines the modification is needed to ~~comply with state or other~~
263 governmental respond to the COVID-related guidelines¹⁹ emergency and
264 requirements its impacts. In making such a determination the Zoning
265 Administrator may impose reasonable conditions. Any request for a modification

266 must be submitted in writing to the Zoning Administrator, who may require
267 additional submission material.

268 2. This provision does not generally apply to property zoned to any R district or to
269 the residential portion of any P district; however, it does apply to any approved
270 public use, child care center, independent or assisted living facility, school, place
271 of worship, or other ~~place of public assembly~~ nonresidential use, regardless of
272 zoning district.

273 3. The Zoning Administrator may revoke an approval given under this ordinance or
274 the prior emergency ordinance if the Zoning Administrator determines that an
275 establishment is being operated in a manner that is inconsistent with the
276 approval or that otherwise adversely impacts the health, safety, and welfare of
277 the community.

278 **F. Fee Reductions [Option: “and Waivers”].**

279 1. Special exception and special permit application fees, as set forth in
280 Section 8102 of the Zoning Ordinance, are hereby reduced by 75% of the
281 prevailing fee for hospitality uses, as defined in Section C above. A request for
282 reduction in special exception or special permit fees must be submitted in writing
283 to the Zoning Administrator.

284 2. The following fees—established in Appendix Q of the County Code and collected
285 by Land Development Services and the Office of the Fire Marshal—are hereby
286 reduced by 65% [Option: “waived”] when they are being incurred to
287 reestablish, reconfigure or expand a building configuration for a hospitality use,
288 as defined in Section C above:

289 I. Building Development Fees

290 B. Building Permit and Other Fees. The filing fee, which represents 35% of
291 the permit application cost, will be the only fee required for building
292 applications. The remaining 65% of the fee, which is charged prior to
293 issuance of the building permit, will be waived. All trade and resubmission
294 fees will continue to be charged in full.

295 H. Fire Prevention Division (Fire Marshal) Fees

296 (A) Plan Review Fees. 35% of the initial architectural plan review fee will
297 be charged. The remaining 65% of the fee will be waived. All shop
298 drawing review fees and all resubmission fees will continue to be
299 charged in full.

300 All acceptance testing and inspection fees; reinspection fees; and fees for
301 plan review and inspections performed outside business hours will
302 continue to be charged in full.

303 II. Site Development Fees

304 A. Plan and Document Review Fees

305 C. Site Inspection Fees

306 D. Fire Prevention Division (Fire Marshal) Fees

307 E. Site Permit Fees

308 F. Waiver, Exception, Modification and Exemption Fees

309 III. Miscellaneous Fees

310 These fee reductions do not include fees paid to the Department of Public Works
311 and Environmental Services, Wastewater Management Planning & Monitoring
312 Branch per Chapter 67, article 10, of the County Code. A request for any fee
313 reduction must be submitted in writing to the Director of Land Development
314 Services.

315 **F.G. Scope of Application.**

316 It is not the intent of this ordinance to infringe on the ability of any town—Clifton,
317 Herndon, or Vienna—under Virginia Code § 15.2-1413 to provide a method to assure
318 continuity in its own government. For that reason, the ordinance will not apply in any of
319 those towns unless and until the town’s governing body, by ordinance, decides to be
320 subject to this ordinance.

321 **G.H. Supersession of Inconsistent Requirements.**

322 The provisions of this Ordinance apply notwithstanding any contrary provision of law,
323 general or special, as authorized in Virginia Code § 15.2-1413.

324 **2. That this ordinance will become effective upon adoption.**

325 **3. That this ordinance will remain in effect no longer than ~~six~~12 months after the**
326 **Board of Supervisors terminates the local Declaration of Emergency. Within**
327 **that ~~six~~12-month period, the Board will resume normal governmental authority**
328 **in accordance with Virginia Code § 15.2-1413 by repealing this ordinance in**
329 **compliance with Virginia Code § 15.2-1427.**

330 **4. That the sections, subsections, paragraphs, sentences, clauses, phrases, and**
331 **words of this ordinance are severable. If any section, subsection, paragraph,**
332 **sentence, clause, phrase, or word is declared unconstitutional or otherwise**

333 **invalid by the lawful judgment or decree of any court of competent**
334 **jurisdiction, its unconstitutionality or invalidity shall not affect the validity of**
335 **any of the remaining sections, subsections, paragraphs, sentences, clauses,**
336 **phrases, and words of this ordinance, since the same would have been**
337 **enacted by the Board of Supervisors without and irrespective of any**
338 **unconstitutional or otherwise invalid section, subsection, paragraph,**
339 **sentence, clause, phrase or word being included.**

340 GIVEN under my hand this _____ day of _____ 2021.

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347

Jill G. Cooper
Clerk for the Board of Supervisors
Department of Clerk Services

AMENDMENTS TO AN UNCODIFIED ORDINANCE TO PROVIDE A METHOD TO ASSURE CONTINUITY IN FAIRFAX COUNTY GOVERNMENT DURING THE NOVEL CORONAVIRUS DISEASE 2019 (COVID-19) EMERGENCY AND ITS AFTERMATH BY APPROVING TEMPORARY COUNTY-OPERATED HYPOTHERMIA PREVENTION SHELTERS AND, AUTHORIZING A STREAMLINED PROCESS FOR APPROVING TEMPORARY USE MODIFICATIONS TO ACTIVITIES, USES, AND STRUCTURES IN RESPONSE TO THE EMERGENCY AND ITS IMPACTS, AND REDUCING CERTAIN ZONING AND DEVELOPMENT FEES, AND TO REPEAL THE EMERGENCY ORDINANCE ON THE SAME SUBJECT ADOPTED ON OCTOBER 6, 2020, WHICH IS HEREBY REPLACED

Appendix A

Potential Hypothermia Prevention Shelter Sites by Human Services Region

Region 1:

1. South County Building – 8350 Richmond Highway, Alexandria, VA 22309

Region 2:

2. Lincolnia Senior Center – 4710 N Chambliss Street, Alexandria, VA 22312

Region 3:

3. North County Human Services Building – 1850 Cameron Glen Drive, Reston, VA 20190

Region 4:

4. Braddock Glen (Senior Center) – 4027-B Olley Lane, Fairfax, VA 22032

Countywide Backup:

1. Government Center – 12000 Government Center Parkway, Fairfax, VA 22035
2. Pennino Building – 12011 Government Center Parkway, Fairfax, VA 22035
3. Herrity Building – 12055 Government Center Parkway, Fairfax, VA 22035
4. Former Container Store – 8508 Leesburg Pike, Vienna, VA 22182

Board Agenda Item
July 27, 2021

4:00 p.m.

Public Comment on Issues of Concern