

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
November 21, 2017**

AGENDA

9:30	Done	Presentations
10:00	Done	Presentation of the Environmental Quality Advisory Council (EQAC) Annual Report
10:10	Done	Board Appointments
10:20	Done	Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS
Approved**

1		Supplemental Appropriation Resolution AS 18123 for Various Fairfax County Agencies to Accept Department of Homeland Security Urban Areas Security Initiative Subgrant Awards from the Government of the District of Columbia Homeland Security and Emergency Management Agency
2	Approved	Authorization to Advertise a Public Hearing Regarding an Amendment to the Public Facilities Manual (PFM) and Engineering Standards Review Committee (ESRC) Charter to Update the ESRC's Membership
3	Approved	Authorization to Advertise a Public Hearing for the First Interim Agreement - Master Development Plan Between the Board of Supervisors of Fairfax County, Virginia, and The Alexander Company and Elm Street Developers (Collectively, "Developer") (Mount Vernon District)
4	Approved	Discontinuance of a Portion of Route 744 (Hilltop Road) from the Secondary System of State Highways (Providence District)
5	Approved	Proposed Addition of Jeff Todd Way (Route 619) to the Secondary System of State Highways (Mount Vernon District)
6	Approved	Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, to Support Enhanced Transportation Options
7	Approved	Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, in Support of the Purchase of Wheelchair-Lift Equipped Vehicles

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
November 21, 2017**

**ADMINISTRATIVE
ITEMS
(Continued)**

8 **Approved** Extension of Review Period for 2232 Application (Braddock District)

ACTION ITEMS

1 **Approved** Approval of State Litter Prevention and Recycling Grant Funding Transfer to Clean Fairfax Council, Incorporated

2 **Approved** Authorization to Execute a Building Code Services Agreement for Administering and Enforcing the Virginia Uniform Statewide Building Code for the Town of Clifton (Springfield District)

3 **Approved** Approval of an Agreement Between the Town of Vienna and Fairfax County to Design and Construct the Northside Park Piney Branch Stream Restoration Project (Hunter Mill District)

4 **Approved** Delegation of Signature Authority and Approval of an Updated Standard Project Agreement Between the Board of Supervisors and the Fairfax County Water Authority for the Adjustment of Water Facilities

5 **Approved** Endorsement of Advancing the Recommended Alternative (Intersection and Corridor Improvements) for Braddock Road from Guinea Road to Ravensworth Road for Implementation (Braddock and Mason Districts)

6 **Approved** Adoption of the One Fairfax Policy that Defines Expectations and Processes for Consideration of Racial and Social Equity in the Planning, Development and Implementation of Policies, Practices and Initiatives Throughout all Publicly Delivered Services in Fairfax County Government

7 **Approved with
Amendments** Approval of Fairfax Connector December 2017 Service Changes

8 **Approved** Endorsement of Comments on the Transform 66 Outside the Beltway Project - Design Public Hearings (Braddock, Hunter Mill, Providence, Springfield and Sully Districts)

9 **Deferred** Approval of License Agreement with the Gum Springs Historical Society for the Use of Space within Gum Springs Community Center (Mount Vernon District)

10 **Approved** Approval of a Pilot Body-Worn Camera Program for the Fairfax County Police Department

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
November 21, 2017**

**CONSIDERATION
ITEMS**

- | | | |
|---|--------------------------|--|
| 1 | Deferred Decision | Proffer Interpretation Appeal Associated with The Reserve at Tysons Corner Related to Proffers Accepted for RZ/FDP 2003-PR-008 |
|---|--------------------------|--|

**INFORMATION
ITEMS**

- | | | |
|-------|--------------|---|
| 1 | Noted | Contract Award – Market & Needs Analysis Performing & Visual Arts |
| 2 | Noted | Contract Award – Telecommunications Consulting Services |
| 3 | Noted | Establishing Central Business Areas for the General Services Administration |
| 10:30 | Done | Matters Presented by Board Members |
| 11:20 | Held | Closed Session |

**PUBLIC
HEARINGS**

- | | | |
|------|--|---|
| 3:00 | Held | Public Hearing to Receive Comment from Citizens on the Proposed Legislative Program to be Presented to the 2018 Virginia General Assembly |
| 3:30 | Withdrawn | Public Hearing on PCA 82-S-077-04 (Arden Courts of Centreville VA, LLC) (Sully District) |
| 3:30 | Withdrawn | Public Hearing on PCA 94-Y-020 (Arden Courts of Centreville VA, LLC) (Sully District) |
| 3:30 | Approved | Public Hearing on RZ 2016-SU-015 (Old Lee Road, LLC) (Sully District) |
| 3:30 | Public Hearing
Deferred to 12/5/18
at 3:30 p.m. | Public Hearing on SE 2017-SP-018 (Cellco Partnership D/B/A Verizon Wireless) (Springfield District) |
| 3:30 | Approved | Public Hearing on SE 2017-SU-020 (Milestone Limited Partnership III; Cellco Partnership D/B/A Verizon Wireless) (Sully District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
November 21, 2017**

	PUBLIC HEARINGS (Continued)	
3:30	Approved	Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 8, 9, 16, 18 and 20 – Minor Modifications to Approved Zonings and Related Changes
4:00	Approved	Public Hearing on SE 2017-LE-004 (Alganesh Weldgargis/Beilul Home Day Care) (Lee District)
4:00	Approved	Public Hearing on SE 2017-BR-013 (Hasnaa Ali, F/K/A Hasna Ali Abdulla and Hasna Ali) (Braddock District)
4:00	Approved	Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 2, Property Under County Control
4:00	Approved	Public Hearing to Consider Adopting an Ordinance Expanding the Lake Braddock Residential Permit Parking District, District 5 (Braddock District)
4:00	Approved	Public Hearing on PCA 2003-SU-035-03 (DD South Retail LC) (Sully District)
4:00	Approved	Public Hearing on SE 2017-SU-015 (DD South Retail LC) (Sully District)
4:00	Approved	Public Hearing on PCA 85-S-061-05 (Copt Parkstone LLC) (Sully District)
4:30	Approved	Public Hearing on SE 2017-MA-014 (Washington Gas Light Company) (Mason District)
4:30	Approved	Public Hearing on SEA 95-Y-071 (Sunoco Retail LLC) (Springfield District)
4:30	Approved	Public Hearing on SEA 86-D-056-03 (Sunoco Retail LLC) (Dranesville District)
4:30	Approved	Public Hearing to Sublease Property at 9520 Furnace Road (Stempson House) in Connection with the Resident Curator Program (Mount Vernon District)



Fairfax County, Virginia

BOARD OF SUPERVISORS

AGENDA

**Tuesday
November 21, 2017**

9:30 a.m.

PRESENTATIONS

RECOGNITIONS

- CERTIFICATE – To recognize Virginia Task Force 1 from Fairfax County and its members for their efforts in the recent national and international disasters. Requested by Chairman Bulova.
- CERTIFICATE – To recognize the International Association of Firefighters Local 2068 for its success during the 2017 Fill the Boot Campaign. Requested by Chairman Bulova.
- RESOLUTION – To recognize Chesterbrook Residences for its 10th anniversary. Requested by Supervisor Foust.

DESIGNATIONS

- PROCLAMATION – To designate November 2017 as Adoption Awareness Month in Fairfax County. Requested by Chairman Bulova.
- PROCLAMATION – To designate Fairfax County as a Trauma-Informed Community. Requested by Supervisor Gross.

— more —

Board Agenda Item
November 21, 2017

STAFF:

Tony Castrilli, Director, Office of Public Affairs

Bill Miller, Office of Public Affairs

Lisa Connors, Office of Public Affairs

Board Agenda Item
November 21, 2017

10:00 a.m.

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

ENCLOSED DOCUMENTS:

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

PRESENTED BY:

Stella Koch, Chairman, Environmental Quality Advisory Council

Board Agenda Item
November 21, 2017

10:10 a.m.

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

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard November 21, 2017
(An updated list will be distributed at the Board meeting.)

STAFF:

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

FINAL COPY

APPOINTMENTS TO BE HEARD NOVEMBER 21, 2017
(ENCOMPASSING VACANCIES PROJECTED THROUGH NOVEMBER 30, 2017)
 (Unless otherwise noted, members are eligible for reappointment)

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Karen Darley (Appointed 5/17 by Cook) Term exp. 9/17	Braddock District Representative	Karen Darley	Cook	Braddock
Francine Ronis (Appointed 2/16 by L. Smyth) Term exp. 9/17	Providence District Representative		L. Smyth	Providence

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Mark Drake (Appointed 2/09-5/12 by McKay) Term exp. 5/16	Engineer/Architect/ Planner #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly) Term exp. 5/10 <i>Resigned</i>	Lending Institution Representative		By Any Supervisor	At-Large

AIRPORTS ADVISORY COMMITTEE (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Edward Robichaud (Appointed 2/11-1/14 by Hudgins) Term exp. 1/17	Hunter Mill District Representative	Edward Robichaud	Hudgins	Hunter Mill
VACANT (Formerly held by Robert A. Peter; appointed 2/09-1/13 by L. Smyth) Term exp. 1/16 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Richard O. Bolger (Appointed 4/14 by Bulova) Term exp. 10/17	At-Large #5 Representative	Richard O. Bolger (Bulova)	By Any Supervisor	At-Large

ANIMAL SERVICES ADVISORY COMMISSION (2 years)

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Barbara Hyde; appointed 9/13-9/14 by Gross) Term exp. 2/16 <i>Resigned</i>	Mason District Representative		Gross	Mason

ARCHITECTURAL REVIEW BOARD (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (John Boland; appointed 2/91-9/95 by Dix; 7/01 by Mendelsohn; 9/04- 9/07 by DuBois; 9/10-9/13 by Foust) Term exp. 9/16 <i>Resigned</i>	Attorney Representative		By Any Supervisor	At-Large

ATHLETIC COUNCIL (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Terry Adams; appointed 11/11-7/13 by Gross) Term exp. 6/15	Mason District Alternate Representative		Gross	Mason
Mr. Chip Chidester (Appointed 3/10-10/15 by Bulova) Term exp. 10/17	Member-At-Large Alternate Representative		Bulova	At-Large Chairman
Eric T. Sohn (Appointed 4/10-1/15 by Herrity) Term exp. 11/17	Diversity-At-Large Alternate Representative		By Any Supervisor	At-Large

CONFIRMATION NEEDED:

- Ms. Nichole Lopes as the Town of Herndon Principal Representative

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 Resigned	Mason District Representative		Gross	Mason
VACANT (Formerly held by Joshua D. Foley; appointed 9/13-6/16 by Herrity) Term exp. 6/17 Resigned	Springfield District Representative		Herrity	Springfield

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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Susan Kim Harris; appointed 5/09-2/11 by Hudgins) Term exp. 2/15 Resigned	Alternate #4 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Michael LeMay; appointed 2/87 by Pennino; 1/99 by Dix; 2/03-2/15 by Hudgins) Term exp. 2/19 Resigned	Design Professional #4 Representative		By Any Supervisor	At-Large

**CHESAPEAKE BAY PRESERVATION ORDINANCE
EXCEPTION REVIEW COMMITTEE (4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Stephen Kirby; appointed 12/03-1/08 by Kauffman; 9/11 by McKay) Term exp. 9/15 <i>Resigned</i>	Lee District Representative		McKay	Lee
VACANT (Formerly held by Brian Loo; appointed 7/12 by L. Smyth) Term exp. 9/15 <i>Resigned</i>	Providence District Representative	Sue Kovach Shuman	L. Smyth	Providence
VACANT (Formerly held by David Schnare; appointed 12/08 by McConnell; 11/10-9/15 by Herrity) Term exp. 9/19 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

CHILD CARE ADVISORY COUNCIL (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Mercedes O. Dash (Appointed 3/15 by L. Smyth) Term exp. 9/17	Providence District Representative		L. Smyth	Providence
VACANT (Formerly held by Hugh Mac Cannon; appointed 12/09-9/14 by Herrity) Term exp. 9/16 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

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 Reena Desai; Appointed 7/16 by Hudgins) Term exp. 10/18 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill
Kathryn M. Winters (Appointed 10/14 by Herrity) Term exp. 10/17	Springfield District Representative		Herrity	Springfield

CONFIRMATION NEEDED:

- Ms. Kayla Rothstein as the Student Representative

COMMISSION ON AGING (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Robert Kuhns; appointed 2/15 by Hyland; 9/16 by Storck) Term exp. 9/18 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon

CONFIRMATION NEEDED:

- Mr. Patrick Sprouse as the Falls Church City Principal Representative

ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Linnie Haynesworth (Appointed 7/16 by Bulova) Term exp. 7/1/17	At-Large #5 Citizen Representative	Linnie Haynesworth (Bulova)	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>
Timothy W. Lavelle (Appointed 4/09-12/14 by Bulova) Term exp. 11/17 <i>Not eligible for reappointment</i>	At-Large #2 Business Community Representative		By Any Supervisor	At-Large
Leanne Alberts (Appointed 10/13-12/14 by Bulova) Term exp. 11/17	At-Large Chairman's Representative		Bulova	At-Large Chairman's
Linda L. Collins (appointed 1/09 by Bulova; 12/11-11/14 by Cook) Term exp. 11/17 <i>Not eligible for reappointment</i>	Braddock District Representative		Cook	Braddock
VACANT (Formerly held by Barbara Johnson; appointed 4/16 by K. Smith) Term exp. 11/18 <i>Resigned</i>	Sully District Representative		K. Smith	Sully

**FAIRFAX COMMUNITY LONG TERM CARE COORDINATING COUNCIL
(2 years)**

CONFIRMATIONS NEEDED:

- Ms. Nancy Mercer as a Long Term Care Providers Representative

**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>
Theresa L. Fox (Appointed 1/06- 5/14 by Gross) Term exp. 6/17	Mason District Representative		Gross	Mason

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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Jeffrey M. Wisoff; appointed 6/13-6/14 by L. Smyth) Term exp. 6/17 Resigned	Providence District Representative	Nancy Cromwell Scott <i>(To be confirmed on December 5, 2017)</i>	L. Smyth	Providence

HEALTH CARE ADVISORY BOARD (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Rosanne L. Rodilosso (Appointed 06/99- 5/01 by Mendelsohn; 6/05 by DuBois; 7/09- 6/13 by Foust) Term exp. 6/17	Dranesville District Representative	Rosanne L. Rodilosso	Foust	Dranesville
VACANT (Formerly held by Chafiq Moummi; appointed 1/17 by McKay) Term exp. 6/20 <i>Resigned</i>	Lee District Representative		McKay	Lee

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Richard T. Hartman (Appointed 2/14 by Bulova) Term exp. 6/17	Consumer #1 Representative		By Any Supervisor	At-Large

HISTORY COMMISSION (3 years)

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

Braddock - 3	Lee - 2	Providence - 1
Dranesville - 2	Mason - 0	Springfield - 2
Hunter Mill - 3	Mt. Vernon - 2	Sully - 2

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Naomi D. Zeavin; appointed 1/95 by Trapnell; 1/96-11/13 by Gross) Term exp. 12/16 <i>Mason District Resident Resigned</i>	Historian #1 Representative		By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Daoud Khairallah (Appointed 11/05- 9/14 by Gross) Term exp. 9/17	At-Large #8 Representative		By Any Supervisor	At-Large
Mona Malik (Appointed 4/14-9/14 by Bulova) Term exp. 9/17	At-Large #9 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>
Adrienne M. Walters (Appointed 3/14 by L. Smyth) Term exp. 7/17	Providence District #2 Representative		L. Smyth	Providence

INDUSTRIAL DEVELOPMENT AUTHORITY (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Inge Gedo (Appointed 11/09- 1/14 by Herrity) Term exp. 10/17)	At-Large #3 Representative		By Any Supervisor	At-Large
Christopher A. Glaser (Appointed 10/09- 10/13 by Hudgins) Term exp. 10/17	At-Large #4 Representative		By Any Supervisor	At-Large
Jonathan D. Higgins (Appointed 4/14 by Bulova) Term exp. 10/17	At-Large #5 Representative	Jonathan D. Higgins (Bulova)	By Any Supervisor	At-Large

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

LIBRARY BOARD
(4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Yearn Hong Choi (Appointed 5/16 by Herrity) Term exp. 7/17	Springfield District Representative		Herrity	Springfield

**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>
VACANT (Formerly held by William Uehling; appointed 3/10-7/12 by Bulova) Term exp. 6/15 <i>Resigned</i>	Braddock District Representative		Cook	Braddock
VACANT (Formerly held by Amy K. Reif; appointed 8/09-6/12 by Foust) Term exp. 6/15 <i>Resigned</i>	Dranesville District Representative		Foust	Dranesville
VACANT (Formerly held by Adam Parnes; appointed 9/03-6/12 by Hudgins) Term exp. 6/15 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

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OVERSIGHT COMMITTEE ON DISTRACTED AND IMPAIRED DRIVING (3 years)
Continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Jeffrey Levy; Appointed 7/02-6/13 by Hyland) Term exp. 6/16 Resigned	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Tina Montgomery; appointed 9/10-6/11 by L. Smyth) Term exp. 6/14 Resigned	Providence District Representative		L. Smyth	Providence

PLANNING COMMISSION (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Janyce N. Hedetniemi; appointed 1/13-12/16 by Bulova) Term exp. 12/20 Resigned	At-Large #1 Chairman's Representative	Mary Cortina	Bulova	At-Large Chairman's
VACANT (Formerly held by Karen Keys-Gamarra; appointed 1/16 by K. Smith) Term exp. 12/19 Resigned	Sully District Representative		K. Smith	Sully

REDEVELOPMENT AND HOUSING AUTHORITY (4 years)

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

**RESTON TRANSPORTATION SERVICE
DISTRICT ADVISORY BOARD**

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

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

ROAD VIEWERS BOARD (1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Joseph Bunnell; appointed 9/05-12/06 by McConnell; 2/08-11/13 by Herrity) Term exp. 12/14 <i>Resigned</i>	At-Large #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by L. Smyth) Term exp. 12/12 <i>Resigned</i>	At-Large #4 Representative		By Any Supervisor	At-Large

SMALL BUSINESS COMMISSION, FAIRFAX COUNTY (3 years)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Patrick Fogarty; Appointed 12/16 by Storck) Term exp. 12/17 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Linda Diamond; appointed 3/07-4/13 by Hudgins) Term exp. 3/15 <i>Resigned</i>	Fairfax County #8 Representative		By Any Supervisor	At-Large

TENANT LANDLORD COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Michael Congleton; appointed 7/13-2/17 by Herrity) Term exp. 1/20 <i>Resigned</i>	Citizen Member #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Sally D. Liff; appointed 8/04-1/11 by L. Smyth) Term exp. 1/14 <i>Deceased</i>	Condo Owner Representative		By Any Supervisor	At-Large

TRAILS AND SIDEWALKS COMMITTEE (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Steve Descano (Appointed 7/15 by Gross) Term exp. 1/18 <i>Resigned</i>	Mason District Representative		Gross	Mason

TREE COMMISSION (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Lyle Chet McLaren (Appointed 6/09-11/17 by Bulova) Term exp. 10/17	At-Large Chairman's Representative		Bulova	At-Large Chairman's
Thomas D. Fleury (Appointed 1/17 by L. Smyth) Term exp. 10/17	Providence District Representative		L. Smyth	Providence

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

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

UNIFORMED RETIREMENT SYSTEM BOARD OF TRUSTEES (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Maria T. Valenzuela (Appointed 7/16 by Bulova) Term exp. 10/17	Citizen appointed by BOS #4 Representative	Maria Teresa Alva (Bulova)	By Any Supervisor	At-Large

WETLANDS BOARD (5 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Deana M. Crumbling (Appointed 1/14 by Bulova) Term exp. 7/16	Alternate #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Glenda Booth; appointed 4/88-1/13 by Hyland) Term exp. 12/17 <i>Resigned</i>	Mount Vernon District #1 Representative		Storck	Mount Vernon

Board Agenda Item
November 21, 2017

10:20 a.m.

Items Presented by the County Executive

ADMINISTRATIVE – 1

Supplemental Appropriation Resolution AS 18123 for Various Fairfax County Agencies to Accept Department of Homeland Security Urban Areas Security Initiative Subgrant Awards from the Government of the District of Columbia Homeland Security and Emergency Management Agency

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 18123 in the amount of \$11,494,786 for Fairfax County to accept Department of Homeland Security (DHS) FY 2017 Urban Areas Security Initiative (UASI) subgrant awards from the State Administrative Agency (SAA). These funds are made available by DHS through the District of Columbia, which is serving as the State Administrative Agency. DHS provides financial assistance to address the unique planning, training, equipment, and exercise needs of high-threat, high-density urban areas to assist them in building an enhanced and sustainable capacity to prevent, respond to, and recover from acts of terrorism. The grant period for the FY 2017 subgrant awards is September 1, 2017 through December 31, 2018, May 31, 2019 or June 30, 2019, depending on the award. No Local Cash Match is required.

RECOMMENDATION:

The County Executive recommends that the Board approve Supplemental Appropriation Resolution AS 18123 in the amount of \$11,494,786. These funds will be used by various County agencies to enhance security and overall preparedness by implementing the projects summarized in Attachment 1. All projects will be implemented in accordance with the program guidance documents. Funding will continue to support 5/5.0 FTE existing grant positions. The County is under no obligation to continue these positions when the grant funding expires. No Local Cash Match is required.

TIMING:

Board approval is requested on November 21, 2017.

BACKGROUND:

The Homeland Security Grant Program (HSGP) provides Urban Areas Security Initiative (UASI) funds from the Department of Homeland Security as financial assistance to high risk urban areas, as defined in legislation, in order to address the unique planning,

equipment, training, and exercise needs of those areas. These funds can also be used to build or sustain an enhanced capacity to prevent, respond to, and recover from acts of terrorism. These funds, however, may not be used to supplant ongoing, routine public safety activities, the hiring of staff for operational activities, or the construction and/or renovation of facilities. Fairfax County is one of 12 jurisdictions that currently comprise the National Capital Region (NCR) as defined in the HSGP guidelines.

The UASI funding allocations are determined by a formula based on credible threat, presence of critical infrastructure, vulnerability, population, and other relevant criteria. Grant awards are made to the identified urban area authorities through State Administrative Agencies. The NCR process for allocation of the UASI funds included the development of concept papers that were vetted and endorsed by the Metropolitan Washington Council of Governments (MWCOC) Regional Emergency Support Function (RESF) committees, review of proposals by the Chief Administrative Officers (CAO) committee, preparation and submission of project proposals and application documents by the RESFs, prioritization of proposals by the CAOs, and ultimately the development of funding recommendations by the CAOs. The Senior Policy Group (SPG) then reviewed and recommended proposals and forwarded selected proposals to the SAA for awards.

Funded projects are typically regional in nature with benefits to multiple jurisdictions. In order to effectively implement these projects, a single jurisdiction is being identified to act as a recipient of a subgrant award to handle all of the financial management, audit, procurement, and payment provisions of the subgrant award and grant program. Several Fairfax County agencies including the Office of Emergency Management, Police Department, Fire and Rescue Department, Health Department and the Department of Information Technology are expected to act as subgrantees for these funds. A listing of all the subgrant awards being requested for acceptance is attached along with a synopsis for each project. Individual awards are also attached to support requested acceptance.

FISCAL IMPACT:

Grant funding in the amount of \$11,494,786 is available in the DHS UASI grant funds through the District of Columbia. These funds will be used to enhance capabilities in the Office of Emergency Management, Police Department, Fire and Rescue Department, Health Department, and the Department of Information Technology. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for Homeland Security grant awards received in FY 2018. Indirect costs are recoverable for some of these awards. No Local Cash Match is required.

Board Agenda Item
November 21, 2017

CREATION OF NEW POSITIONS:

Grant funding will continue to support 5/5.0 FTE existing grant positions. The County is under no obligation to continue these positions when the grant funding expires.

ENCLOSED DOCUMENTS:

Attachment 1 – Grant Award Summary

Attachment 2 – Grant Award Documents

Attachment 3 – Supplemental Appropriation Resolution AS 18123

STAFF:

David Rohrer, Deputy County Executive

Seamus Mooney, Coordinator, Office of Emergency Management

Richard Bowers, Chief, Fire and Rescue Department

Edwin C. Roessler Jr., Chief, Police Department

Wanda Gibson, Director, Department of Information Technology

Gloria Addo-Ayensu, Director, Health Department

Department of Homeland Security - FY 2017 Homeland Security Grant Program Applications and Awards
National Capital Region (NCR) Urban Areas Security Initiative (UASI) Funds
Projects to be Implemented by Fairfax County

Attachment 1

	Project Title	Program Year	Award Amount	Award Status	Award Type	Implementing County Agency	Program Manager	Positions	Begin Date	End Date	Project Synopsis
FY 2017 UASI AWARDS AND APPLICATIONS											
1	Radio Cache (VA Maintenance)	FY2017	172,845.00	Received	Continuation	Fire and Rescue Department	Greg Hunter	0.0 FTE	9/1/2017	5/31/2019	Providing ongoing logistical support to the National Capital Region radio cache housed in Fairfax County and to support training and exercise initiatives, or cache deployment for emergency responses and personnel.
2	Incident Management Team	FY2017	348,000.00	Received	Continuation	Fire and Rescue Department	Daryl Louder	0.0 FTE	9/1/2017	5/31/2019	Continued funding to ensure the NCR- Incident Management Team (NCR-IMT) receives adequate training and exercises to develop and maintain capability, capacity, and proficiency in all functional areas. The NCR-IMT is composed of 115 members from fire, emergency medical services (EMS), law enforcement, emergency management and public health agencies from the participating Council of Governments (COG) jurisdictions.
3	Intelligence Analysis (Fire)-VA	FY2017	182,038.00	Received	Continuation	Fire and Rescue Department	Michael McQuade	1.0 FTE	9/1/2017	5/31/2019	Continued funding for a subject matter expert in fire and emergency medical services (EMS), to provide intelligence to regional agencies while assigned to the Northern Virginia Regional Intelligence Center. The Fire-EMS intelligence officer conducts research, provides outreach and collaborates with all Northern Virginia Fire-EMS Departments, state and local Fusion Centers and Federal partners.
4	NIMS Compliance Officer	FY2017	155,232.00	Received	Continuation	Office of Emergency Management	Alfred Mullins	1.0 FTE	9/1/2017	12/31/2018	Continued funding for a position and supporting equipment/supplies within the Office of Emergency Management for a National Incident Management (NIMS) Compliance Coordinator whose purpose is to evaluate and implement the NIMS within all applicable County agencies and partners.
5	Exercise & Training Officer	FY2017	132,307.00	Received	Continuation	Office of Emergency Management	Donald Willis	1.0 FTE	9/1/2017	12/31/2018	Continued funding for a position and supporting equipment/supplies within the Office of Emergency Management to support design, development and implementation of a county and regional Department of Homeland Security compliant training and exercise program.
6	EMNET	FY2017	12,075.00	Received	Continuation	Office of Emergency Management	Sulayman Brown	0.0 FTE	9/1/2017	5/31/2019	Continued funding for a position and supporting equipment/supplies within the Office of Emergency Management to support design, development and implementation of a county and regional Department of Homeland Security compliant training and exercise program.
7	Text Alert Notification System (Maintenance)	FY2017	1,775,000.00	Received	Continuation	Office of Emergency Management	Sulayman Brown	0.0 FTE	9/1/2017	5/31/2019	Payment of the yearly maintenance costs for the National Capital Region's emergency alerting system, which includes EAN and Fairfax Alerts.
8	Volunteer & Citizen Corps Programs	FY2017	282,000.00	Received	Continuation	Office of Emergency Management	Matt Marquis	0.0 FTE	9/1/2017	5/31/2019	Continuation of efforts to recruit and retain affiliated volunteers in Fairfax County and to expand and integrate the local regional coordination mechanism and capacity to mobilize large numbers of volunteers (spontaneous and affiliated) for response to a catastrophic natural or terrorism event.
9	NCR Regional Planner	FY2017	129,369.00	Received	Continuation	Office of Emergency Management	Cara Howard	1.0 FTE	9/1/2017	12/31/2018	Continued funding for a position and supporting equipment/supplies within OEM. The planner will participate in development of NCR regional planning products to correct gaps that have been identified through assessments such as EMAP, event/exercise after action reports and jurisdictional self-assessments. Planners will be involved in both local and regional planning projects on a constant basis.

Department of Homeland Security - FY 2017 Homeland Security Grant Program Applications and Awards
National Capital Region (NCR) Urban Areas Security Initiative (UASI) Funds
Projects to be Implemented by Fairfax County

Attachment 1

Project Title	Program Year	Award Amount	Award Status	Award Type	Implementing County Agency	Program Manager	Positions	Begin Date	End Date	Project Synopsis
10 NCR Web EOC (Maintenance and License for the NCR)	FY2017	1,000,000.00	Received	Continuation	Office of Emergency Management	Paul Lupe	0.0 FTE	9/1/2017	5/31/2019	Continued funding to further enhance the WebEOC system within the NCR area and increase the interoperability with local and Federal Partners; as well as to expand the common operating picture within the National Capital Region.
11 Intelligence Analysis (PD)-VA	FY2017	1,193,329.00	Received	Continuation	Police Department	Lt. Jim Hardy	0.0 FTE	9/1/2017	5/31/2019	Continued funding for contracted intelligence analysts who support the National Capital Region. These analysts complete detailed reports in a timely manner any time something occurs in the world that may have an impact on the region. This information is provided to our first responders to increase their ability to detect, deter, and disrupt such planning activity to prevent attack.
12 Mobile Automated Fingerprint Identification System (Maintenance)	FY2017	2,000,000.00	Received	Continuation	Police Department	Dave Russell	0.0 FTE	9/1/2017	6/30/2019	Continued funding for the National Capital Region's (NCR) automated fingerprint identification systems. The standard warranty contract to be developed will allow for uniform maintenance and conformity through the NCR.
13 Public Health Planning and MRC Program Sustainment	FY2017	151,591.00	Received	Continuation	Health Department	Jesse Habourn	1.0 FTE	9/1/2017	5/31/2019	Funding for one emergency planner to continue development, revision, and operationalization of agency Emergency Operations Plan and various supporting documents that guide the agency's response to public health emergencies.
14 Interoperable Communications Infrastructure (ICI) (Sustainment)	FY2017	2,400,000.00	Received	Continuation	Department of Information Technology	Matt Dowd	0.0 FTE	9/1/2017	5/31/2019	Continued sustainment of the investments in the NCRNet, identity authentication services for regional applications, the regional colocation hosting facility, and the regional videoteleconferencing service. Services for technical, financial, and management functions supporting the NCR Interoperable Communications Infrastructure (ICI) for governance, operations, and other regional activities.
15 CAD to CAD Maintenance	FY2017	1,061,000.00	Received	Continuation	Department of Information Technology	Greg Scott	0.0 FTE	9/1/2017	6/30/2019	Provides sustainment funding for seamless, real-time data interoperability between disparate CAD Systems in daily use by first responders in NOVA and paves the way for expansion into Maryland. It will fund: (1) infrastructure hosting services, core software refresh and 24x7 maintenance/operations spt.; (2) maintenance of CAD System vendor enhancements; (3) vendor enhancements/testing/integration spt.; (4) data mapping to universal CAD2CAD data types; (5) dev/testing; and (6) technical and project management resources to support day-to-day operations.
16 GIS Data Exchange and CAD2GIS Tool project	FY2017	500,000.00	Received	Continuation	Department of Information Technology	Michael Liddle	0.0 FTE	9/1/2017	5/31/2019	Provides project maintenance and support and will fund the expansion of the NCR GDX into additional jurisdictions, continued integration with IAMS, CAD-extracted event exchange (CAD2GIS, formerly INDEX) and CCTV.
Total:		11,494,786.00					5.0 FTE			

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency



Muriel Bowser
Mayor

Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Fire and Rescue Department

SUBAWARD TITLE
Radio Cache - Virginia (Continuation)

SUBAWARD ID
17UASI529-01

SUBAWARD AMOUNT
\$172,845.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

As the duly authorized representative of the above-listed organization, you hereby accept the subaward and certify that you have read and understand the terms and conditions presented in the following documents:

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- Subrecipient Handbook

AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Edward L. Long
County Executive
Fairfax County Government

09/21/2017

Signature

Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency



Muriel Bowser
Mayor

Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Fire and Rescue Department

SUBAWARD TITLE
Incident Management Team (Continuation)

SUBAWARD ID
17UASI529-03

SUBAWARD AMOUNT
\$348,000.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Kirk W. Kincannon
Acting County Executive
Fairfax County Government



Signature

10/16/2017
Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative
SUBRECIPIENT
Fairfax County Fire and Rescue Department
SUBAWARD TITLE
Intelligence Analysis - Virginia (Continuation)
SUBAWARD ID
17UASI529-02
SUBAWARD AMOUNT
\$182,038.00
SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019
SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053
FEDERAL AWARD DATE
08/29/2017
FEDERAL AWARDOING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency
CFDA
97.067 Homeland Security Grant Program
STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Edward L. Long
County Executive
Fairfax County Government

Signature

09/21/2017

Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Office of Emergency
Management

SUBAWARD TITLE
NIMS Compliance Officer - Fairfax County
(Continuation)

SUBAWARD ID
17UASI531-02

SUBAWARD AMOUNT
\$155,232.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-12/31/2018

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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Brian C. Baker
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SUBRECIPIENT OFFICIAL
Kirk W. Kincannon
Acting County Executive
Fairfax County Government

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10/16/2017

Date

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Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Office of Emergency
Management

SUBAWARD TITLE
Exercise and Training Officer - Fairfax County
(Continuation)

SUBAWARD ID
17UASI531-01

SUBAWARD AMOUNT
\$132,307.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-12/31/2018

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Kirk W. Kincannon
Acting County Executive
Fairfax County Government


Signature

10/16/2017
Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Office of Emergency
Management

SUBAWARD TITLE
EMNet (Continuation) (NVERS)

SUBAWARD ID
17UASI531-07

SUBAWARD AMOUNT
\$12,075.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Edward L. Long
County Executive
Fairfax County Government

Signature

09/21/2017
Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency



Muriel Bowser
Mayor

Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Office of Emergency
Management

SUBAWARD TITLE
Text Alert Notifications (Continuation)

SUBAWARD ID
17UASI531-05

SUBAWARD AMOUNT
\$1,775,000.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Edward L. Long
County Executive
Fairfax County Government

Signature

09/21/2017

Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency



Muriel Bowser
Mayor

Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Office of Emergency
Management

SUBAWARD TITLE
Volunteer & Citizen Corps Programs - Fairfax
County (Continuation)

SUBAWARD ID
17UASI531-03

SUBAWARD AMOUNT
\$282,000.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDOING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Edward L. Long
County Executive
Fairfax County Government

Signature

09/21/2017
Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency



Muriel Bowser
Mayor

Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Office of Emergency
Management

SUBAWARD TITLE
Regional Planning - Fairfax County
(Continuation)

SUBAWARD ID
17UASI531-04

SUBAWARD AMOUNT
\$129,369.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-12/31/2018

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program


STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

As the duly authorized representative of the above-listed organization, you hereby accept the subaward and certify that you have read and understand the terms and conditions presented in the following documents:

- 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- FY 2017 DHS Homeland Security Grant Program Agreement Articles
- FY 2017 DHS Standard Terms and Conditions
- FY 2017 District of Columbia Homeland Security and Emergency Management Agency Terms and Conditions
- FY 2017 Homeland Security Grant Program Notice of Funding Opportunity
- Subrecipient Handbook

AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Kirk W. Kincannon
Acting County Executive
Fairfax County Government



Signature

10/11/2017

Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Office of Emergency
Management

SUBAWARD TITLE
WebEOC (Continuation)

SUBAWARD ID
17UASI531-06

SUBAWARD AMOUNT
\$1,000,000.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Kirk W. Kincannon
Acting County Executive
Fairfax County Government

Signature

10/04/2017

Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Police Department

SUBAWARD TITLE
Intelligence Analysis - Virginia (Continuation)

SUBAWARD ID
17UASI533-01

SUBAWARD AMOUNT
\$1,193,329.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDOING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Edward L. Long
County Executive
Fairfax County Government

Signature

09/21/2017
Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Police Department

SUBAWARD TITLE
AFIS (Continuation)

SUBAWARD ID
17UASI533-02

SUBAWARD AMOUNT
\$2,000,000.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-06/30/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Edward L. Long
County Executive
Fairfax County Government

Signature

09/21/2017

Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Health Department

SUBAWARD TITLE
Public Health Planning and MRC Program -
Fairfax County (Continuation) (NVERS)

SUBAWARD ID
17UASI530-01

SUBAWARD AMOUNT
\$151,591.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
192897820 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Kirk W. Kincannon
Acting County Executive
Fairfax County Government

Signature

10/04/2017

Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency



Muriel Bowser
Mayor

Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Department of Information
Technology

SUBAWARD TITLE
Interoperable Communications Infrastructure
(ICI) (Continuation)

SUBAWARD ID
17UASI583-02

SUBAWARD AMOUNT
\$2,400,000.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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- Subrecipient Handbook

AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Edward L. Long
County Executive
Fairfax County Government

Signature

09/21/2017
Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Department of Information
Technology

SUBAWARD TITLE
CAD to CAD Maintenance (Continuation)

SUBAWARD ID
17UASI583-01

SUBAWARD AMOUNT
\$1,061,000.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-06/30/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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- Subrecipient Handbook

AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Edward L. Long
County Executive
Fairfax County Government

Signature

09/21/2017

Date

Signature

Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Homeland Security and Emergency Management Agency

Muriel Bowser
Mayor



Brian C. Baker
Interim Director

Subaward

PROGRAM
FY 2017 Homeland Security Grant Program
Urban Areas Security Initiative

SUBRECIPIENT
Fairfax County Department of Information
Technology

SUBAWARD TITLE
GIS Data Exchange and INDEX (Continuation)

SUBAWARD ID
17UASI583-03

SUBAWARD AMOUNT
\$500,000.00

SUBAWARD PERFORMANCE PERIOD
09/01/2017-05/31/2019

SUBRECIPIENT DUNS
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER
EMW-2017-SS-00053

FEDERAL AWARD DATE
08/29/2017

FEDERAL AWARDDING AGENCY
U.S. Department of Homeland Security
Federal Emergency Management Agency

CFDA
97.067 Homeland Security Grant Program

STATE ADMINISTRATIVE AGENT /
PASS-THROUGH ENTITY
District of Columbia Homeland Security and
Emergency Management Agency

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AWARDING OFFICIAL
Brian C. Baker
Interim Director

SUBRECIPIENT OFFICIAL
Kirk W. Kincannon
Acting County Executive
Fairfax County Government


Signature

10/04/2017
Date

Signature

Date

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 18123

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 November 21, 2017, 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 2018, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund:	500-C50000, Federal-State Grant Fund	
Agency:	G7070, Department of Information Technology	\$3,961,000
Grants:	1HS0036, CAD to CAD Maintenance	
	1HS0037, Interoperable Communications Infrastructure Sustainment	
	1HS0078, GIS Data Exchange and CAD2GIS Tool Project	
Agency:	G7171, Health Department	\$151,591
Grant:	1HS0030, Public Health Planning and MRC Program Sustainment	
Agency:	G9090, Police Department	\$3,193,329
Grant:	1HS0039, Intelligence Analysis	
	1HS0043, Mobile AFIS Maintenance	
Agency:	G9292, Fire and Rescue Department	\$702,883
Grants:	1HS0040, Incident Management Team	
	1HS0041, Intelligence Analysis	
	1HS0047, Radio Cache Maintenance	
Agency:	G9393, Office of Emergency Management	\$3,485,983
Grants:	1HS0031, NCR Regional Planner	
	1HS0035, Exercise and Training Officer	
	1HS0038, EMNet	
	1HS0045, NIMS Compliance Officer	
	1HS0050, Text Alert Notification System Maintenance	
	1HS0051, Volunteer Initiatives	
	1HS0052, WebEOC Maintenance	

Reduce Appropriation to:

Agency:	G8787, Unclassified Administrative Expenses	\$11,494,786
Fund:	500-C50000, Federal-State Grant Fund	

Source of Funds: U.S. Department of Homeland Security, \$11,494,786

A Copy - Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing Regarding an Amendment to the Public Facilities Manual (PFM) and Engineering Standards Review Committee (ESRC) Charter to Update the ESRC's Membership

ISSUE:

Board of Supervisor's (Board) authorization to advertise public hearings on a proposed amendment to update the PFM and ESRC Charter to replace the Citizens Committee on Land Use and Transportation appointment with an At-Large Citizen appointment.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed PFM amendment as set forth in the Staff Report dated November 21, 2017.

TIMING:

Board action is requested on November 21, 2017, to provide sufficient time to advertise public hearings on December 7, 2017, before the Planning Commission and on January 23, 2018, at 4:30 p.m. before the Board.

BACKGROUND:

At their March 14, 2017 meeting, the Board asked that the ESRC consider updating their Charter to replace the Citizens Committee on Land Use and Transportation appointment, with an At-Large Citizen appointment. This action would allow the ESRC to retain the same capacity following the dissolution of the Citizens Committee on Land Use and Transportation.

FISCAL IMPACT:

None

ENCLOSED DOCUMENT:

Attachment 1 - Staff Report

STAFF:

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

ASSIGNED COUNSEL:

Paul Emerick, Senior Assistant County Attorney

LAND DEVELOPMENT SERVICES

STAFF REPORT

PREPARED BY CODE DEVELOPMENT AND COMPLIANCE DIVISION

November 21, 2017

-
- ☐ PROPOSED COUNTY CODE AMENDMENT
 - ☒ PROPOSED PFM AMENDMENT
 - ☐ PROPOSED ZONING AMENDMENT
 - ☐ APPEAL OF DECISION
 - ☐ WAIVER REQUEST

Proposed Amendments to the Public Facilities Manual and Engineering Standards
Review Committee (ESRC) Charter to Update the ESRC's Membership

PUBLIC HEARING DATES

Authorization to Advertise:	<u>November 21, 2017</u>
Planning Commission Hearing:	<u>December 20, 2017 at 8:15 p.m.</u>
Board of Supervisors Hearing:	<u>January 23, 2018 at 4:30 p.m.</u>
Prepared By:	Thakur Dhakal, P.E. (703) 324-2992

Proposed Amendment to the Public Facilities Manual (PFM) and Engineering Standards Review Committee (ESRC) Charter to Update the ESRC's Membership

STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors (Board) adopt the proposed amendment to the Public Facilities Manual (PFM) and approve the change to the Engineering Standards Review Committee (ESRC) Charter to update the ESRC's membership.

BACKGROUND

At their March 14, 2017 meeting, the Board asked the ESRC to consider updating their Charter to replace the Citizens Committee on Land Use and Transportation appointment that is now non-operational. As a result, the addition of one more At-Large Citizen appointment has been recommended.

REGULATORY IMPACT

None

FISCAL IMPACT

None

PROPOSED AMENDMENT

The proposed amendment updates Article 2, Paragraph 5, of the ESRC Charter to replace the Citizens Committee on Land-Use and Transportation appointment with an At-Large Citizen appointment. The same update is being made to Section 1-0301.1 of the PFM as follows:

**Proposed Amendment
to the Engineering Standards Review Committee (ESRC) Charter**

Amend the ESRC Charter, Article 2 (Office, Duration and Compensation), Paragraph 5, to read as follows:

Article 2. Office, Duration and Compensation

1. Working facilities of the committee shall be as provided by the County Executive.
2. The duration of this committee is determinable by the Board of Supervisors.

3. The removal or resignation or withdrawal of any or all members of the committee shall not result in the dissolution of the committee.
4. Any member that misses three consecutive meetings shall be deemed to have resigned unless reinstated by the Board.
5. Members of the committee will be assigned by the Board of Supervisors. Sponsorship of one member may be requested from the following named organizations or types of organizations.
 - A. Northern Virginia Regional Council of the Virginia Society of Professional Engineers.
 - B. Virginia Association of Surveyors (Mount Vernon Chapter)
 - C. Northern Virginia Building Industry Association
 - D. Fairfax District, Virginia Department of Transportation
 - E. Fairfax County Federation of Citizens Associations
 - F. Fairfax County Bar Association
 - G. League of Women Voters of the Fairfax Area
 - H. ~~Three~~Four citizens at large
 - I. County Department of Planning and Zoning
 - J. ~~County Department of Public Works and Environmental Services,~~ Land Development Services (technical advisor/administrative member)
 - K. County Department of Public Works and Environmental Services (regular member)
 - L. Northern Virginia Chapter of Heavy Construction Contractors Association
 - M. Virginia Chapter of Associated Builders and Contractors
 - N. Northern Virginia Soil and Water Conservation District
 - O. Washington Area Council of Engineering Laboratories
 - ~~P. Citizens Committee on Land Use and Transportation~~
 - ~~Q. P.~~ National Association of Industrial Office Parks (Northern Virginia Chapter)
 - ~~R. Q.~~ Engineers and Surveyors Institute

**Proposed Amendment
to the Public Facilities Manual (PFM)**

Amend Chapter 1 (General Information) of the PFM, Section 1-0300 (Establishment of the ESRC), Section 1-0301 (ESRC Charter), by revising Paragraph 1-0301.1, to read as follows:

1-0300 ESTABLISHMENT OF THE ESRC

1-0301 ESRC Charter. On Dec. 11, 1963, the Board established a Continuing Review Committee to evaluate the original Policies and Guidelines for the Preparation of Subdivision and Site Plans. On March 5, 1973, the Board adopted a charter establishing the Engineering Standards Review Committee (ESRC). On Aug. 17, 1983, the charter was amended and adopted by the Board.

1-0301.1 This committee now consists of one representative from each of the following organizations:

Citizens-at-Large (~~three~~four)

Northern Virginia Regional Council of the Virginia Society of Professional Engineers

Virginia Association of Surveyors (Mount Vernon Chapter)

Northern Virginia Building Industry Association

Fairfax County Federation of Citizens Associations

Fairfax County Bar Association

League of Women Voters

Northern Virginia Chapter of Heavy Construction Contractors Association

VDOT, Fairfax District (Advisory)

Associated Builders and Contractors

Northern Virginia Soil and Water Conservation District

Washington Area Council of Engineering Laboratories

National Association of Industrial and Office Parks (Effective 2-13-89)

~~Citizens Committee on Land Use and Transportation (Effective 2-13-89)~~

Engineers & Surveyors Institute (Effective 12-13-93)

Members serve for three years and may be reappointed.

ADMINISTRATIVE - 3

Authorization to Advertise a Public Hearing for the First Interim Agreement - Master Development Plan Between the Board of Supervisors of Fairfax County, Virginia, and The Alexander Company and Elm Street Development (Collectively, "Developer") (Mount Vernon District)

ISSUE:

Board authorization to advertise a public hearing on the First Interim Agreement between the County and Developer for the Master Development Plan for the Original Mount Vernon High School Redevelopment.

RECOMMENDATION:

The Acting County Executive recommends that the Board authorize advertisement of a public hearing on December 5, 2017, at 4:30 p.m., to consider the approval of the First Interim Agreement.

TIMING:

Board authorization for advertisement on November 21, 2017, is requested to permit the public hearing to be held on December 5, 2017, allowing for the comment period as required by the Code of Virginia and to maintain the project schedule for start of the master plan work in early 2018.

BACKGROUND:

The Fairfax County Board of Supervisors owns approximately 22.6 acres of property at the site of the Original Mount Vernon High School building at 8333 Richmond Highway, Alexandria, VA, in the Mount Vernon District. The facility was vacated in 2016 at the conclusion of a long-term lease. The building was constructed in 1939, and planning efforts continue with focus on immediate occupancy and long-term redevelopment planning. The long-term planning and redevelopment will also consider the Fairfax County Park Authority property of approximately 17.8 acres at the location of the George Washington RECenter, Fairfax Water and Right-of-Way properties, totaling 1.74 acres, all adjacent to the County property.

On May 26, 2017, the Department of Procurement and Material Management (DPMM) advertised a Request for Proposals (RFP), seeking a qualified firm to enter into an agreement to develop a Master Development Plan for the combined properties, totaling approximately 42 acres with frontage along Route 1, in the Mount Vernon District.

On June 30, 2017, the County received proposals from two offerors, both of which were determined to be responsive and were publicly posted under the Public-Private Education and Infrastructure Act (PPEA) notice requirements. Subsequent to

Board Agenda Item
November 21, 2017

evaluation and recommendation by the Selection Advisory Committee, the County entered negotiations with both offerors.

Negotiations with each offeror concluded on October 23, 2017, with a recommendation to enter into the First Interim Agreement with The Alexander Company and Elm Street Development for the long-term development Master Plan for the overall 42-acre site, including both the Original Mount Vernon High School and the George Washington RECenter facilities. The Master Development Plan is Phase One of the overall redevelopment effort and will be followed by Phase Two for the Master Development Plan Implementation. Staff will return to the Board at a future date for authorization of Phase Two work.

FISCAL IMPACT:

The County will pay the Developer for the actual cost of the Master Development Plan up to \$399,000. An additional County Contingency in the amount of \$61,000 (approximately 15% of the Master Development Plan cost), brings the total required funding to \$460,000. Funding is available in Project 2G25-102-000, Original Mount Vernon High School Redevelopment, in Fund 30010, General County Construction and Contributions. This project is included in in the Adopted FY 2018 – FY 2022 Capital Improvement Program (with Future Fiscal Years to FY 2027).

ENCLOSED DOCUMENTS:

Attachment A – First Interim Agreement: Master Development Plan

STAFF:

Robert A. Stalzer, Deputy County Executive
Joseph Mondoro, Chief Financial Officer, Department of Management and Budget
Martha Reed, Capital Programs Coordinator, Department of Management and Budget
Sara Baldwin, Acting Director, Fairfax County Park Authority
Cathy Muse, Director, Department of Procurement and Material Management
James Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:

Cynthia Bailey, Deputy County Attorney, Office of the County Attorney
Susan Timoner, Assistant County Attorney, Office of the County Attorney

RFP2000002301 – ORIGINAL MOUNT VERNON HIGH SCHOOL REDEVELOPMENT

FIRST INTERIM AGREEMENT: MASTER DEVELOPMENT PLAN

THIS FIRST INTERIM AGREEMENT: MASTER DEVELOPMENT PLAN (the “Agreement”) is dated as of the ____ day of January 2018 (the “Contract Date”), by and between The Alexander Company, Inc. and Elm Street Development, Inc. (jointly, the “Developer”), and the Board of Supervisors of Fairfax County, Virginia (the “County”). The Developer and the County may be referred to collectively in this Agreement as the “Parties.”

RECITALS

- R-1.** The Original Mount Vernon High School (“OMVHS” or the “Property”) is located at 8333 Richmond Highway, Alexandria, Virginia and is comprised of the following Tax Map Parcels: Tax Map No. 101-4 ((01)) Parcels 5A, 57, 58A, and 47A; Tax Map No. 101-4 ((07)) Parcels 1 and 39; Tax Map No. 101-4 ((8E)) Parcel 1; Tax Map No. 101-4 ((8A)) Parcel A1. The Property also includes approximately 1.4 acres of right-of-way. Attached Exhibit A shows the general location of the Property. Built in 1939, with additions in the 1950s and renovations in the 1980s, the school is a classic example of Colonial Revival Architecture, and sits on the land that was once part of the estate of President George Washington. The facility has been nominated and is currently under review for inclusion in the National Register of Historic Places.
- R-2** The building and the overall 42-acre site offer a unique opportunity to create a dynamic destination for residents of the entire region and harness innovative models of design, community building, social impact, and business ingenuity.
- R-3** To that end, on May 26, 2017, the County issued a Request for Proposals (“RFP”), RFP No. 2000002301, to solicit a development partner pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002, as amended (“PPEA”) to transform the OMVHS into an innovative campus that serves the surrounding communities.
- R-4** The RFP included General Conditions and Instructions to Bidders, which General Conditions are attached as Exhibit B and are fully incorporated into this Agreement, as applicable.
- R-5** The County has selected the Developer to perform the first phase (“Phase One”) of the OMVHS redevelopment by creation of a Master Development Plan (“Master Development Plan”) that will detail the vision for the Property such that its implementation can be economically and expeditiously achieved.
- R-6** Following completion of Phase One, the Parties will endeavor to reach a mutual understanding upon subsequent agreements that will provide for the implementation of the OMVHS redevelopment effort (“Phase Two”) in a manner consistent with the Master Development Plan.
- R-7** The Parties want to enter into this Agreement to outline each of their respective responsibilities with respect to Phase One.

Accordingly, in consideration of the mutual promises in this Agreement, and other valuable consideration, the receipt and legal sufficiency of which are acknowledged by the Parties, the Parties agree to the following:

ARTICLE I THE SCOPE OF WORK

Section 1.01. The Recitals are fully incorporated into this Agreement.

Section 1.02. The Developer will, within nine months from the Contract Date, provide the County with a Master Development Plan that will specifically detail an economically feasible plan to redevelop the Property in a form and with all substantive requirements as may be deemed necessary by County staff for presentation to the Board of Supervisors (the "Services") in accordance with the schedule described in Article III.

Section 1.03. The Master Development Plan documents will include the following items:

- A. Existing context land uses, plans, and accompanying densities/intensities, construction type, and square footage of buildings;
- B. Proposed land use and building uses with accompanying densities/intensities, construction type, and square footage, vehicular circulation and parking, open space and pedestrian circulation, and campus infrastructure;
- C. Compliance with the County's Comprehensive Plan, and all governing ordinances, codes, policies, and regulations;
- D. Identification of zoning actions and regulatory process for the implementation of the development;
- E. Development alternatives with priorities and principals, and scenarios based on community needs, master development plan goals, and market conditions;
- F. Environmental impacts and proposed solutions to mitigate such impacts;
- G. A detailed development implementation schedule that may include a phasing plan with realistic and agreed upon timeframes for certain development components;
- H. A long-term maintenance regime and property management plan;
- I. Coordination and compliance with the land use, transportation grid, and design standards set forth in the Embark Richmond Highway Plan Amendment (2015-IV-MV1);
- J. A description of possible proffered contributions including road and frontage improvements, stormwater management facilities, open space, affordable housing, infrastructure construction, and other public and community use/need facilities;
- K. A detailed analysis of existing and proposed recreational amenities and open spaces as coordinated with the Fairfax County Park Authority's Needs Assessment, including use or replacement options for the George Washington RECenter located on the Property;

- L. A comprehensive internal pedestrian network that connects all proposed uses within the Property and is integrated with the future Route 1 widening project and the Embark Bus Rapid Transit Station;
- M. A detailed description of how to address the issues and challenges outlined by the following assessments, studies, and evaluations previously prepared:
 - 1. The ADA Compliance Assessment Report;
 - 2. The Facility Condition Assessment;
 - 3. The Hazardous Material Feasibility Study;
 - 4. The Historic Structure Report;
 - 5. One Fairfax principals, including efforts to target economic opportunities to underserved segments of the Fairfax County community;
 - 6. The Fairfax County Economic Success Strategic Plan; and
 - 7. The OMVHS Re-utilization Task Force Report.
- N. A detailed cost model showing the analysis of the detailed costs, and financial feasibility necessary to effectuate the Master Development Plan, including options that will allow flexibility to adapt to future needs. The Master Development Plan will address the relationship between type and quality of development versus development cost, and will outline economical design elements that include innovative approaches to aesthetics, construction methods and materials, sustainable design, life cycle, and maintenance, among others. Alternative funding sources should also be evaluated for the development, such as federal and state tax credits and possible grants;
- O. The Master Development Plan will ensure that the on-site gymnasium services will be fully available throughout the duration of the Property's development, subject to temporary closure or relocation for reasonable periods of time (with coordination and approval by the County) when necessary for code-required improvements, maintenance, or repairs;
- P. At the County's request, the Developer will provide alternative development concepts and land use scenarios with associated costs and development priorities.

Section 1.04. Development of the Master Development Plan must include engagement and formal input from the various County and community stakeholders, including, but not limited to, Fairfax County Neighborhood and Community Services, the Fairfax County Park Authority, the Fairfax County Department of Public Works and Environmental Services, the Fairfax County Department of Transportation, the Fairfax County Department of Planning and Zoning, members of the Fairfax County Board of Supervisors, the OMVHS Steering Committee, and other agencies and community organizations as the County may identify ("Stakeholders").

Section 1.05. The Developer will conduct at least three formal community meetings at intervals mutually agreed upon that are sufficiently advertised among the Stakeholders.

Section 1.06. The Developer will provide bi-weekly progress plans and reports and written updates ("Updates"), which the County may disseminate to the Stakeholders during the development of the Master Development Plan.

Section 1.07. The Developer may be required to present the Draft Master Development Plan and the Final Master Development Plan (as they are more fully described in Article II below) to designated community and/or County officials.

ARTICLE II DELIVERABLES

Section 2.01. Preparation of the Master Development Plan will consist of three phases, reflecting in greater detail for each phase the items set forth in Section 1.03:

- A. Preliminary Master Development Plan, to include: cost models, draft narratives, including an executive summary, preliminary site plan with a minimum of three proposed land use layouts and densities/intensities, and proposed vehicular and pedestrian connections, parking and open space areas throughout the public and private facilities and site. The Preliminary Master Development Plan will identify any actions required for implementation of proposed land uses and densities/intensities. With regard to the alternative proposed concepts to be included in the Preliminary Master Development Plan, Developer will provide development concept options offering different scenarios/types/mixes at concept level with sufficient information to provide for a cost model to aid in the evaluation and selection of the final option.
- B. Draft Master Development Plan, to include:
 - 1. Site Plan, describing proposed land uses, building types/uses, and densities/intensities, and proposed vehicular and pedestrian connections, parking and open space areas throughout the public and private facilities and site;
 - 2. Executive Summary and Narratives explaining project vision;
 - 3. Additional drawings/schematic plans and three dimensional models/views, as appropriate, to clearly demonstrate the proposed Master Development Plan elements, goals, and phasing;
 - 4. Master Development Plan implementation plan and schedule; and
 - 5. Phasing plan as may be applicable.
- C. Final Master Development Plan, to be prepared consistent with all matters described in Section 1.03 and Section 2.01(B), in form and substance satisfactory to the County, including without limitation:
 - 1. Final Site Plan;
 - 2. Final Cost Model to include total Property development costs, hard costs by product type (total and by square foot), soft costs, and development fees;
 - 3. Sources and Uses of Funds Table;
 - 4. Detailed Development & Operating Pro Forma;
 - 5. Structure of Public-Private Partnership;
 - 6. Narrative describing financial plan and party obligations; and
 - 7. Maintenance and Operations Regime and Property Management Plan.

Section 2.02. The Master Development Plan will be in both PDF format and in native source format, including Microsoft Word, Microsoft Project, PowerPoint, etc.

Section 2.03. The County retains all ownership rights to the Master Development Plan, without limitation, including any supporting data and the Developer work product (collectively all of the foregoing are defined as the "Work Product"). The County has the right to provide the Master Development Plan together with all other Work Product to another developer or developers for the development of the Property or other related projects. The Developer will assign to the County all Work Product in the form acceptable to the County (the "Assignment"). In addition, the Developer will provide the County with a consent to the Assignment from all consultants of the Developer and other parties who may have an interest in the Work Product to assure the County of the legal right to use all of the Work Product without limitation.

ARTICLE III PURCHASE PRICE AND PAYMENT SCHEDULE

Section 3.01. This Agreement is for a total amount of \$399,000 ("Contract Price"), which is made up of the following, as set forth in Exhibit C: \$340,000 ("Base Contract Amount"); \$25,000 ("Reimbursable Expenses"); and \$34,000 ("Contingency"). Payment of the Contract Price will be according to Section 3.02, and is contingent on the Developer's timely delivery of all deliverables as described in this Agreement, reasonably satisfactory to the County, in accordance with the following schedule:

- A. Initial 30-Day Period. Within 30 days after the Contract Date, the Developer will provide a reasonable schedule to meet the development milestones showing start and end dates for each task and any critical path milestones and deliverables.
- B. Initial Six-Month Period. Within six months after the Contract Date, during which time Developer will conduct all information gathering, Stakeholder outreach, preparation of a concept master plan and financial feasibility analysis, the Developer will provide the County with the all of the initial deliverables as set forth in Section 2.01(A) and (B) ("Initial Deliverables").
- C. Final Two-Month Period. Within two months after the County reasonably determines that it has received all of the Initial Deliverables, but not later than eight months after the Contract Date, the Developer will update and refine the Initial Deliverables as described in Section 2.01(C) in a final draft format sufficient to enable County staff to commence preparation of a formal submission and recommendation to the Board of Supervisors of the Master Development Plan ("Draft Master Development Plan").
- D. Final 30-Day Period. Within 30 days after the completion of all tasks for the Final Two-Month Period described in Section 3.01(C), the Developer will work with the County to finalize work on the Master Development Plan, including the Developer working with County staff on a Board item to be presented to the Board of Supervisors. The Developer will participate, if requested, in the presentation to the Board of Supervisors when the Board considers staff recommendations with regard to the Master Development Plan ("Final Master Development Plan").

Section 3.02. Payment of the Base Contract Amount will be in installments according to the schedule below. In addition, the County will reimburse Developer for all reasonable and necessary expenses directly related to the Services up to the Reimbursable Expenses. An invoice for such expenditures, with appropriate backup, will be provided by Developer to the County upon

completion of each milestone as described in this Article III. Payment from the Contingency will be available only with justification for need and with the County's prior written authorization.

- A. Within twenty-five business days of completion of the Initial Six-Month Schedule described in Section 3.01(B), as reasonably determined by the County, the County will pay up to 50% of the Base Contract Amount, based upon work performed by the Developer with supporting invoices and other documentation of costs and payments.
- B. Within twenty-five business days of completion of the Final Two-Month Schedule as described in Section 3.01(C), as reasonably determined by the County, the County will pay up to an additional 25% of the Base Contract Amount, based upon work performed by the Developer with supporting invoices and other documentation of costs and payments.
- C. Within twenty-five days after the County accepts the Master Development Plan following consideration by the Board of Supervisors, the County will pay up to the remaining balance of the Contract Price, based upon work performed by the Developer with supporting invoices and other documentation of costs and payments.
- D. If, at any point during the duration of this Agreement, County staff chooses not to present the Master Development Plan to the Board of Supervisors, or the County elects not to accept the Master Development Plan after a presentation to the Board of Supervisors, the County will pay to the Developer an equitable portion of the Base Contract Amount, based upon work performed by the Developer with supporting invoices and other documentation of costs and payments.

ARTICLE IV STAFFING

Section 4.01. The Developer has assigned the following personnel/consultants to perform the Services (the "Consultants"):

- | | |
|--------------------------------------|-----------------------|
| A. Alexander Company | Co-Developer |
| B. Elm Street Development | Co-Developer |
| C. Walter L. Phillips | Civil Engineer |
| D. Gorove/Slade | Traffic Engineer |
| E. Wetland Studies & Solutions | Environmental Studies |
| F. Geo-Technology Associates | Geotechnical Engineer |
| G. McGuire Woods LLP | Land Use Counsel |
| H. Heise Jorgenson & Stefanelli P.A. | Title Attorney |
| I. LandDesign | Land Planning |
| J. Smart Site | Value Engineering |

Section 4.02. The Developer acknowledges that the County selected the Developer based, in critical part, on the qualifications of the Consultants. Accordingly, absent circumstances beyond the Developer's control such as death, illness, or turn-over, these Consultants will not be changed or substituted during the term of the Agreement without the County's consent. If any of the Consultants are unable or unwilling to meet the requirements of 7.02(A) or 7.02(B), which will be determined within 30 days of the Contract Date, the County may either amend the insurance requirements for that Consultant or allow the Developer, with the County's consent, to change or make a substitution for such Consultants. The Developer's competing business priorities shall not be a basis for a change or substitution of these Consultants. Any substitutions of key personnel of the Developer or the Consultants must be approved in advance by the County.

ARTICLE V TERMINATION

Section 5.01. If the County terminates this Agreement for either convenience or cause as set forth under Paragraph 31 of the General Conditions attached as Exhibit B, the County reserves the right to work with any other developer who responded to RFP No. 2000002301.

ARTICLE VI PHASE TWO

Section 6.01. After the Developer's delivery of the Master Development Plan and the County acceptance of the Master Development Plan, the County intends to negotiate in good faith with the Developer to reach subsequent agreements regarding the actual development of the Property. The County, however, is under no obligation to continue to Phase Two with the Developer. It is anticipated that Phase Two will involve at least two separate agreements. The first agreement, which is anticipated to be titled the Second Interim Agreement: Land Entitlements ("Second Interim Agreement"), will cover the portion of Phase Two where rezoning and other land entitlements will be pursued jointly by the County and the Developer and will detail the sharing of responsibility and costs for such land entitlements. While land entitlements are pursued under the terms of the Second Interim Agreement, the Parties will negotiate in good faith to reach a comprehensive agreement for the actual physical implementation of the redevelopment. Should the Parties be unable to agree on the terms of a comprehensive agreement, the County is under no obligation to continue Phase Two with the Developer. The Second Interim Agreement and the comprehensive agreement (which may consist of one or more contracts) will be presented to the Board of Supervisors for approval in accordance with the provisions of the PPEA.

Section 6.02. If the County, in its sole discretion, elects to move forward with the Developer on Phase Two, in whole or in part, County staff and the Developer will work collaboratively following the County's acceptance of the Master Development Plan to reach agreement on the terms of the Second Interim Agreement within 90 days of such acceptance, with the expectation that the Second Interim Agreement will be presented to the Board of Supervisors for its consideration and approval in accordance with the provisions of the PPEA.

Section 6.03. If the Developer fails to reach agreement with County staff on the terms of the Second Interim Agreement within 90 days of the County's acceptance of the Master Development Plan, the County will have the right to offer one or more developers the right to implement Phase Two, or in its sole discretion, it may extend the time in which to reach agreement on the Second Interim Agreement.

Section 6.04. Nothing in this Agreement shall prohibit the County, in its sole discretion, from using or leasing the Property in any manner during any period before the implementation of Phase Two. If any such use, however, materially impacts the implementation of the Master Development Plan, the Parties will address any such impacts pursuant to their negotiation the Second Interim Agreement, or as applicable, a comprehensive development agreement.

ARTICLE VII INSURANCE

Section 7.01. The Developer is responsible for its work and for all materials, tools, equipment, appliances, and property of any and all description used in connection with the project, whether owned by the Developer or by the County. The Developer and its Consultants assume all risks of direct and indirect damage or injury to any person or property wherever located, resulting from any action, omission, commission, or operation under this Agreement, or in connection in any way whatsoever with the contracted work.

Section 7.02. The Developer shall, during the continuance of all work under this Agreement provide the following:

- A. Maintain statutory Worker's Compensation and Employer's Liability insurance in limits of not less than \$100,000 to protect the Developer from any liability or damages for any injuries (including death and disability) to any and all of its employees, volunteers, or Consultants, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia, or which may be hereinafter enacted.
- B. Maintain Commercial General Liability insurance in the amount of \$1,000,000 per occurrence/aggregate, to protect the Developer, its Consultants, and the interest of the County, against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under this Agreement or in connection with contracted work. The General Liability insurance shall also include the Broad Form Property Damage endorsement, in addition to coverages for explosion, collapse, and underground hazards, where required.
- C. Maintain owned, non-owned, and hired Automobile Liability insurance, in the amount of \$1,000,000 per occurrence/aggregate, including property damage, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Developer. In addition, all mobile equipment used by the Developer in connection with the contracted work will be insured under either a standard Automobile Liability policy, or a Comprehensive General Liability policy.
- D. Maintain Professional Liability insurance in the amount of \$1,000,000 per occurrence/aggregate to cover each individual professional staff.
- E. Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

F. Rating Requirements:

1. The Developer agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VI.
2. European markets including those based in London, and the domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the Developer's broker can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A:VI or better.

G. Indemnification: See Article 63 of the General Conditions and Instructions to Bidders (Exhibit B).

H. The Developer will provide an original, signed Certificate of Insurance citing the contract number and such endorsements as prescribed herein, and shall have it filed with the County Purchasing Agent or Risk Manager before any work is started.

I. If the Developer delivers services from a County-leased facility, the Developer is required to carry property insurance on all equipment, to include County-owned installed and maintained equipment used by the Developer while in their care, custody and control for use under this Agreement.

J. No change, cancellation, or non-renewal shall be made in any insurance coverage without a forty-five day written notice to the County Purchasing Agent or Risk Manager. The Developer shall furnish a new certificate prior to any change or cancellation date. The failure of the Developer to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.

K. Precaution shall be exercised at all times for the protection of persons (including employees) and property.

**ARTICLE VIII
DELAYS AND SUSPENSIONS**

Section 8.01.

A. The County may direct the Developer, in writing, to suspend, delay, or interrupt all or any part of the work of this Agreement for the period of time deemed appropriate for the convenience of the County. The County will extend the Developer's time of completion by a period of time that in the discretion of the County is reasonably suited for completion of work. The County may further amend this Agreement by mutual agreement for any increase in the cost of performance of the Agreement (excluding profit) resulting solely from the delay or suspension of the Agreement. No adjustment shall be made under this provision for any delay or interruption resulting from any other cause, including the fault or negligence of the Developer or its Consultants.

B. If the County does not direct the Developer, in writing, to suspend, delay, or interrupt the Agreement, the Developer must give the County written notice if the County fails to provide data or services that are required for completion of this Agreement by the Developer. The County may extend the Developer's time of completion by a period of time that in the

discretion of the County is reasonably suited for completion of work. The County may further amend this Agreement by mutual agreement for any increase in the cost of performance of the Agreement (excluding profit) resulting solely from the delay or suspension of this Agreement. No adjustment shall be made under this provision for any delay or interruption resulting from any other cause, including the fault or negligence of the Developer or its Consultants.

ARTICLE IX ACCESS TO AND INSPECTION OF WORK PRODUCT

Section 9.01. County designated staff will, at all times, have access to the Work Product being performed under this Agreement wherever it may be in progress or preparation.

ARTICLE X PROJECT AUDITS

Section 10.01.

- A. The Developer shall maintain books, records, and documents of all costs and data in support of the services provided to the County in accordance with the County standard audit requirements as set forth in the RFP. The County or its authorized representative shall have the right to audit the books, records, and documents of the Developer under the following conditions:
 - 1. If the Agreement is terminated for any reason in order to arrive at equitable termination costs;
 - 2. In the event of a disagreement between the Developer and the County on the amount due the Developer under the terms of this Agreement;
 - 3. To check or substantiate any amounts invoiced or paid which are required to reflect the costs of services, or the Developer's efficiency or effectiveness under this Agreement; and
 - 4. If it becomes necessary to determine the County's rights and the Developer's obligations under the Agreement or to ascertain facts relative to any claim against the Developer that may result in a charge against the County.
- B. These provisions for an audit shall give the County unlimited access during normal working hours to the Developer's books and records under the conditions stated above.
- C. Unless otherwise provided by applicable statute, the Developer, from the effective date of final payment or termination hereunder, shall preserve and make available to the County for a period of three (3) years thereafter, at all reasonable times at the office of the Developer but without direct charge to the County, all its books, records, documents, and other evidence bearing on the costs and expenses of the services relating to the work hereunder.
- D. The County's right to audit and the preservation of records shall terminate at the end of three (3) years as stated herein. The Developer shall include this "Right of Audit and Preservation of Records" clause in all subcontracts or consulting agreements issued by it and it shall require same to be inserted by all lower tier subcontractors in their subcontracts, if the lower tier subcontract amount is \$10,000 or more, for any portion of the work.

- E. If the Developer fails to include this clause in any such contract or lower tier contract, or otherwise fails to insure the County's rights hereunder, the Contractor shall be liable to the County for all reasonable costs, expenses and attorneys' fees that the County may have to incur in order to obtain an audit or inspection of or the restoration of records which would have otherwise been available to the County from said persons. Such audit may be conducted by the County or its authorized representative. If the County is unable to audit the actual cost records as a result of the Developer's failure to ensure the County's rights to inspect cost records as set forth in this paragraph, then the County will be entitled to commercially reasonable costs as reasonably estimated by the County.

ARTICLE XI DISPUTE RESOLUTION

Section 11.01.

- A. Any dispute concerning a question of fact as a result this Agreement which is not disposed of by the mutual agreement of the Parties shall be decided by the County Purchasing Agent, who shall reduce his/her decision to writing and mail or otherwise forward a copy to the Developer within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the Developer appeals within six months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. The Developer may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.
- B. Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the Developer's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

ARTICLE XII NOTICES

Section 12.01.

- A. All notices, demands, or other communications between the Parties ("Notice") must be in writing. Notices must be given by (i) personal delivery or (ii) a nationally-recognized, next-day courier service, addressed as follows:

If to the County:

Fairfax County Department of Public Works and Environmental Services
Public Private Partnership Branch
12000 Government Center Parkway, Suite 449
Fairfax, Virginia 22035
Attn: Katayoon Shaya, Chief, P3 Branch

With a copies to:

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

and:

Fairfax County Department of Procurement and Material Management
12000 Government Center Parkway, Suite 427
Fairfax, Virginia 22035-0064
Attention: Director

If to Developer:

With a copy to:

- B. A Notice given in accordance with this Agreement will be effective upon receipt or refusal by the party to which it is given.
- C. For convenience, Notices may be sent via email; however, such email Notice will not be considered effective until the original Notice is received by the party to which it is given pursuant to one of the delivery methods described in subsection (A) above.
- D. Either Party may change its Notice address from time to time by informing the other Party in writing of such new address.

ARTICLE XIII MISCELLANEOUS

Section 13.01. Entire Agreement. This Agreement, together with the attached Exhibits, all of which are incorporated by reference, is the entire agreement between the Parties. The terms of this Agreement may be amended or modified only by a written instrument executed by the Parties.

Section 13.02. Severability. If any provision of this Agreement or its application to any party or circumstances is determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person

or circumstances, other than those as to which it is so determined invalid or unenforceable, will not be affected, and each provision of this Agreement will be valid and will be enforced to the fullest extent permitted by law.

Section 13.03. Applicable Law. This Agreement and any dispute, controversy, or proceeding arising out of or relating to this Agreement (whether in contract, tort, common or statutory law, equity or otherwise) will be governed by Virginia law, without regard to conflict of law principles of Virginia or of any other jurisdiction that would result in the application of laws of any jurisdiction other than Virginia.

Section 13.04. Venue. All claims and litigation arising out of or related to this Agreement must be brought and resolved in the courts of the Commonwealth of Virginia located in the County of Fairfax, Virginia, or U.S. District Court for the Eastern District of Virginia, Alexandria Division.

Section 13.05. Assignability. The County may assign all of its rights and obligations under this Agreement without the written consent of the Developer; provided, however, that any assignee of the County will assume all of the obligations of the County under this Agreement. The Developer does not have the right to assign this Agreement.

Section 13.06. Captions; Interpretation. (a) The captions of this Agreement are for reference only and do not describe the intent of this Agreement or otherwise alter the terms of this Agreement. (b) When a reference is made in this Agreement to an Article, a Section, or an Exhibit, such reference is to an Article of, a Section of, or an Exhibit to this Agreement. (c) Whenever the words "include," "includes," or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation." (d) The definitions contained in this Agreement are applicable to the singular as well as to the plural forms of such terms and to the masculine, feminine, and non-genders of such terms. Whenever the context requires, any pronouns used in this Agreement include the corresponding masculine, feminine, or non-gender forms.

Section 13.07. No Partnership. Nothing contained in this Agreement will be construed to create a partnership or joint venture between the Parties or their successors or permitted assigns.

Section 13.08. Time of Essence. Time is of the essence with respect to the performance of the obligations of the Parties under this Agreement.

Section 13.09. Counterparts and Distribution. This Agreement may be executed and delivered in any number of counterparts, in the original or by electronic transmission, each of which so executed and delivered will be deemed to be an original and all of which will constitute one and the same instrument.

Section 13.10. Waiver. No waiver of any breach of this Agreement will be deemed a waiver of any preceding or succeeding breach under this Agreement or any other agreement. No extension of time for the performance of any obligation or act will be deemed an extension of time for the performance of any other obligation or act.

Section 13.11. Business Days. If any date set forth in this Agreement for the performance of any obligations by the Parties or for the delivery of any instrument or notice falls on a Saturday, Sunday, Legal Holiday, or day in which Fairfax County governmental offices are closed, the compliance with such obligations or delivery will be deemed acceptable on the next business day following such Saturday, Sunday, Legal Holiday, or closing. The term "Legal Holiday" will mean

any Fairfax County, Commonwealth of Virginia, or federal holiday on which post offices are closed in Virginia.

Section 13.12. Contract Date. The Contract Date is the date on which this Agreement is executed by and delivered to the Parties, which date will be inserted at the top of the first page.

Section 13.13. Waiver of Jury Trial. The Parties each waive all rights to a trial by jury in any claim, action, proceeding or counterclaim arising out of or in any way connected with this Agreement.

Section 13.14. Safeguard of Information. Unless approved in writing by the County, the Developer may not sell or give to any individual or organization any information, reports, or other materials given to, prepared, or assembled by the Developer or its consultants under this Agreement.

Section 13.15. Prohibition of Developer News Release. Unless approved in writing by the County, the Developer may not sell or give to any individual or organization any information, reports, or other materials given to, prepared or assembled by the Developer or its consultants under this Agreement or otherwise publicize Developer's role and involvement with the Property. Any public announcement of the proposed project pursuant to the Master Development Plan must be fully coordinated with the County.

Section 13.16. Americans with Disabilities Act.

- A. Fairfax County Government is fully committed to the Americans with Disabilities Act (ADA) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all County programs, activities, and services. Fairfax County government contractors, subcontractors, vendors, and suppliers are subject to this ADA policy. The Developer must make the same commitment and the Developer's execution of this Agreement is an express acknowledgement of the Developer's commitment and compliance with ADA.
- B. Fairfax County is committed to a policy of nondiscrimination in all County programs, services, and activities and will provide reasonable accommodations upon request. Anyone requesting special accommodations should call the Department ADA representative at 703-324-3201 or TTY 1-800-828-1140. Please allow seven working days in advance of the event to make the necessary arrangements.

Section 13.17. Authorization to Conduct Business in the Commonwealth. In accordance with mandatory County policy, the Developer shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. The Developer shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of this Agreement. Fairfax County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this Section.

Section 13.18. Drug Free Workplace. During the performance of this Agreement, the Developer agrees to (i) provide a drug-free workplace for the Developer's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Developer's workplace and specifying the actions that

will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Developer that the Developer maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this Section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to the Developer in accordance with this Section, 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 this Agreement.

Section 13.19. Immigration Reform and Control Act. The Developer agrees that it does not, and shall not during the performance of this Agreement in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

Section 13.20. Survival. All representations, warranties, and indemnities contained in this Agreement or in any instrument, document, or agreement delivered pursuant to this Agreement will survive termination of this Agreement unless otherwise provided herein.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

DEVELOPER:

The Alexander Company, Inc.

By: _____

Name: _____

Title: _____

DEVELOPER:

Elm Street Development, Inc.

By: _____

Name: _____

Title: _____

THE COUNTY:

Fairfax County Board of Supervisors

By: _____

Name: _____

Title: _____

Exhibit A - General Location Map



Exhibit B

Rev 8-2013

**COUNTY OF FAIRFAX
COMMONWEALTH OF VIRGINIA**

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

(Vendor: The general rules and conditions which follow apply to all purchases and become a definite part of each formal solicitation and resulting contract award issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT, unless otherwise specified. Bidders or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the bidder's own risk and relief cannot be secured on the plea of error.)

Subject to all State and local laws, policies, resolutions, and regulations and all accepted rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

I. AUTHORITY-The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for an indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

2. DEFINITIONS-

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BEST VALUE: As predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

BID: The offer of a bidder to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.

BIDDER/OFFEROR: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to

enter into contracts with the County. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.

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

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

GOODS: All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

INFORMALITY: A minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid or the request for proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

INVITATION FOR BID (IFB): A request which is made to prospective suppliers (bidders) for their quotation on goods or services desired by the County. The issuance of an IFB will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.

OPEN MARKET PROCUREMENT (OMP): A method of competitive bidding for the purchase or lease of goods, non-professional services or for the purchase of insurance, construction, or construction management when the estimated cost thereof shall be less than \$50,000.

PROFESSIONAL SERVICES: Any type of professional service performed by an independent Contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with the Fairfax County Purchasing Resolution).

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

REQUEST FOR PROPOSAL (RFP): A request for an offer from prospective offerors which will indicate the general terms which are sought to be procured from the offeror. The RFP will specify the evaluation factors to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.

RESPONSIBLE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having the capability in all respects to perform fully the contract requirements, and also having the moral and business integrity and reliability which will assure good faith performance, and having been prequalified, if required. (Reference paragraph 24, General Conditions and Instructions to Bidders).

RESPONSIVE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having submitted a bid which conforms in all material respects to the invitation for bid or request for proposal.

SERVICES: Any work performed by an independent Contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

SOLICITATION: The process of notifying prospective bidders that the County wishes to receive bids on a set of requirements to provide goods or services. The notification of County requirements may consist of public advertising (newspaper, County Web Site, or other electronic notification), the mailing of Notices of Solicitation, Invitation for Bid (IFB) or Request for Proposal (RFP), the public posting of notices, issuance of an Open Market Procurement (OMP), or telephone calls to prospective bidders.

STATE: Commonwealth of Virginia.

CONDITIONS OF BIDDING

3. BID FORMS-Unless otherwise specified in the solicitation, all bids shall be submitted on the forms provided, to include the bid Cover Sheet and Pricing Schedule(s), properly signed in ink in the proper spaces and submitted in a sealed envelope or package. The item pages of the Pricing Schedule which do not include any items for which a bid is required need not be included in the submission of a bid.

Should the bid prices and/or any other submissions differ on the copy of the submitted bid, the ORIGINAL copy shall prevail.

4. LATE BIDS & MODIFICATIONS OF BIDS-

- a. Any bid/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/modification is considered a late bid/modification. A late bid/modification will not be considered for award except under the following conditions only:

1. It was sent by registered or certified mail not later than the fifth (5th) calendar date prior to the date specified for receipt of the bid/modification; or

2. The bid/modification was sent by mail and it is determined by the County Purchasing Agent that the late receipt was due solely to mishandling by the County after receipt at the address specified in the solicitation.
- b. If an emergency or unanticipated event or closing interrupts or suspends normal County business operations so that bids cannot be received at the County office designated for receipt of bids by the exact time specified in the solicitation, the due date/time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal County business operations resume
- c. The official time used for receipt of bids/modifications is the Bid Clerk's time and date stamp clock located in the Department of Purchasing and Supply Management. "No other clocks, calendars or timepieces are recognized. All bidders are responsible to ensure all bids/modifications are received prior to the scheduled due date/time.
- d. A late hand-carried bid, or any other late bid not submitted by mail, shall not be considered for award.

5. WITHDRAWAL OF BIDS-

- a. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing to the Purchasing Agent of his or her claim of right to withdraw his or her bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.
- b. A bidder for a contract other than for public construction may request withdrawal of his or her bid under the following circumstances:
 1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.

2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.
- c. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.
- d. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.
- e. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
- f. If the county denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.
- g. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of the Virginia Freedom of Information Act.

6. ERRORS IN BIDS-When an error is made in extending total prices, the unit bid price will govern. Erasures in bids must be initialed by the bidder. Carelessness in quoting prices, or in preparation of bid otherwise, will not relieve the bidder. Bidders are cautioned to recheck their bids for possible error. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.

7. MAILING OF BIDS —. All bids and proposals submitted in response to a Fairfax County solicitation shall be submitted in a sealed envelope or package identified with the solicitation number, title, and bidders name and address clearly marked on the outside of such envelope or package.

8. COMPLETENESS-To be responsive, a bid must include all information required by the solicitation.

9. ACCEPTANCE OF BIDS/BINDING 90 DAYS-Unless otherwise specified, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties.

10. CONDITIONAL BIDS-Conditional bids are subject to rejection in whole or in part.

11. BIDS FOR ALL OR PART-Unless otherwise specified by the County Purchasing Agent or by the bidder, the Purchasing Agent reserves the right to make award on all items in the aggregate or on any of the items on an individual basis, whichever is in the best interest of the County. A bidder may restrict his or her bid to consideration in the aggregate by so stating but shall name a single unit price on each item bid. Any bid in which the bidder names a total price for all the articles without quoting a unit price for each and every separate item may not be considered for award.

12. AREA BIDS-For the purchase and delivery of certain goods and services the County may be divided into Areas (e.g., Areas I, II, III, and IV). When such goods and services are included in the Pricing Schedule, bidders may bid on all areas or an individual area. A map showing the areas of the County will be furnished with the solicitation when required.

13. TIME FOR RECEIVING BID-Bids received prior to the time of opening will be securely kept, unopened. The representative of the Purchasing Agent assigned to open them will decide when the specified time has arrived, and no bid received thereafter will be considered, except as provided in paragraph 4, General Conditions and Instructions to Bidders. No responsibility will attach to the Purchasing Agent or his or her representative for the premature opening of a bid not properly addressed and identified. Unless specifically authorized in the solicitation, telegraphic, electronic, or facsimile bids/modifications will not be considered.

14. BID OPENING-All bids received in response to an Invitation for Bid (IFB) will be opened at the date, time and place specified, read publicly, and made available for inspection as provided in paragraph 68, General Conditions and Instructions to Bidders. Tabulations of bids received are posted on the Department of Purchasing & Supply Management Bulletin Board as well as the County's web site:
<http://www.fairfaxcounty.gov/dpsm/bidtab.htm>.
Proposals received in response to a Request for Proposal (RFP) will be made available as provided in paragraph 68, General Conditions and Instructions to Bidders.

15. OMISSIONS & DISCREPANCIES-Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.

Should a bidder find discrepancies or ambiguities in, or omissions from, the solicitation, including the drawings and/or specifications, he or she shall notify the Purchasing Agent at least five (5) days prior to the date set for the opening of bids. If necessary, the Purchasing Agent will send a written addendum for clarification to all bidders no later than three (3) days before the date set for opening of bids. Notifications regarding specifications will not be considered if received within five days of the date set for opening of bids.

16. RESPONSE TO SOLICITATIONS-In the event a vendor cannot submit a bid on a solicitation; he or she is requested to return the solicitation cover sheet with an explanation as to why he or she is unable to bid on these requirements.

17. BIDDER INTERESTED IN MORE THAN ONE BID-If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

18. TAX EXEMPTION-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

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

SPECIFICATIONS

20. QUESTIONS CONCERNING SPECIFICATIONS-Any information relative to interpretation of specifications and drawings shall be requested of the Purchasing Agent, in writing, in ample time before the opening of bids. No inquiries, if received by the Purchasing Agent within five (5) days of the date set for the opening of bids, will be given any consideration. Any material interpretation of a specification, as determined by the County Purchasing Agent, will be expressed in the form of an addendum to the specification which will be sent to all prospective bidders no later than three (3) days before the date set for receipt of bids. Oral answers will not be authoritative.

21. BRAND NAME OR EQUAL ITEMS-Unless otherwise provided in the invitation for bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

22. FORMAL SPECIFICATIONS-When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

The bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.

23. FEDERAL SPECIFICATIONS-Any Federal Specifications referred to herein may be obtained from the GSA Federal Supply Service Bureau - Specification Section, 470 East L'Enfant Plaza, S.W., Suite #8100, Washington, D.C. 20407 (Voice: 1-202-619-8925, Fax: 1-202-619-8978).

AWARD

24. AWARD OR REJECTION OF BIDS-The Purchasing Agent shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Agent reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders as deemed necessary to fulfill the anticipated requirements of Fairfax County. The Purchasing Agent also reserves the right to reject the bid of a bidder deemed to be a non-responsible bidder.

In determining the responsibility of a bidder, the following criteria will be considered:

- a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

- d. The quality of performance of previous contracts or services;
- e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
- f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- g. The quality, availability and adaptability of the goods or services to the particular use required;
- h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- i. The number and scope of the conditions attached to the bid;
- j. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and
- k. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of non-responsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

25. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS-A written award (or Acceptance Agreement) mailed (or otherwise furnished) to the successful bidder within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract. The following documents which are included in the solicitation shall be incorporated by reference in the resulting contract and become a part of said contract:

- a. County of Fairfax Solicitation Form/Acceptance Agreement (Cover Sheet) and other documents which may be incorporated by reference, if applicable,
- b. General Conditions and Instructions to Bidders,
- c. Special Provisions and Specifications,
- d. Pricing Schedule,
- e. Any Addenda/Amendments/Memoranda of Negotiations

26. TIE-BIDS – If all bids are for the same total amount or unit price (including authorized discounts and delivery times), and if the public interest will not permit the delay of re-advertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services. The decision of the County to make award to one or more such bidders shall be final.

27. PROMPT PAYMENT DISCOUNT-

- a. Unless otherwise specified in the solicitation, prompt payment discounts requiring payment in less than fifteen (15) days will not be considered in evaluating a bid for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.
- b. In connection with any discount offered, time will be computed from the date of delivery of the supplies to the carrier when delivery, inspection and acceptance are at the point of origin; or, from date of delivery, inspection and acceptance at destination; or, from date correct invoice or voucher is received in the office specified by the County, if the latter is later than the date of acceptance. In the event the bidder does not indicate a prompt payment discount, it shall be construed to mean NET 30 days.

For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the County check or issuance of an Electronic Funds Transfer.

28. INSPECTION-ACCEPTANCE-For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.

29. DEFINITE BID QUANTITIES-Where definite quantities are specifically stated, acceptance will bind the County to order quantities specified and to pay for, at contract prices, all such supplies or services delivered that meet specifications and conditions of the contract. However, the County will not be required to accept delivery of any balances unordered, as of the contract expiration date, unless the Contractor furnished the Purchasing Agent with a statement of unordered balances not later than ten (10) days after the termination date of the contract.

30. REQUIREMENT BID QUANTITIES-On "Requirement" bids, acceptance will bind the County to pay for, at unit bid prices, only quantities ordered and delivered. Where the County specifies estimated quantities, the Contractor shall not be required to deliver more than ten (10) percent in excess of the estimated quantity of each item, unless otherwise agreed upon.

CONTRACT PROVISIONS

31. TERMINATION OF CONTRACTS-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:

- a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.

- b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

32. TERMINATION FOR CONVENIENCE-A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

33. TERMINATION OF CONTRACT FOR CAUSE-

- a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
- b. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

34. CONTRACT ALTERATIONS-No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.

35. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.

36. FUNDING-A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.

37. DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.

38. NON-LIABILITY-The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, are beyond the control of the Contractor. Under such circumstances, however, the Purchasing Agent may, at his or her discretion, cancel the contract.

39. NEW GOODS, FRESH STOCK-All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.

40. NON-DISCRIMINATION-During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
- e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

41. SMALL AND MINORITY BUSINESS UTILIZATION-

- a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.
- b. Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to small, women and minority businesses.
- c. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

42. GUARANTEES & WARRANTIES-All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.

43. PRICE REDUCTION-If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to this contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a "general price reduction" shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a "general price reduction" under this provision. The Contractor shall submit his or her invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the "Price Reduction" provision of the contract documents. The Contractor in addition will within ten days of any general price reduction notify the Purchasing Agent of such reduction by letter. FAILURE TO DO SO MAY REQUIRE TERMINATION OF THE CONTRACT. Upon receipt of any such notice of a general price reduction, all ordering offices will be duly notified by the Purchasing Agent. The Contractor, if requested, shall furnish, within ten days after the end of the contract period, a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the bid, or (2) if any such general price reductions were made, that as provided above, they were reported to the Purchasing Agent within ten (10) days and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such

reduction was issued, (2) the effective date of the reduction, and (3) the date when the Purchasing Agent was notified of any such reduction.

44. CHANGES-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment.

No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.

45. PLACING OF ORDERS-Orders against contracts will be placed with the Contractor on a Purchase Order (or Procurement Card) executed and released by the Purchasing Agent or his or her designee. The Purchase Order must bear the appropriate contract number and date. Where Blanket Purchase Agreements (BPAs) have been executed and a Blanket Purchase Order has been released by the Purchasing Agent, telephonic orders may be placed directly with the Contractor by authorized personnel in the ordering Agency.

DELIVERY PROVISIONS

46. SHIPPING INSTRUCTIONS - CONSIGNMENT-Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of 8:00 AM - 3:00 PM. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the receiver at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays, unless previous arrangements have been made. It shall be the responsibility of the Contractor to insure compliance with these instructions for items that are drop-shipped.

47. RESPONSIBILITY FOR SUPPLIES TENDERED-Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

48. INSPECTIONS-Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

49. COMPLIANCE-Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Agent when not in conflict with the bid. The decision of the Purchasing Agent as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Agent, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the Contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts. See Special Provisions for the individual solicitation.

50. POINT OF DESTINATION-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.

51. ADDITIONAL CHARGES-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.

52. METHOD AND CONTAINERS-Unless otherwise specified, goods shall be delivered in commercial packages in standard commercial containers, so constructed as to ensure acceptance by common or other carrier for safe transportation to the point of delivery. Containers become the property of the County unless otherwise specified by bidder.

53. WEIGHT CHECKING-Deliveries shall be subject to re-weighing over official sealed scales designated by the County. Payments shall be made on the basis of net weight of materials delivered. Normal shrinkage may be allowed in such instances where shrinkage is possible. Net weights only, exclusive of containers or wrapping, shall be paid for by the County.

54. DEMURRAGE AND RE-SPOTTING-The County will be responsible for demurrage charges only when such charges accrue because of the County's negligence in

unloading the materials. The County will pay railroad charges due to the re-spotting of cars, only when such re-spotting is ordered by the County.

55. REPLACEMENT-Materials or components that have been rejected by the Purchasing Agent, in accordance with the terms of a contract, shall be replaced by the Contractor at no cost to the County.

56. PACKING SLIPS OR DELIVERY TICKETS-All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

1. The Purchase Order Number,
2. The Name of the Article and Stock Number (Supplier's),
3. The Fairfax County Identification Number (FCIN), if specified in the order,
4. The Quantity Ordered,
5. The Quantity Shipped,
6. The Quantity Back Ordered,
7. The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

BILLING

57. BILLING-Billing for the Fairfax County Public Schools and for County agencies: Unless otherwise specified on the contract or purchase order (PO), invoices are to be submitted, in DUPLICATE, for each purchase order immediately upon completion of the shipment or services. If shipment is made by freight or express, the original Bill of Lading, properly receipted, must be attached to the invoice. Invoices should be mailed to the "BILL TO" address on the PO or to the appropriate address specified in the contract.

PAYMENTS

58. PAYMENT-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

59. PARTIAL PAYMENTS-Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.

60. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING-When equipment requires installation (which shall also be interpreted to mean erection and/or setting up

or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

61. GENERAL GUARANTY-Contractor agrees to:

- a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
- b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
- c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other contractors, for which his or her workers are responsible.
- d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
- e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.

62. SERVICE CONTRACT GUARANTY-Contractor agrees to:

- a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.
- b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
- c. All work and services rendered in strict conformance to all laws, statutes, and ordinances and the applicable rules, regulations, methods and procedures of all government boards, bureaus, offices and other agents.
- d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.
- e. Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector

is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

63. INDEMNIFICATION-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

64. OFFICIALS NOT TO BENEFIT-

- a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.
- c. In the event the bidder or offeror has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the bidder or offeror shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia

22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

65. LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

66. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a Fairfax County pursuant to the Fairfax County Purchasing Resolution shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. Fairfax County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

67. COVENANT AGAINST CONTINGENT FEES-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

68. VIRGINIA FREEDOM OF INFORMATION ACT-All proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act except as provided below:

- a. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
- b. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept

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

- c. Trade secrets or proprietary information submitted by a bidder, offeror or Contractor in connection with a procurement transaction or prequalification application submitted pursuant to the prequalification process identified in the Special Provisions, shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or Contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.
- d. Nothing contained in this section shall be construed to require the County, when procuring by "competitive negotiation" (Request for Proposal), to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.

BIDDER/CONTRACTOR REMEDIES

69. INELIGIBILITY-

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.
 - 1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
 - 2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.
- b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:
 - 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 - 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County Contractor;

3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;
 4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:
 - (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered to be a basis for suspension or debarment;
 5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
 6. The Contractor has abandoned performance or been terminated for default on any other Fairfax County project;
 7. The Contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

70. APPEAL OF DENIAL OF WITHDRAWAL OF BID-

- a. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.
- b. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4 a.9, of the Fairfax County Purchasing Resolution, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.
- c. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid.

71. APPEAL OF DETERMINATION OF NONRESPONSIBILITY-

- a. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.
- b. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made and performance has begun, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing Contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.

72. PROTEST OF AWARD OR DECISION TO AWARD-

- a. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 3, Section 4, of the Fairfax County Purchasing Resolution. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4d of the Fairfax County Purchasing Resolution, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4d, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia.
- b. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an

award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing Contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.

- c. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.
- d. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

73. CONTRACTUAL DISPUTES-

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy to the Contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

74. LEGAL ACTION-No bidder, offeror, potential bidder or offeror, or Contractor shall institute any legal action until all statutory requirements have been met.

75. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in

any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

76. PROFESSIONAL AFFILIATION-The Department of Purchasing & Supply Management holds membership in the National Institute of Governmental Purchasing, Inc., a non-profit, educational and technical organization that includes among its goals and objectives the study, discussion, and recommendation of improvements in governmental purchasing and the interchange of ideas and experiences on local state, and national governmental purchasing problems.

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

78. IMMIGRATION REFORM AND CONTROL ACT: Contractor agrees that it does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

APPROVED:

/S/ David P. Bobzien
COUNTY ATTORNEY

/S/ Cathy A. Muse
COUNTY PURCHASING AGENT

Exhibit C

Cost Summary 10-23-17

		Preliminary Master Development Plan (A)	Draft Master Development Plan (B)	Final Master Development Plan (C)	Totals
Consultant	Function				
Land Design	Planning	\$52,000	\$15,000	\$13,000	\$80,000
Walter L. Phillips	Civil Engineering	\$45,200	\$18,000	\$8,000	\$71,200
Wetland Studies	Environmental	\$32,000	\$2,000	\$2,000	\$36,000
Gorove Slade	Traffic	\$32,000	\$8,000	\$6,000	\$46,000
GTA	Geotechnical	\$17,300			\$17,300
SmartSite	Cost Estimates/Value Engineering	\$32,500	\$7,500		\$40,000
McGuire, Woods	Land Use Counsel	\$8,000	\$15,000	\$15,000	\$38,000
Heise, Jorgensen	Title	\$11,500			\$11,500
Subtotal		\$230,500	\$65,500	\$44,000	\$340,000
Contingency (10%)		\$23,050	\$6,550	\$4,400	\$34,000
Authorized Reimbursable Expenses		\$9,000	\$7,000	\$9,000	\$25,000
Totals Per Phase (Guaranteed Maximum Price)		\$262,550	\$79,050	\$57,400	\$399,000

Board Agenda Item
November 21, 2017

ADMINISTRATIVE - 4

Discontinuance of a Portion of Route 744 (Hilltop Road) from the Secondary System of State Highways (Providence District)

ISSUE:

Board adoption of the attached resolution requesting that a portion of Route 744 (Hilltop Road) be discontinued from the Secondary System of State Highways (Secondary System).

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution (Attachment I) requesting that the identified portion of subject roadway be discontinued from the Secondary System of State Highways.

TIMING:

Routine.

BACKGROUND:

This request to discontinue a portion of Route 744 (Hilltop Road) is being made by Edens & Avant on behalf of the applicant, ESKRIDGE II, LLC. The reconstruction of Eskridge Road and Lee Highway (Route 29) to an at-grade intersection removed a segment of Hilltop Road (Route 744) to the south of Lee Highway (Route 29) as shown on Attachment III. Prior to reconstruction, Eskridge Road connected with Hilltop Road, which was ten feet below Lee Highway (Route 29) grade; thus the new connection and reconstruction to the required grade.

The reconstruction of the Eskridge Road and Lee Highway (Route 29) intersection has left a segment of landscaped area (previously a portion of Hilltop Road), which the applicant has agreed to maintain. A maintenance agreement between the County and ESKRIDGE II, LLC, will be recorded with Fairfax County Land Records to address maintenance responsibility.

If the discontinuance request is approved, the mileage will be removed from the Virginia Department of Transportation (VDOT) maintenance responsibility and allow VDOT to revise its maintenance mileage logs that are used to determine levels of State maintenance funding within Fairfax County.

Board Agenda Item
November 21, 2017

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Resolution
Attachment II: Location Map
Attachment III: Discontinuance Public Improvement Plan Map

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Jeffrey Hermann, FCDOT

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 November 21, 2017, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, Edens & Advant on behalf of the applicant, ESKRIDGE II, LLC, requests to discontinue a portion of Hilltop Road (Route 744);

WHEREAS, the reconstruction of Eskridge Road and Lee Highway (Route 29) to an at-grade intersection removed a segment of Hilltop Road (Route 744) to the south of Lee Highway (Route 29) as shown on Attachment III; and

WHEREAS, notice of intention to discontinue this portion of Hilltop Road (Route 744) was given on May 30th, 2017 in accordance with Va. Code Ann. § 33.2-908 (2014); and

WHEREAS, this segment of Hilltop Road (Route 744) that is hereby discontinued is no longer needed for public convenience;

NOW THEREFORE, BE IT RESOLVED that this Board hereby requests, pursuant to Virginia Code Section 33.1-150, that the Commonwealth Transportation Board, discontinue as part of the secondary system of state highways, the .04 mile portion of Hilltop Road (Route 744) as indicated on Attachment II.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

Hilltop Road (Route 744) Discontinuance (Portion)

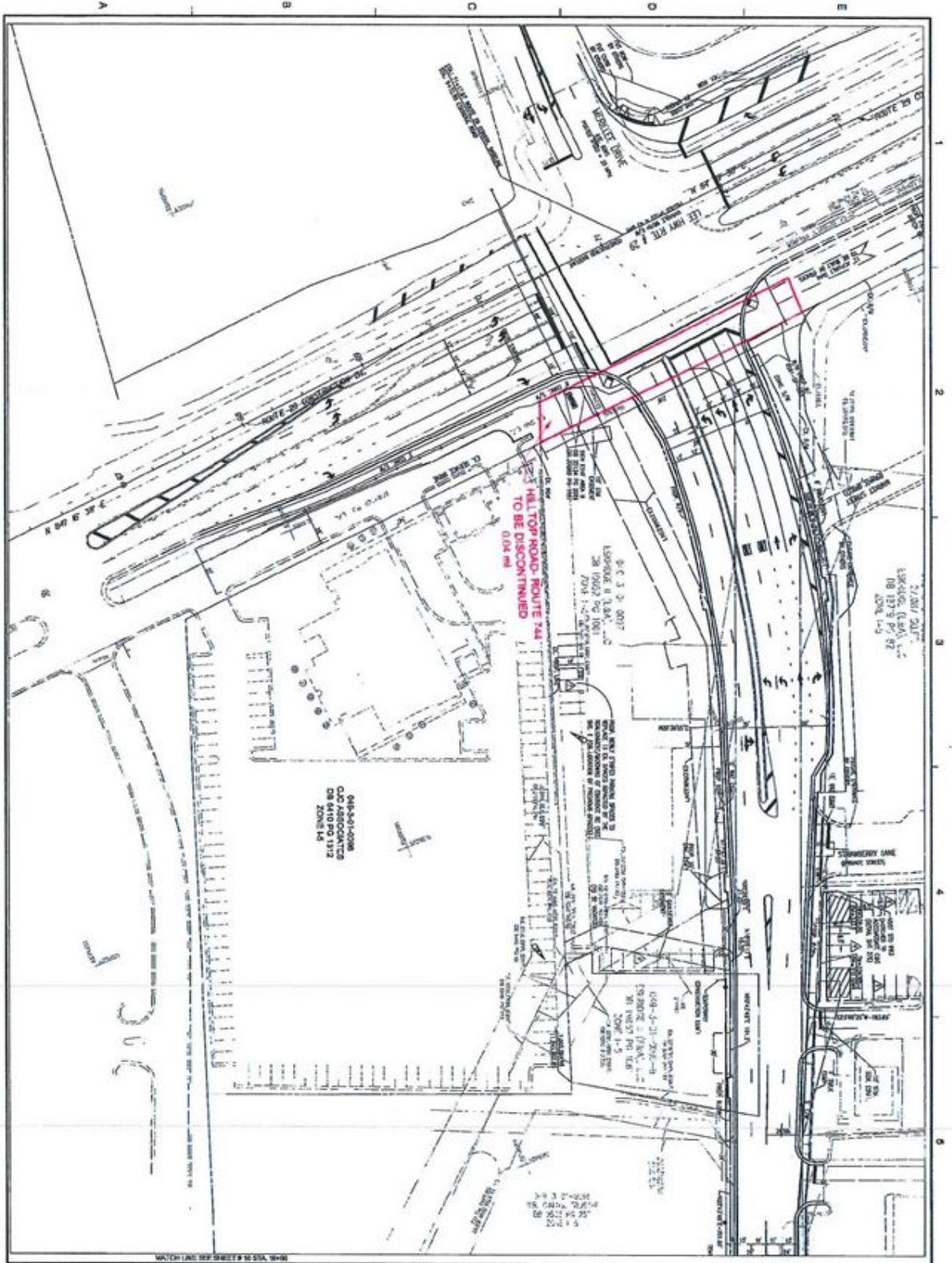
Providence District

Attachment II



Tax Max 49-3

*** Symbol Denotes Area to Be Discontinued**



ESKRIDGE ROAD
PUBLIC IMPROVEMENT PLAN

PROVIDENCE DISTRICT
PARRIS COUNTY, OKLAHOMA

DATE: 3/12/2008

BY: C&G ASSOCIATES

FOR: PARRIS COUNTY, OKLAHOMA

PROJECT NO: 0801-08-0001

9 OF 27

Dewberry

CONSULTING ENGINEERS, INC.

1000 N. W. 10th St., Suite 100
Tulsa, Oklahoma 74103

TEL: 918.438.2200
FAX: 918.438.2201
WWW.DEBERRY.COM

Board Agenda Item
November 21, 2017

ADMINISTRATIVE - 5

Proposed Addition of Jeff Todd Way (Route 619) to the Secondary System of State Highways (Mount Vernon District)

ISSUE:

Board adoption of the attached resolution requesting the addition of a portion of Jeff Todd Way (Route 619) to the Secondary System of State Highways (Secondary System).

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution (Attachment I) requesting that a portion of Jeff Todd Way (Route 619) be added to the Secondary System of State Highways (Secondary System).

TIMING:

Routine.

BACKGROUND:

Following the events of September 11, 2001, public access to Woodlawn Road and Beulah Street through Fort Belvoir was closed. The closure of the roads resulted in the loss of a major east-west artery in this area of Fairfax County. In a cooperative effort with the U.S. Army at Fort Belvoir, FHWA, VDOT, and Fairfax County, a replacement road was constructed. This replacement road begins at Richmond Highway on a two-lane roadway previously named Old Mill Road. The Fairfax County Board of Supervisors re-named this portion of Old Mill Road and the extension to Telegraph Road through Fort Belvoir as "Jeff Todd Way".

Jeff Todd Way has been completed, and the Virginia Department of Transportation (VDOT) is requesting Board adoption of the attached resolution to facilitate acceptance of the portion of Jeff Todd Way (Route 619) associated with VDOT's construction project number 0235-029-102, C501 into the Secondary System of State Highways. VDOT has prepared a sketch depicting the addition required as a result of this project which is included for reference. Additions, discontinuances, and renumbering of roadways within Fairfax County require formal approval by the Board prior to VDOT changes to the Secondary System of State Highways.

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FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Resolution

Attachment II: Location Map

Attachment III: Sketch Prepared by VDOT depicting the addition

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Jeffrey Hermann, FCDOT

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 November 21, 2017, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, the construction of a portion of Jeff Todd Way from Richmond Highway (Route 1) to Telegraph Road (Route 611) is complete; and

WHEREAS, the Virginia Department of Transportation (VDOT) has determined that the new construction can be accepted into the Secondary System of State Highways;

NOW THEREFORE BE IT RESOLVED, that this Board hereby requests, pursuant to Virginia Code Section 33.1-705, that the Commonwealth Transportation Board add as part of the Secondary System of State Highways the centerline of Jeff Todd Way from the centerline of Richmond Highway (Route 1) north 11,456.12 feet, or 2.17 miles, to the centerline of Telegraph Road (Route 611).

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

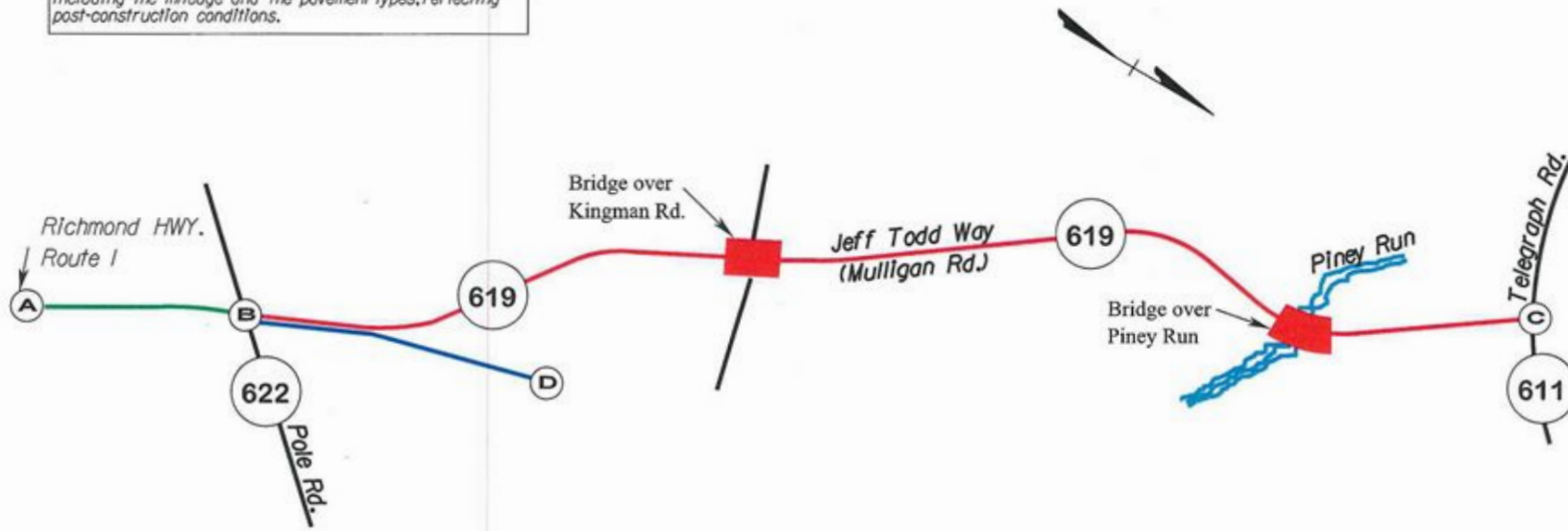
Attachment II



*** Symbol Denotes Area of Street to be Accepted**

Using the DACHS application please submit form AM-4.2 for each roadway segment and the entire project including the mileage and the pavement types, reflecting post-construction conditions.

SHEET 1 OF 1



Route	Action	Segment	Station	Length
619	Data Correction	A-B	Fr: Rte. 1 To: Rte. 622	0.47 Mi.
619	Addition	B-C	Fr: Rte. 622 To: Rte. 611	1.70 Mi.
619	Abandonment	B-D	Fr: Rte. 622 To: Dead End	0.50 Mi.

UPC -- 77404



Virginia Department of Transportation
VDOT
 OFFICE OF LAND USE
 February 16, 2017

Tax Maps: 100-1, 110-2, 100-3 & 109-2
Magisterial District: Mount Vernon

Not To Scale

Legend

FAIRFAX COUNTY
 Changes in the Secondary Systems
 due to relocation and construction on

Route 619, Project: 0235-029-102, C-501

- Segment(s) of new location to be added to the Secondary System.
- Segment(s) of Secondary Road location to be abandoned.
- Data Correction - Adjustment to correct RIMS records also applies to Route Re-Numbering, an Administrative change.

Attachment III

ADMINISTRATIVE - 6

Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, to Support Enhanced Transportation Options

ISSUE:

Board authorization is requested for the Department of Neighborhood and Community Services (NCS) to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments (MWCOG), Enhanced Mobility of Seniors and Individuals with Disabilities Program in the amount of \$525,000, including \$116,091 in Local Cash Match. Funding will support continued implementation of strategies to improve the mobility and transportation options and services for older adults and individuals with disabilities. The grant period for this award is two years and it is anticipated that funding will be awarded in January 2019. The required Local Cash Match of \$116,091 is available in the Federal-State Grant fund. The funding will continue to support 2/2.0 FTE existing grant positions. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy.

RECOMMENDATION:

The County Executive recommends the Board authorize the Department of Neighborhood and Community Services to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments. Funding in the amount of \$525,000, including \$116,091 in Local Cash Match will support continued implementation of strategies to improve the mobility and transportation options and services for older adults and individuals with disabilities. There are 2/2.0 FTE existing grant positions associated with this award.

TIMING:

Board action is requested on November 21, 2017. Due to the grant application deadline of November 3, 2017, 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.

BACKGROUND:

The Metropolitan Washington Council of Governments issued a Request for Applications (RFA) announcing the availability of funds through the U.S. Department of Transportation, Federal Transit Administration, to improve mobility for seniors and individuals with disabilities throughout the region by removing barriers to transportation services and expanding available transportation mobility options.

Federal guidance states that all projects funded must address any four of the defined strategy areas that include: 1) coordinate transportation services and programs; 2) provide customer-focused services and improve marketing and training; 3) improve the accessibility and reliability of existing services; and, 4) develop and implement additional transportation options.

Emphasis will be placed on the responsiveness to the four strategy areas, coordination among agencies, capacity to manage an FTA grant, project feasibility, regional need and customer focus.

Accessible and affordable transportation is a critical need for older adults and individuals with disabilities in the region. Transportation promotes independence, and the ability to maintain mobility enables people to age in place in their communities. The transportation challenges facing the region's older adults and individuals with disabilities are significant. In Fairfax alone, the area's population of residents 65 years and older in 2016 was 141,507; 26.5 percent of those over 65 have a disability and 6.6 percent live in poverty (American Community Survey 2016).

A survey completed in the Fall of 2016 by the Department of Neighborhood and Community Services to identify key needs and challenges facing seniors and individuals with disabilities found:

- There is a need to create a more efficient and effective system of transportation services and options for older adults and individuals with disabilities in the community to age in place.
 - 27 percent of respondents stated they were unable to get somewhere because they could not find transportation.
 - 46 percent of respondents stated that the distance from bus or metro stations is too far to walk and sometimes or always presents a challenge.
- Overall, there is a lack of service navigation and knowledge of resources and options available to older adults and individuals with disabilities.
 - When asked if they were aware of fare discounts for older adults and individuals with disabilities, 25 percent were aware of the Seniors on the Go taxi voucher program; 19 percent were aware of the Taxi Access voucher program; and 7 percent were aware of Dial a Ride taxi voucher program (programs currently part of Human Services Transportation).

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- 44 percent were unaware that ANY travel training is available for older adults and individuals with disabilities on how to use public transportation.
- More older adults and individuals with disabilities are using technology.
 - 39 percent of respondents stated they have used or would use their mobile device to schedule a trip.
 - 35 percent of respondents were interested in training on how to use their mobile device or personal computer to learn about fare information, trip planning or different transportation options.
- A coordinated and comprehensive shared agenda/work plan must be developed collaboratively across government agencies, faith and community based organizations, with stakeholders and the community.

Funding, if received, will focus on mobility management and will be used to improve service integration and strategic collaboration across transportation systems and services within Fairfax County. Funding will also be used to implement strategies that remove barriers to transportation, increase access to services, and strengthen the capacity of public and private service providers, non-profits, and other key partners and stakeholders to identify transportation and mobility opportunities and prompt solutions that meet the needs of older adults, individuals with disabilities and people with lower incomes.

The grant funding will continue to support the 50+ Community Action Plan, as well as continued collaboration and coordination with Department of Neighborhood and Community Services, Department of Family Services, Area Agency on Aging, the Fairfax County Commission on Aging, Disability Services Board, Fairfax Area Mobility and Transportation Committee, 50+ Steering Committee, and the Department of Transportation.

Funding will continue to support 2/2.0 FTE existing grant positions. The two positions are housed in the Human Services Transportation section of the Department of Neighborhood and Community Services. The positions include:

- A Management Analyst III who is responsible for program planning, development and implementation. Additionally, this position ensures all administrative, fiscal, and program evaluation grant requirements are fulfilled.
- A Management Analyst II who is responsible for a broad range of capacity-building activities to include working with County agencies, community-based organizations, neighborhood associations and faith-based groups to enhance transportation options in Fairfax County.

The success of this project will be based on three outcome areas: Community Capacity

Building, Access to Services, and Service Integration and Coordination.

Community Capacity Building:

- Increased capacity of neighborhood organizations, non-profits, and civic organizations to develop, link, and enhance transportation options for the identified populations.
- The grant positions will conduct neighborhood-based transportation assessments, increase participation in volunteer driver programs, and train volunteer transportation navigators to achieve the outcome of increasing the amount of transportation options for seniors and individuals with disabilities.

Access to Services:

- Improved transportation navigation assistance and access to services for hard-to-reach populations. Improved knowledge and efficiency of community members to become linked to transportation services.

Service Integration and Coordination:

- Increased capacity and sustainable mobility management knowledge among County staff and community-based organizations to improve community access to services and remove barriers to services.
- Increased coordination between Northern Virginia jurisdictions to enhance transportation options and accessibility for seniors and individuals with disabilities.

Sustainability will include:

- Building community capacity and networks across the region to support the identified mobility management grant objectives.
 - This capacity-building work entails developing neighborhood and community organizational structures, approaches, and strategies to meet specific unmet mobility needs.
 - These organizations will continue to work past the grant-funding cycle in a collaborative effort to collectively impact mobility services in the region.
- Examining current transportation policies, practices, and barriers and developing and sharing best practices impacting mobility transportation.

Upon successful completion of the grant objectives, stakeholders will have an increased

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capacity to assess community transportation needs and work together to meet them. This grant will provide short-term funding to initiate projects and build capacity. Although future additional funding sources may be explored, the primary focus of this grant model is building community capacity for current/future needs.

In addition to this request, the Department of Neighborhood and Community Services is simultaneously requesting approval to apply for and accept grant funding under the same Enhanced Mobility of Seniors and Individuals with Disability Program for the purchase and replacement of five FASTRAN buses. MWCOG has requested that localities submit these applications separately. Therefore, a separate Board item has been submitted for that grant.

FISCAL IMPACT:

Grant funding in the amount of \$525,000, including \$116,091 in Local Cash Match is being requested from the MWCOG Enhanced Mobility of Seniors and Individuals with Disabilities Program to support mobility management efforts and strategies that will improve mobility and transportation options and services for older adults and individuals with disabilities. The required Local Cash Match of \$116,091 is available in the Federal-State Grant fund. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards. This grant does allow the recovery of indirect costs; however, because this funding opportunity is highly competitive, the Department of Neighborhood and Community Services has elected to omit inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:

This funding will continue to support 2/2.0 FTE existing grant positions. The two positions were previously established through the same grant opportunity awarded in 2015. 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:

Patricia D. Harrison, Deputy County Executive
Christopher A. Leonard, Director, NCS
Sarah Allen, Division Director, NCS
Glenn Padeway, Manager, Human Services Transportation, NCS

Enhanced Mobility of Seniors and Individuals with Disabilities Program SUMMARY OF GRANT PROPOSAL

Grant Title:	Enhanced Mobility of Seniors and Individuals with Disabilities Program
Funding Agency:	Metropolitan Washington Council of Governments
Applicant:	Fairfax County Department of Neighborhood & Community Services (NCS)
Purpose of Grant:	This grant opportunity, created under the MAP-21 Federal Surface Transportation Act, offers limited funding to certain qualifying organizations to enhance mobility for seniors and persons with disabilities by providing matching grants for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services. Funding will assist in establishing a network of regional stakeholders and mobility coordinators to improve mobility and transportation options and services for older adults and individuals with disabilities.
Funding Amount:	Funding in the amount of \$525,000, including \$116,091 in Local Cash Match.
Proposed Use of Funds:	Funding will primarily support 2/2.0 FTE existing grant positions, which will provide outreach, community education and coordination of services. Funding will also be used for supplies, office equipment, training/meeting expenses, and mileage reimbursement required for program administration.
Target Population:	Seniors and individuals with disabilities; a special emphasis will be placed on individuals with lower incomes and those who are geographically isolated.
Performance Measures:	The success of this project will be based on three outcome areas: Community Capacity Building, Access to Services and Service Integration & Coordination. Sustainability will also be a focus of this project with an emphasis on continued partnerships and coordination past the grant funding cycle.
Grant Period:	The grant period is two years and it is estimated that funding will be awarded in January 2019. NCS anticipates that notification of awards for successful applicants will take place in March 2018.

ADMINISTRATIVE – 7

Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, in Support of the Purchase of Wheelchair-Lift Equipped Vehicles

ISSUE:

Board of Supervisors authorization is requested for the Department of Neighborhood and Community Services (NCS) to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments (MWCOC), Enhanced Mobility of Seniors and Individuals with Disabilities Program in the amount of \$312,500, including \$62,500 in Local Cash Match. Funding will support the purchase of five wheelchair lift-equipped vehicles to replace high-mileage vehicles currently owned by the County. This two-year grant's objective is to enhance transportation options by providing funds for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary. There are no grant positions associated with this award. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy.

RECOMMENDATION:

The County Executive recommends that the Board authorize the Department of Neighborhood and Community Services to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments. Funding in the amount of \$312,500, including \$62,500 in Local Cash Match will support the purchase of five wheelchair lift-equipped vehicles to replace high-mileage vehicles currently owned by the County. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary. There are no grant positions associated with the award.

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TIMING:

Board action is requested on November 21, 2017. Due to the grant application deadline of November 3, 2017, 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.

BACKGROUND:

The County has the opportunity to apply for Section 5310 Enhanced Mobility Program (MAP-21) funds, through the Washington Metropolitan Council of Governments, to purchase five wheelchair lift-equipped vehicles to replace existing high-mileage County vehicles. These vehicles will be used to provide an estimated 393,000 annual rides for senior citizens and individuals with disabilities. Since 1994, the County has purchased 45 replacement vehicles through this grant program.

The current Human Services Transportation authorized bus fleet totals 66 buses. The expected operating life for these vehicles is nine years and 110,000 miles. Factoring in the life cycle and high-mileage into the replacement planning efforts, Human Services Transportation anticipates the need to replace seven to eight buses each year. The factors utilized to determine the need to replace buses include age, mileage, and historical maintenance records.

Funding for the replacement of the FASTRAN buses is contained in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. NCS, through the General Fund, contributes to Fund 60010 on an annual basis to maintain the ability to purchase replacement buses as needed. The Enhanced Mobility Program (MAP-21) grant from the Metropolitan Council of Governments provides NCS with the opportunity to purchase five buses at a significantly reduced net cost to the County. The award of this grant will allow NCS's replacement fund to save \$250,000. Previous year grant awards have resulted in similar savings to the County and have allowed NCS to keep its annual contributions to the replacement fund at a manageable level.

FISCAL IMPACT:

Grant funding in the amount of \$312,500, including \$62,500 in Local Cash Match is being requested from the MWCOG Enhanced Mobility of Seniors and Individuals with Disabilities Program to support the purchase of five wheelchair lift-equipped vehicles to replace high-mileage vehicles currently owned by the County. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary. If awarded, MWCOG will use the funding to purchase the buses on the County's behalf. This grant does allow the recovery of indirect costs; however because this funding

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opportunity is highly competitive, the Department of Neighborhood and Community Services has elected to omit inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF POSITIONS:

There are no grant positions associated with this award.

ENCLOSED DOCUMENTS:

Attachment 1: Summary of Grant Application

STAFF:

Patricia D. Harrison, Deputy County Executive

Christopher Leonard, Director, NCS

Glenn Padeway, Business Area Manager, Human Services Transportation, NCS

Enhanced Mobility of Seniors and Individuals with Disabilities Program SUMMARY OF GRANT PROPOSAL

Grant Title:	<u>Enhanced Mobility of Seniors and Individuals with Disabilities Program</u>
Funding Agency:	Metropolitan Washington Council of Governments
Applicant:	Fairfax County Department of Neighborhood & Community Services (NCS)
Purpose of Grant:	This grant opportunity, created under the MAP-21 Federal Surface Transportation Act, offers limited funding to certain qualifying organizations to enhance mobility for seniors and persons with disabilities by providing matching grants for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services. Funding will assist in the purchase of five new wheelchair lift-equipped buses.
Funding Amount:	Funding in the amount of \$312,500, including \$62,500 in Local Cash Match, which is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary.
Proposed Use of Funds:	Funding will support the purchase of five wheelchair lift-equipped vehicles needed to replace high-mileage vehicles currently owned by the County.
Target Population:	Seniors and individuals with disabilities.
Performance Measures:	The purchasing of five new buses does not have a set of independent performance measures; however, the utilization of these buses is part of NCS's Human Services Transportation performance measures.
Grant Period:	Tentatively July 2018, based on Federal Transit Administration approval. The grant period is for two years.

ADMINISTRATIVE – 8

Extension of Review Period for 2232 Application (Braddock District)

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board extend the review period for the following application: 2232-B17-21

TIMING:

Board action is required to extend the review period of the application noted above before its expiration date of December 5, 2017.

BACKGROUND:

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

The review period for the following application should be extended:

2232-B17-21 Department of Public Works and Environmental Services (DPWES)

6000 Freds Oak Road
Burke, VA 22015
& 10900 Clara Barton Drive
Fairfax Station, VA 22039
Braddock District

Submitted April 13, 2017
Extended on June 6, 2017 to December 5, 2017
Extend to June 5, 2018

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FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

None

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Marianne Gardner, Director, Planning Division, DPZ

Jonathan R. Buono, Planner, Facilities Planning Branch, PD, DPZ

ACTION – 1

Approval of State Litter Prevention and Recycling Grant Funding Transfer to Clean Fairfax Council, Incorporated

ISSUE:

Board approval of the transfer of the State Litter Prevention and Recycling Grant Funding to Clean Fairfax Council, Incorporated. The total grant amount for Fairfax County in FY2018 is \$121,638. The dollar amount allocated to Fairfax County is \$120,599 and \$1,039 to the Town of Clifton.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the transfer of \$121,638 to Clean Fairfax Council, Incorporated.

TIMING:

Approval of the transfer is requested to allow Clean Fairfax Council, Incorporated to utilize the grant funding.

BACKGROUND:

Annually, Fairfax County applies for a grant from the Virginia Department of Environmental Quality's Litter Prevention and Recycling Fund. A grant was awarded from this fund to the County in October 2017 in the amount of \$121,638. Funds were received in the Solid Waste Management Program's budget, specifically Fund 400-C40140, Collection and Recycling.

For the Board's information, last year's grant amount was \$124,726. The grant varies from year to year, as it is based upon State fees collected from the sale of certain items identified as litter in Virginia Code. It is distributed to localities based on a formula that uses population and road miles as its basis. The litter fund grant provided to Fairfax County includes \$1,039 that is directed to the Town of Clifton. This amount will be sent to the Town of Clifton by Clean Fairfax Council, Incorporated.

In the Memorandum of Understanding (MOU) between the Board and Clean Fairfax Council Incorporated, it is noted that upon receipt of Statewide Litter and Recycling Grant funds from the Commonwealth, the Board's designee (the County Executive) shall annually seek approval from the Board to transfer the grant funds to Clean Fairfax

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Council, Incorporated for use in accordance with their submitted request. This has always been accomplished through a Board Item; however, in future years the execution of this agreement will be handled as part of the annual budget process and noted clearly in the budget of Fund 400-C40140, Refuse Collection and Recycling. As a result, there will be no future Board Items on this issue for the duration of the agreed upon MOU.

Clean Fairfax Council, Incorporated will comply with the provisions of the grant, including reporting back to the County pursuant to State requirements and the Memorandum of Understanding between the County and Clean Fairfax Council, Incorporated.

FISCAL IMPACT:

None. The grant is from the State.

ENCLOSED DOCUMENTS:

Attachment 1: Litter and Recycling Fund Grant Application

STAFF:

Robert A. Stalzer, Deputy County Executive

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

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



FY 2018 APPLICATION AND CONTRACT FOR THE VIRGINIA LITTER PREVENTION AND RECYCLING GRANT

Grant Period: July 1, 2017 through June 30, 2018

Deadline for application: June 30, 2017

Applicant Locality Status: ☐ Single ☒ Co-opThe Primary Agency: Fairfax CountyLocalities Represented: Fairfax County and Town of Clifton

The Locality/Agency is applying for FY 2018 grant funding and agrees to use these grant funds to perform the litter prevention and recycling activities listed below. In order for an agency to qualify, a minimum of two items must be selected:

☐ Planning & Organization☒ Recycling☒ Youth Education☒ Cleanups☐ Law Enforcement☒ Public Communication☒ Adopt-A Programs (if more than one, please list):Adopt a Spot &Adopt a Stream (tentative for 2018)☒ Other Activities (List):SpringFest (Annual Earth Day event)

I certify that the above information is correct and agree to the terms and conditions contained herein and in the DEQ Guidelines for this grant program. For co-op applications, I certify that a written agreement between the Coordinating Agency and each participating locality is on file.

Name of Organization: DPWES-Solid Waste Division/Clean FairfaxName of Authorized Official: for Edward L. Long Jr. Title: County ExecutiveAuthorized Signature: David M. RhnerActing County ExecutiveDate: 5-22-17

Address: 12000 Govt Ctr Pkwy #552 Fairfax 22035	FIN: 54-0787833
Phone: 703-324-2536	FIPS:
Primary Email: Edward.Long@fairfaxcounty.gov	Secondary Email: jen@cleanfairfax.org

Do you expect to have any unspent grant funds remaining at the end of FY 2017? ☐ Yes ☒ No

Note: As long grant funds are committed by June 30, they can be reported as committed funds (outstanding invoices) on your accounting report as having been spent. Unspent funds will be deducted from the locality's FY 2018 grant.

DEPARTMENT OF ENVIRONMENTAL QUALITY USE ONLY

Signature of DEQ Official: _____

Date: _____

**DEQ
USE
ONLY**

AGENCY	FUND DETAILS	PROG SUB ELEMENT	OBJECT	COST CODE	PROJECT CODE	FY	GRANT AMOUNT
44000	0925	515009	5014510	502	90024	2018	
INVOICE NUMBER				DESCRIPTION			
GRANTS				LITTER PREVENTION AND RECYCLING			

Mail to: VA DEQ, Litter and Recycling Grants Program, P.O. Box 1105, Richmond, VA 23218

Revised: March 2017

**INSTRUCTIONS
LITTER PREVENTION & RECYCLING GRANT - APPLICATION**

APPLICANT LOCALITY STATUS:

- If applying as a single locality, fill in ONLY your local government name on the “The Primary Agency” line.
- If applying as a co-op, fill in your agency as “The Primary Agency” and the localities that are represented in addition to your own on the “Localities Represented” line.

LOCALITY’S ACTIVITIES:

The Litter Grant funds are to be used in order to perform the litter and recycling activities listed. In order for a locality or agency to qualify, a minimum of two items must be selected. Check all programs that apply to your locality and if any, list all Adopt-A programs and other activities.

LOCALITY DETAILS AND CONTACT INFORMATION:

- Enter the name of the organization (Locality or Agency) that is applying for the litter grant.
- The authorized signatory is the County Administrator, City Manager, Town Manager or Coordinating Agency’s Executive Director. For Coordinating Agencies that are non-governmental, the application shall be signed by the Coordinating Agency’s Executive Director, along with each locality manager’s signature on the Application form itself. Please refer to the DEQ Guidelines for acceptable documentation.
- Enter the address, phone number, primary and secondary email addresses for the program contact.
- Enter the locality or agency’s Federal Identification Number (FIN).
- Enter the locality or agency’s Federal Information Processing Standards (FIPS) number. Virginia FIPS numbers can be located at: http://www.dmas.virginia.gov/Content_attachments/pa/pa-fipscd.pdf

GRANT FUNDS REMAINING:

Indicate if the Locality or Agency expects to have any unspent grant funds remaining at the end of the current fiscal year. Please note that as long as the grant funds are committed by June 30, they can be reported as committed funds (outstanding invoices) on the accounting report as having been spent.

DEQ CONTACT INFORMATION:

Mail the signed completed application to the address below:

USPS:

Department of Environmental Quality
Litter & Recycling Grants Program
P.O. Box 1105
Richmond, VA 23218

UPS/FEDEX:

Department of Environmental Quality
Litter & Recycling Grants Program
629 East Main Street
Richmond, VA 23219

For assistance, please contact Prina Chudasama at 804-698-4159 or prina.chudasama@deq.virginia.gov.

ACTION – 2

Authorization to Execute a Building Code Services Agreement for Administering and Enforcing the Virginia Uniform Statewide Building Code for the Town of Clifton (Springfield District)

ISSUE:

Board authorization to execute an agreement with the Town of Clifton, Virginia, such that Land Development Services (LDS) shall provide building code services to the town; and further, to designate the Fairfax County Building Official as the Clifton Building Official for the purpose of administering and enforcing the Virginia Uniform Statewide Building Code as provided for in Va. Code Ann. § 36-105(A) (2014).

RECOMMENDATION:

The County Executive recommends that the Board authorize the County Executive to execute the Building Code Services Agreement set forth as Attachment 1.

TIMING:

Board action is requested on November 21, 2017, as the current agreement has expired.

BACKGROUND:

Pursuant to Va. Code Ann. § 36-105(A), when a town does not elect to administer and enforce the Virginia Uniform Statewide Building Code (the VUSBC), the county in which the town is located shall administer and enforce the VUSBC for the town. On February 14, 1977, the Board adopted a resolution that provided for enforcement of the VUSBC in Clifton. After certain provisions of the Fairfax County Code were amended, the town requested a new agreement to supersede the provisions of the February 14, 1977, resolution. On February 24, 1997, the Board adopted a resolution authorizing the execution of the current Building Inspection Agreement, which was executed on March 4, 1997, and provided for enforcement of the VUSBC and certain other Fairfax County Code provisions relating to new construction. Under its own terms, the Agreement expired on March 4, 2007. The Board adopted a resolution authorizing the execution of a Building Code Services for continued enforcement of the VUSBC and certain other Fairfax County Code provisions relating to construction in the town until March 14, 2017. The town has requested a new Agreement to continue services by the County.

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Like the current Agreement, the new Agreement provides services to the town, which services are limited to the administration and enforcement of the VUSBC and portions of the Fairfax County Code relating to building, plumbing, mechanical, and electrical work. The new Agreement continues to provide that permit application forms will be provided by LDS and all applications will be processed first by the town, to assure compliance with the town ordinances, and then forwarded to LDS. All permit and inspection fees will be paid directly to the County and any prosecution of violations of the VUSBC and related provisions will be at the discretion of the Fairfax County Building Official. The new Agreement will supersede the February 27, 2007, resolution, will be in effect for twenty years from the date of execution, and may be terminated by either party upon 90 days written notice to the other.

The Town of Clifton Mayor, William Hollaway, has requested that the County proceed with the processing and obtain approval of the new Agreement and has communicated that the Town Council has authorized moving forward with negotiations with the County on the Building Code Services Agreement. The Town Council will take a final vote at its next meeting on November 7, 2017.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 - Building Code Services Agreement

STAFF:
Robert A. Stalzer, Deputy County Executive
William D. Hicks, P.E., Director, Land Development Services
Brian Foley, Fairfax County Building Official, Land Development Services

ASSIGNED COUNSEL:
Pamela Peltó, Assistant County Attorney

*Attachment 1***BUILDING CODE SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into this _____ day of _____ 2017, by and between the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA (hereinafter "County"), and the TOWN OF CLIFTON, VIRGINIA (hereinafter "Town").

WITNESSETH:

WHEREAS, the County has been granted by the Commonwealth the authority to adopt and enforce such measures as it may deem expedient to secure and promote the health, safety, and general welfare of this inhabitants under Va. Code Ann. §15.2-1200 (2012); and

WHEREAS, the County has adopted and enforces such measures in accordance with the authority granted it under VA. Code Ann §15.2-1200; and

WHEREAS, the Virginia Uniform Statewide Building Code ("USBC"), Parts I and II, as amended, charges the County and the Department of Land Development Services, or any such other department of the County as the County may designate, ("LDS") with the administration and enforcement of the USBC; and

WHEREAS, the Town, by resolutions adopted January 5, 1977, January 7, 1997, and February 6, 2007, authorized the County to administer and enforce the USBC within the Town; and

WHEREAS, the Town desires to continue utilizing the services of LDS and to designate the Fairfax County Building Official as the Clifton Building Official for the purpose of

administering and enforcing the USBC as provided for in Va. Code Ann. §36-105 (A) (Supp. 2014); and

WHEREAS, the County is agreeable to providing such services on the basis of the terms and conditions hereinafter set forth.

NOW, THEREFORE, the County and the Town hereby agree as follows:

1. The County agrees to provide building code services under the USBC, as amended, and The Code of the County of Fairfax, Virginia (hereinafter “the Code”), Chapters 61, 64, 65, and 66, within the Town for all building, fire protection, plumbing, mechanical, and electrical work.

2. The County, through the Building Official and his/her designated agents, assistants, and employees, shall administer and enforce in the Town the USBC and the related provisions of the Code.

3. LDS will provide the town with permit application forms. All applications shall be processed and reviewed initially by the Town prior to submission to LDS. A certificate of appropriateness and/or a use permit (hereinafter “certificate/use permit”) issued by the Town verifying that submitted plans comply with the Town’s duly adopted zoning ordinance, including the historic overlay district provisions, and a written verification of such zoning and siting review and approval signed by the Mayor of the Town or an agent designated by the Town Council must be included in any building permit application. Additionally, any plans submitted as part of a building permit application must be affixed with the Town stamp. In those cases where no certificate/use permit is required to be issued by the Town, the Town shall duly review the application, and verify in writing signed by the Mayor of the Town or an agent

designated by the Town Council that no certificate/use permit is required for such permit application.

4. All permit applicants must pay the permit and inspection fees as set forth in the Code, paid to the Director of Finance of Fairfax County. The Town may separately charge a permit fee. Any required bond by the County shall be imposed by the County upon the applicant.

5. The application forms, as processed by the Town, shall be forwarded by the applicant, together with the stamped plans required by LDS and certificate/use permit, to LDS. LDS will not process any application for approval of any building, plumbing, mechanical, or electrical work in the Town unless the required plans are stamped by the Town and if applicable, the required certificate/use permit from the Town are provided. LDS will not extend any County-approved permit unless the Town agrees and if applicable, has approved an extension of the Town's certificate/use permit.

6. Upon payment of all fees, and upon receipt of the stamped plans and certificate/use permit from the Town indicating that the submitted plans comply with the duly adopted Town zoning ordinances, the County shall process said applications and plans, and after approving same, will issue the necessary building permits. Any permit obtained from LDS either without, or in violation, of the Town's certificate/use permit shall be void ab initio.

7. The Town must require each applicant to provide any information as LDS may require to evaluate the permit application.

8. The appropriate officials of the Town and the County agree to furnish to each other any supplemental information that is necessary to comply with the intent of this Agreement.

9. The Mayor of the Town or an agent designated by the Town Council must notify the County of any violations of any certificate/use permit. Construction in violation of a County permit and/or the Town's certificate/use permit is a basis for enforcement, which may include, without limitation, issuance of stop work orders and permit revocation. Violations of the USBC and related provisions may be prosecuted at the discretion of the Fairfax County Building Official as provided in Va. Code Ann. § 36-105(A).

10. It is mutually agreed that the term of this Agreement shall be a period of twenty (20) years. This Agreement may be terminated, however, by either party upon ninety (90) days written notice to the other.

IN WITNESS WHEREOF, the parties have executed this Agreement in Fairfax County,
Virginia, the above day and year.

THE TOWN OF CLIFTON, VIRGINIA

By _____
MAYOR, TOWN OF CLIFTON, VIRGINIA

BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

By _____
Kirk W. Kincannon
ACTING COUNTY EXECUTIVE
OF FAIRFAX COUNTY, VIRGINIA

APPROVED AS TO FORM:
ELIZABETH D. TEARE
COUNTY ATTORNEY

By: _____
Assistant County Attorney

ACTION - 3

Approval of an Agreement Between the Town of Vienna and Fairfax County to Design and Construct the Northside Park Piney Branch Stream Restoration Project (Hunter Mill District)

ISSUE:

Board of Supervisors' authorization is requested for the County to execute an agreement with the Town of Vienna (Town) that provides funding for the design and construction of the Northside Park Piney Branch stream restoration project, which is located in the Town and the Difficult Run watershed.

RECOMMENDATION:

The County Executive recommends that the Board approve and authorize the County Executive or his designee to sign an agreement with the Town to provide funding for the design and construction of the Northside Park Piney Branch Stream Restoration Project (Project).

TIMING:

Board approval is requested on November 21, 2017.

BACKGROUND:

Piney Branch stream is located in the Town and Difficult Run watershed. The Project will restore approximately 1,400 linear feet of stream on Piney Branch, providing nutrient reduction and improved water quality in the Difficult Run watershed. The Department of Environmental Quality (DEQ) awarded a Stormwater Local Assistance Fund (SLAF), which will cover half the estimated design and construction costs.

Under the Cooperative Agreement between the Fairfax County Board of Supervisors, the Town of Vienna, and the Town of Herndon to Share Certain Stormwater Service District Fees and Responsibility for Related Projects, the parties will use the project benefits towards compliance with their respective Municipal Separate Storm Sewer System permits and Chesapeake Bay Total Maximum Daily Load reduction requirements. Consistent with the framework of the Cooperative Agreement, the Town has asked the County to fund a portion of the design and construction costs. Partnering with the Town on this project will save the County the time and administrative costs that would be incurred if the County were to implement the Project under its stormwater program.

FISCAL IMPACT:

The estimated total cost of the Project is \$1,320,000. The County will fund \$660,000 of the Project. DEQ SLAF grant funds in the amount of \$660,000 will be used to fund the remaining costs. The County has the discretion to pay construction cost overruns, but in an amount not to exceed ten percent of the total estimated project cost. County funds can only be used for the design and construction of the Project. The Town will reimburse the County funds that are not expended in accordance with the terms of the attached agreement. Funding is currently available in Project Number SD-000031, Streams and Water Quality, Fund 400-C40101 (Fund 125), for the County's obligation to this Project.

CREATION OF POSITIONS:

No positions will be created.

ENCLOSED DOCUMENTS:

Attachment 1 - Amended Agreement between the Board of Supervisors of Fairfax County, Virginia and the Town of Vienna

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Randolph W. Bartlett, Deputy Director, DPWES, Stormwater & Wastewater Programs

NORTHSIDE PARK PINEY BRANCH
STREAM RESTORATION FUNDING AGREEMENT

This Agreement (“Agreement”) made and entered into this _____ day of _____, 2017, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** (the “County”), a body politic, and the **TOWN OF VIENNA** (the “Town”) (collectively, the “Parties”).

WITNESSETH:

WHEREAS, the Town has been awarded a Stormwater Local Assistance Fund Grant from the Virginia Department of Environmental Quality in the amount of Six hundred sixty thousand dollars (\$660,000) (the “DEQ Grant”) for the Northside Park Piney Branch Stream Restoration Project (the “Project”), which will be located within the boundaries of the Town and will restore a portion of the body of water known as Northside Piney Branch; and

WHEREAS, the location of the Project is at Longitude 38.909939N and Latitude 77.272382W and is more specifically shown on the Fairfax County Real Property Identification Map as Tax Map No. 38-1((2)) parcels 5 and 6; and

WHEREAS, the Project is within the Chesapeake Bay, Potomac River, and Difficult Run watersheds;

WHEREAS, the Town is part of the County’s Stormwater Service District and the County, Town, and the Town of Herndon have entered into an agreement known as the “Cooperative Agreement Between the Fairfax County Board of Supervisors, the Town of Vienna, and Town of Herndon to Share Certain Stormwater Service District Fees and Responsibility for Related Projects” (the “Cooperative Agreement”) to share funds and responsibility to maintain, operate, and improve stormwater systems to meet the Chesapeake Bay Total Maximum Daily Load (“TMDL”) and other water quality goals. The Cooperative Agreement is attached hereto as Attachment 1 and is incorporated herein by reference; and

WHEREAS, under the Cooperative Agreement, annually, the County pays the Town a percentage of the Stormwater Service District Fees that are collected from residents of the Town (the “Paid Vienna Revenues”); and

ATTACHMENT 1

WHEREAS, the Town and County agree that under the Cooperative Agreement, Stormwater Service District funds can be used to match the DEQ Grant for the Project because the Project meets the water quality objectives of each locality and their respective Chesapeake Bay TMDL obligations; and

WHEREAS, the Project is estimated to cost one million, three hundred twenty thousand dollars (\$1,320,000) (“Total Project Cost”), half of which is to be paid using the DEQ Grant; and

WHEREAS, that County intends to pay six hundred sixty thousand dollars (\$660,000) from the Stormwater Budget for the purpose of supporting the design and construction of the project; and

WHEREAS, the Town intends to dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as if restated as binding provisions of this agreement, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto further agree as follows:

1. Upon execution of this Agreement, the County shall grant funds in the amount of six hundred sixty thousand dollars (\$660,000) (the “County Contribution”) to the Town, to be paid with monies from the County’s Stream and Water Quality Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services).
2. The County Contribution shall not be charged against the PAID VIENNA REVENUES as set forth in the Cooperative Agreement, but rather, are a separate grant to the Town from the County.
3. The Town shall dedicate Town staff expertise and time for the purpose of supporting, developing, and implementing the Project.
4. The Town shall expend the DEQ Grant solely for the purpose of supporting the design and construction of the Project when the DEQ Grant is received.

ATTACHMENT 1

5. The County Contribution shall be used and expended solely for the purpose of design and constructing the Project and not for the cost of any feasibility study or acquisition of any lands or easements necessary for the completion of the Project.

6. The Town shall acquire, at its sole expense, any and all land or easements, or other interests in real property, if any, that are necessary to complete the Project.

7. The Town, at its sole expense, shall administer the design and construction contracts, obtain approval of all plans, and obtain all permits necessary for the completion of the Project.

8. The Town shall notify the County if the Town, at any time, modifies the scope of the Project, which is generally described herein above and in the Town's "Water Division Application for Stormwater Local Assistance Fund (SLAF) – Stormwater Capital Projects," which was submitted to DEQ for the DEQ Grant (the "Plan"). If the scope of the Project's design, in the sole judgment of the County, significantly deviates from the design scope described in the Plan, the Town shall, within 30 days after notification by the County of such deviation, reimburse to the County the amount of the Total Contribution.

9. The Town shall provide to the County a copy of the final site plan for the Project.

10. The Town shall retain all invoices and all records of payments for any and all services rendered for the design, construction, and any related expenses for completion of the Project, and copies of any such invoices and records of payments shall be provided to the County upon request within three business days after such a request.

11. If at any time the Town abandons or otherwise ceases the Project for any reason, the Town shall immediately return any amount of the County Contribution not expended in accordance with this agreement and all invoices and records of payments. "Abandon," as used herein, shall include, but not be limited to, the failure to initiate or the termination of the design or construction before the Project's completion.

12. The County, in its sole discretion, may agree to pay cost overruns that exceed the Total Project Cost, including construction costs that exceed the current estimate, change orders and/or related costs that arise during construction of the Project, but only to the extent that funds are available in the County's Stream and Water Quality

ATTACHMENT 1

Improvement Project (fund I/O 2G25-029-001) of the Stormwater Budget (fund 400-C40100, Stormwater Services) and are not more than 10% of the estimated Project Cost of \$1,320,000.

Comment [GM1]: There should be a cap on the cost

13. The Town shall complete the Project not later than three years after this agreement is executed.

14. The Project shall be subject to the Cooperative Agreement, and, as such, the total pollutant load reduction credits for the Project will be apportioned among the parties as established pursuant to the terms of the Cooperative Agreement or any amendments or attachments thereto.

15. This agreement can only be modified in writing and signed by both parties.

[Signatures appear on following page]

ATTACHMENT 1

TOWN OF VIENNA

By: _____
Mayor Laurie A. DiRocco

STATE OF VIRGINIA :
: to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Mayor Laurie A. DiRocco of the Town of Vienna, this _____ day of _____ 2017, on behalf of the Town of Vienna.

Notary Public

My commission expires: _____
Notary Registration Number: _____

ATTACHMENT 1

BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

By: _____
Kirk Kincannon, Acting County Executive,
Fairfax County, Virginia

STATE OF VIRGINIA :
 : to-wit
COUNTY OF FAIRFAX :

The foregoing Agreement was acknowledged before me by Kirk Kincannon,
Acting County Executive of Fairfax County, Virginia, on behalf of the Board of
Supervisors of Fairfax County, Virginia this _____ day of _____ 2017.

Notary Public

My commission expires: _____
Notary Registration Number: _____

ACTION – 4

Delegation of Signature Authority and Approval of an Updated Standard Project Agreement Between the Board of Supervisors and the Fairfax County Water Authority for the Adjustment of Water Facilities

ISSUE:

Board of Supervisors' approval of an updated Standard Project Agreement (SPA) with the Fairfax County Water Authority (FCWA) for Adjustment of Water Facilities related to Transportation and other County Capital Improvement Projects.

RECOMMENDATION:

The County Executive recommends that the Board approve the updated SPA, substantially in the form of Attachment 1, and authorize the Fairfax County Director of the Department of Transportation and the Deputy Director of the Department of Public Works and Environmental Services (DPWES) to execute said agreement.

TIMING:

Board approval is requested on November 21, 2017, to enable staff to immediately continue progress on multiple capital improvement projects where such an agreement is necessary or required.

DISCUSSION:

During development of Capital Improvement projects, particularly Transportation Improvements, the proposed projects often require the adjustment or relocation of potable water supply infrastructure, including water mains, fire hydrants, water service lines, and other appurtenances that are owned and maintained by the Fairfax County Water Authority (FCWA). The FCWA provides design plans, construction oversight, and inspection services for the adjustment and relocation of their facilities which are constructed by the County as part of the capital improvement project. The SPA provides the mechanism to establish the fair and equitable amount of reimbursement to the FCWA for their services to complete the capital improvement project. A separate agreement is prepared for each separate capital improvement project that requires adjustment or relocation of water facilities.

In some circumstances, when a capital improvement project requires the adjustment or relocation of a significant portion of existing FCWA infrastructure and/or facilities, FCWA

may opt to upgrade their facilities to provide improved service, based upon future needs of the area served by their facilities. This is referred to as a betterment and, in these cases, the cost of the upgraded and improved facilities is shared or pro-rated between the County and FCWA, with the County absorbing the cost of only that portion of the adjustment or relocation work required to complete the capital improvement project in question, and FCWA absorbing the cost of any betterments. The SPA includes provisions for calculating the cost sharing and/or pro-rata share of the work required to complete adjustments and betterments of the water facilities related to a specific capital improvement project.

Each SPA is prepared during the design phase of a capital improvement project and establishes the estimated total cost for the adjustment or relocation of water facilities, including any betterments. After completion of a capital improvement project, the FCWA provides detailed documentation to the County itemizing the actual costs incurred by the FCWA, which is then reviewed and approved by the County prior to reimbursement being issued.

The SPA with FCWA has been utilized by the Fairfax County Department of Transportation (FCDOT) and the Department of Public Works and Environmental Services (DPWES), and other county agencies, on numerous capital improvement projects for many years.

Following an internal audit of procurement and contracting procedures in the Department of Transportation, it was noted that the SPA had not been updated and reviewed or approved as to form for some time. The previous SPA was provided to the Office of the County Attorney, and FCWA, which reviewed and edited the SPA. The previous SPA, with tracked changes, is included in Attachment 2. A brief outline of the changes made to the SPA are as follows:

- All changes to the original SPA were administrative in nature and include an expanded section on dispute resolution procedures.
- The updated SPA will be utilized on an as needed basis on Capital Improvement projects that require adjustment or relocation of water facilities.

FISCAL IMPACT:

There is no impact to the General Fund resulting from this agreement. When an SPA with the FCWA is required on a capital improvement project requiring any reimbursement of FCWA expenditures, funding for these expenditures are covered via project funds.

CREATION OF POSITIONS:

No positions will be created through adoption of this SPA.

Board Agenda Item
November 21, 2017

ENCLOSED DOCUMENTS:

Attachment 1 – Standard Project Agreement

Attachment 2 – Standard Project Agreement – Annotated with tracked changes

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, FCDOT

James Patteson, Director, DPWES

Ronald N. Kirkpatrick, Deputy Director, DPWES

W. Todd Minnix, Chief, Transportation Design Division, FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

ASSIGNED COUNSEL:

David L. Honadle

AGREEMENT
BETWEEN
FAIRFAX COUNTY WATER AUTHORITY
AND
FAIRFAX COUNTY BOARD OF SUPERVISORS
FOR
ADJUSTMENT OF WATER FACILITIES

THIS AGREEMENT, made and entered into as of the ____ day of _____, 2017,
by and between the FAIRFAX COUNTY BOARD OF SUPERVISORS (hereinafter called the
“County”) and the FAIRFAX COUNTY WATER AUTHORITY (hereinafter called the
“Authority”):

WITNESSETH

WHEREAS, the County is proposing to construct public improvements which consist
of _____. The project, which is designated as Fairfax County Project
_____ (“Public Improvement Project”), will necessitate changes to the
Authority’s existing water facilities (hereinafter called the “Water Line Relocation Work”) and is
designated as Authority Project _____; and

WHEREAS, it will be in the best interests of the County and the Authority to have the
Water Line Relocation Work included in the bid documents for the County’s contract for the
construction of the Public Improvement Project; and

WHEREAS, the County and the Authority wish to agree upon the terms and conditions under which the Water Line Relocation Work will be performed as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants herein contained:

I. The parties hereto agree that:

A. The County shall:

1. Initiate the bidding and construction process for the Public Improvements Project and the Water Line Relocation Work (together referred to herein as the “Project”) as expeditiously as possible. The bidding and construction process for the Project shall be conducted in accordance with the applicable requirements of the Virginia Public Procurement Act, Fairfax County Purchasing Resolution, and other applicable law. At the option of the County, the Water Line Relocation Work may be identified as separate bid items or alternate bid on the form of bid.
2. Prepare the construction contract and related documents in accordance with the Water Line Relocation Work plans, hereby incorporated by reference.

3. Upon receiving from the Authority notice of the easements and/or land rights that are required to perform the Water Line Relocation Work, including service connections, acquire such necessary easements and/or land rights prior to issuing a notice to proceed to the contractor selected to perform the Water Line Relocation Work (the "Contractor").
4. Prepare the bid package, including the Water Line Relocation Work, and form of bid and advertise the Project for construction. Notify the Authority of the scheduled bid opening date.
5. Based on the receipt of bids, award the construction contract for the Project and invite the Authority to attend a pre-construction meeting with the Contractor.
6. Provide the necessary contract administration for the Water Line Relocation Work, including engineering and survey work before and during construction, periodic inspections for compliance with the Water Line Relocation Work plans, and oversight, in consultation with the Authority, of the Contractor's Water Line Relocation Work. Any re-engineering of the County plans for the Public Improvement Project shall also be reviewed with the Authority for impact on the Authority's existing water facilities and/or the Water Line Relocation Work.

7. In the event the Contractor files a claim under Article 7.4 of the General Conditions, Section D, of the Contract relating to the Water Line Relocation Work, the claim will be administered by the County in conformance with the Fairfax County Purchasing Resolution and the Virginia Public Procurement Act.
8. Notify the Authority when the County determines that a change order is needed and review any requests from the Authority for the County to issue a change order. All change order proposals from the Contractor pertaining to the Water Line Relocation Work shall be reviewed by both the County and the Authority; however, the County shall have final approval of all change order requests. After consultation with the Authority's Chief Construction Engineer, the County will coordinate review of change order proposals with the Authority and will submit approved change orders to the Contractor.
9. After completion of the Water Line Relocation Work and receipt from the Authority of a proper invoice for the Water Line Relocation Work, provide payment to the Authority for the cost of design, project management, and inspection including but not limited to consultant and contractor fees, materials, and Authority staff time including overhead costs. It is understood and agreed that this payment will be

based on the actual costs incurred by the Authority associated with the Water Line Relocation Work.

B. The Authority shall:

- 1. Provide the County with the following information:
 - a. Complete and approved construction plans for the Water Line Relocation Work.
 - b. Specifications and/or Special Provisions.
 - c. List of bid items.
 - d. Engineer’s cost estimate for the proposed Water Line Relocation Work.
 - e. Any easements and/or land rights required for the adjustment of existing water facilities, including service connections, except where the County may have previously obtained needed easements and/or land rights for the Water Line Relocation Work.

2. Provide to the County the following current total cost estimates:

Estimated Water Line Relocation Cost	\$ XXX,XXX
+ XX% Construction Contingencies	\$ XXX,XXX
Subtotal Estimated Water Line Relocation Construction Cost	\$ XXX,XXX
+ County Construction Contract Administration including Federal Davis-Bacon and	\$ XXX,XXX

Section 3, if applicable

(XX% x Total Estimated Construction Cost)

+ Authority Design, Project Management, \$ XXX,XXX
& Inspection

TOTAL ESTIMATED WATER LINE \$ XXX,XXX

RELOCATION COST

Pro-Rated Estimated County Share: \$ XXX,XXX

(XX.X % x Total Estimated Water Line Relocation Cost)

Pro-Rated Estimated Authority Share: \$ XXX,XXX

(XX.X % x Total Estimated Water Line Relocation Cost)

3. Perform certain incidental work in conjunction with the Water Line Relocation Work, such as operating all valves, inspecting the Water Line Relocation Work with the Authority's own inspectors, reporting to the County's Project Engineer, and, if needed upon completion, providing a completed VDOT Form LUP-IPP and certification to the County that the Water Line Relocation Work included in the Project was performed in a satisfactory manner.

4. Agree that the existing water facilities that are to be abandoned will become the property of the Contractor. Any salvage value derived therefrom will be the property of the Contractor.

5. Oversee all necessary testing required by the Contractor in accordance with the specifications to accept the relocated water line. A letter of acceptance or rejection shall be provided to the County within seven (7) days of receiving the results of the testing.
6. Subsequent to the completion of the Water Line Relocation Work, provide the County with an invoice indicating the Authority's actual cost of design, project management, and inspection associated with the Water Line Relocation Work including but not limited to consultant and contractor fees, materials, Authority staff time, and overhead costs.

II. Issues arising in connection with the performance of the Water Line Relocation Work shall be resolved, in the first instance, by the Authority's Engineering Inspector and the County's Field Inspector. Issues which remain unresolved following consideration by the foregoing individuals shall be presented for resolution to the Authority's Chief Construction Engineer and the County's Project Engineer. Thereafter, issues which remain unresolved shall be presented for resolution to the Authority's Director, Planning and Engineering Division or designee, and to either the Deputy Director of DPWES/CAP or the Director of FCDOT. If issues still remain unresolved they shall be presented to the Fairfax County Executive and the Authority's General Manager for resolution. If no satisfactory resolution can be reached via the meet and confer methods, either

party is free to pursue whatever remedies it may have at law, including all judicial remedies.

III. It is further agreed by the parties hereto that:

- A. All construction plans, specifications, special provisions, revisions, and other documents required to complete the Water Line Relocation Work shall be made a part of this Agreement.
- B. The Authority shall have full access to the site of the Water Line Relocation Work and the right to inspect any construction within the Project limits. All communications between the Authority and the Contractor shall be conducted through the County. The County shall be responsible for all direction to the Contractor.
- C. This Agreement constitutes the entire agreement of the parties with respect to its subject matter and may be modified or amended only by written agreement signed by the Authority and the County.
- D. This Agreement is not made for, and shall not inure to the benefit of, any third party.

- E. Insofar as the Contractor is concerned, in the event of an unresolved disagreement between the County and the Authority, the position of the County shall be deemed to be the position of the County and the Authority; provided, however, this shall not be construed to limit the rights, causes of action or remedies of the County and the Authority against one another.
- F. This Agreement and its terms, including, but not limited to, the parties' obligations under it, the performance due from each party under it, and the remedies available to each party for breach of it, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia. Any jurisdiction's choice of law, conflict of laws, rules, or provisions, including those of the Commonwealth of Virginia, that would cause the application of any laws other than those of the Commonwealth of Virginia, shall not apply. Any and all disputes, claims and causes of action arising out of or in connection with this Agreement or any performance hereunder, shall be brought in the state courts of Fairfax County, Virginia, or in the United States District Court, Eastern District of Virginia, Alexandria Division.
- G. If any provision of this Agreement is determined by a court of competent jurisdiction to be void or invalid, such provision shall be stricken and the remainder of this Agreement shall not be affected thereby.

H. The Authority understands and agrees that all County obligations under this Agreement shall be subject to the appropriations of the Fairfax County Board of Supervisors. In the event that sufficient appropriations are not made to carry out the County's obligations under the Agreement, then such obligations shall become null and void.

I. Nothing in this Agreement shall be deemed to constitute a waiver of the County's or the Authority's sovereign immunity.

[SIGNATURE PAGE FOLLOWS]

IN WITNESSETH WHEREOF, the parties hereto have executed this Agreement
as of the day and year written above.

COUNTY OF FAIRFAX

By: _____
Tom Biesiadny, Director
Department of Transportation
(or Ronald N. Kirkpatrick, Deputy
Director, DPWES/CAP as
appropriate)

FAIRFAX COUNTY WATER
AUTHORITY

By: _____
Charles M. Murray
General Manager

AGREEMENT
BETWEEN
FAIRFAX COUNTY WATER AUTHORITY
AND
FAIRFAX COUNTY BOARD OF SUPERVISORS
FOR
ADJUSTMENT OF WATER FACILITIES

THIS AGREEMENT, made and entered into as of the ____ day of _____, 2017,
by and between the FAIRFAX COUNTY BOARD OF SUPERVISORS, (hereinafter called the
“County”) and the FAIRFAX COUNTY WATER AUTHORITY (hereinafter called the
“Authority”):

W I T N E S S E T H

WHEREAS, the County is proposing to construct public improvements which consist
of _____. The project, which is designated as Fairfax County Project
_____ (“Public Improvement Project”), will necessitate changes to the
Authority’s existing water facilities (hereinafter called the “Water Line Relocation Work”) and is
designated as Authority Project _____; and

WHEREAS, it will be in the best interests of the County and the Authority to have the
Water Line Relocation Work included in the bid documents for the County’s contract for the
construction of the Public Improvement Project; and

WHEREAS, the County and the Authority wish to agree upon the terms and conditions under which the Water Line Relocation Work will be performed as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants herein contained~~;~~:

I. The parties hereto agree that:

A. The County shall:

1. ~~Proceed to~~ Initiate the bidding and construction process for the Public Improvements Project and the Water Line Relocation Work (together referred to herein as the “Project”) as expeditiously as possible. The bidding and construction process for the Project shall ~~at all times~~ be conducted in accordance with the applicable requirements of the Virginia Public Procurement Act, Fairfax County Purchasing Resolution, and other applicable ~~state, local and federal laws, rules and regulations; law~~. At the option of the County, the Water Line Relocation Work may be identified as separate bid items or alternate bid on the form of bid.
2. Prepare the construction contract and related documents in accordance with the Water Line Relocation Work plans ~~(the “Plans”)~~, hereby incorporated by reference.

3. Upon receiving from the Authority notice of the easements and/or land rights that are required to perform the Water Line Relocation Work, including service connections, acquire such necessary easements and/or land rights prior to issuing a notice to proceed to the contractor selected to perform the Water Line Relocation Work (the "Contractor").

3.4. Prepare the bid package, including the Water Line Relocation Work, and form of bid and advertise the Project for construction. Notify the Authority of the scheduled bid opening date.

4.5. Based on the receipt of ~~favorable~~ bids, award the construction contract for the Project and invite the Authority to attend a pre-construction meeting with the Contractor.

~~5. Administer and oversee, in consultation with the Authority, the performance of the Water Line Relocation Work by the contractor selected to perform such work (the "Contractor") and perform periodic inspections to determine that the Water Line Relocation Work is being performed in accordance with the Plans.~~

7.6. Provide the necessary contract administration for the Water Line Relocation Work, including engineering and survey work before and

during construction, periodic inspections for compliance with the Water Line Relocation Work plans, and oversight, in consultation with the Authority, of the Contractor's Water Line Relocation Work. Any re-engineering of the County plans for the Public ~~Improvements~~Improvement Project ~~plan~~ shall also be reviewed with the Authority for impact on the Authority's existing water facilities and/or the Water Line Relocation Work.

~~8-7.~~ In the event the Contractor files a claim under Article 7.4 of the General Conditions, Section D, of the Contract relating to the Water Line Relocation Work, the claim will be administered by the County in conformance with the Fairfax County Purchasing Resolution and the Virginia Public Procurement Act.

~~9-8.~~ Notify the Authority when ~~it~~the County determines that a change order is ~~necessary or advisable~~needed and review any requests ~~for change orders initiated by~~from the Authority ~~for the County to issue a change order.~~ All change order proposals from the Contractor pertaining to the Water Line Relocation Work shall be reviewed by both the County and the Authority; however, the County shall have final approval of all change order requests. After consultation with the Authority's ~~field~~Chief Construction Engineer, the County will coordinate review

of change order proposals with the Authority and will submit approved change orders to the Contractor.

~~10.9.~~ Subsequent to the After completion of the Water Line Relocation Work and receipt ~~of an invoice~~ from the Authority of a proper invoice for the Water Line Relocation Work, provide payment to the Authority for the cost of design, project management, and inspection including but not limited to consultant and contractor fees, materials, and Authority staff time including overhead costs. It is understood and agreed that this payment will be based on the actual costs incurred by the Authority associated with the Water Line Relocation Work.

B. The Authority shall:

1. Provide the County with the following information:
 - a. Complete and approved construction plans for the Water Line Relocation Work.
 - b. Specifications and/or Special Provisions.
 - c. List of bid items.
 - d. Engineer's cost estimate for the proposed Water Line Relocation Work.
 - e. Any ~~easement~~ easements and/or land rights required for the adjustment of existing water facilities, including service connections, except where the County may have previously

obtained needed easements and/or land rights for the Water
Line Relocation Work.

2. Provide to the County the following current total cost estimates:

Estimated Water Line Relocation Cost	\$ XXX,XXX
+ XX% Construction Contingencies	\$ XXX,XXX
Subtotal Estimated Water Line Relocation Construction Cost	\$ XXX,XXX
+ County Construction Contract Administration including Federal Davis-Bacon and Section 3, if applicable (XX% x Total Estimated Construction Cost)	\$ XXX,XXX
+ Authority Design, Project Management, & Inspection	\$ XXX,XXX
TOTAL ESTIMATED WATER LINE RELOCATION COST	\$ XXX,XXX
<u>Pro-Rated Estimated County Share:</u> (XX.X % x Total Estimated Water Line Relocation Cost)	\$ XXX,XXX
<u>Pro-Rated Estimated Authority Share:</u> (XX.X % x Total Estimated Water Line Relocation Cost)	\$ XXX,XXX

3. Perform certain incidental work in conjunction with the Water Line
Relocation Work ~~included in the Project~~, such as operating all valves,

~~inspection of inspecting~~ the ~~utility~~ Water Line Relocation Work with ~~its~~ the Authority's own ~~forces~~ inspectors, reporting to the County's Project Engineer; and, if needed, upon completion, ~~provide as built, providing a~~ completed VDOT Form ~~CE-7, LUP-IPP~~ and certification to the County that the Water Line Relocation Work included in the Project was performed in a satisfactory manner.

4. Agree that the existing water facilities ~~which~~ that are to be abandoned will become the property of the Contractor. Any salvage value derived ~~there from~~ therefrom will be the property of the Contractor.
5. Oversee all necessary testing required by the Contractor in accordance with the specifications to accept the relocated water line. A letter of acceptance or rejection shall be provided to the County within seven (7) days of receiving the results of the testing.
6. Subsequent to the completion of the Water Line Relocation Work, provide the County with an invoice indicating the Authority's actual cost of design, project management, and inspection associated with the Water Line Relocation Work including but not limited to consultant and contractor fees, materials, Authority staff time, and overhead costs.

II. Issues arising in connection with the performance of the Water Line Relocation Work shall be resolved, in the first instance, by the Authority's Engineering Inspector and the County's Field Inspector. Issues which remain unresolved following consideration by the foregoing individuals shall be presented for resolution to the Authority's ~~Supervising Engineering Inspector~~Chief Construction Engineer and the County's Project Engineer. Thereafter, issues which remain unresolved shall be presented for resolution to the Authority's ~~Manager, Construction Branch and to comparable members of the County's staff~~Director, Planning and Engineering Division or designee, and to either the Deputy Director of DPWES/CAP or the Director of FCDOT. If issues still remain unresolved they shall be presented to the Fairfax County Executive and the Authority's General Manager for resolution. If no satisfactory resolution can be reached via the meet and confer methods, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

III. It is further agreed by the parties hereto that:

A. All construction plans, ~~profiles~~, specifications, special provisions, revisions, and other documents required to complete the Water Line Relocation Work shall be made a part of this Agreement.

B. The Authority shall have full access to the site of the Water Line Relocation Work and the right to inspect any construction within the Project limits. All

communications between the Authority and the Contractor shall be conducted through the County. The County shall be responsible for all direction to the Contractor.

C. This Agreement constitutes the entire agreement of the parties with respect to its subject matter and may be modified or amended only by written agreement signed by the Authority and the County.

D. This Agreement is not made for, and shall not inure to the benefit of, any third party.

E. Insofar as the Contractor is concerned, in the event of an unresolved disagreement between the County and the Authority, the position of the County shall be deemed to be the position of the County and the Authority; provided, however, this shall not be construed to limit the rights, causes of action or remedies of the County and the Authority against one another.

F. This Agreement and its terms, including, but not limited to, the parties' obligations under it, the performance due from each party under it, and the remedies available to each party for breach of it, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia. Any jurisdiction's choice of law, conflict of laws, rules, or provisions, including those of the Commonwealth of Virginia, that would

cause the application of any laws other than those of the Commonwealth of Virginia, shall not apply. Any and all disputes, claims and causes of action arising out of or in connection with this Agreement or any performance hereunder, shall be brought in the state courts of Fairfax County, Virginia, or in the United States District Court, Eastern District of Virginia, Alexandria Division.

~~F.G.~~ If any provision of this Agreement is determined by a court of competent jurisdiction to be void or invalid, such provision shall be stricken and the remainder of this Agreement shall not be affected thereby.

~~G.H.~~ The Authority understands and agrees that all County obligations under this Agreement shall be subject to the appropriations of the Fairfax County Board of Supervisors. In the event that sufficient appropriations are not made to carry out the County's obligations under the Agreement, then such obligations shall become null and void.

I. Nothing in this Agreement shall be deemed to constitute a waiver of the County's or the Authority's sovereign immunity.

[SIGNATURE PAGE FOLLOWS]

IN WITNESSETH WHEREOF, the parties hereto have executed this Agreement
as of the day and year written above.

COUNTY OF FAIRFAX

By: _____
Tom Biesiadny, Director
Department of Transportation
(or Ronald N. Kirkpatrick, Deputy
Director, DPWES/CAP as
appropriate)

FAIRFAX COUNTY WATER
AUTHORITY

By: _____
Charles M. Murray
General Manager

ACTION - 5

Endorsement of Advancing the Recommended Alternative (Intersection and Corridor Improvements) for Braddock Road from Guinea Road to Ravensworth Road for Implementation (Braddock and Mason Districts)

ISSUE:

Board endorsement of advancing for implementation the recommended alternative from the Braddock Road Multimodal Study of Intersection and Corridor Improvements from Guinea Road to Ravensworth Road. The project also includes bicycle and pedestrian improvements along the corridor, and will enhance access to transit.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors endorse the advancement of the Braddock Road Multimodal Study recommended alternative for implementation. This alternative includes intersection improvements in multiple locations in the corridor, as well as reconfiguration of the Braddock Road/I-495 interchange. This project will improve traffic flow on Braddock Road, add bicycle and pedestrian connectivity along the corridor, and increase access to transit and local destinations.

TIMING:

The Board should take action on this matter as soon as possible to allow design and implementation of the improvements to begin.

BACKGROUND:

Braddock Road is a congested corridor with gaps in the bicycle and pedestrian network. As a result, in November 2014, the Department of Transportation (DOT) initiated the Braddock Road Multimodal Study to analyze the Comprehensive Plan recommendations of widening Braddock Road with general purpose lanes from Guinea Road to Burke Lake Road, widening Braddock Road with High Occupancy Vehicle (HOV) lanes from Burke Lake Road to I-495, and adding a transit and commuter parking facility along Braddock Road in the vicinity of the Kings Park Shopping Center.

In addition to the Comprehensive Plan recommendations, the study analyzed multiple sites for a transit center in the area, general purpose lane and Express (High Occupancy Toll) lane widening alternatives from Burke Lake Road to I-495, and intersection and corridor improvements from Guinea Road to I-495 that do not include

widening Braddock Road. As part of the study, it was determined that improvements east of I-495 at the Braddock Road and Ravensworth Road intersection need to be included with the project.

The study also incorporated pedestrian and bicycle facilities, consisting of shared-use paths on both sides of Braddock Road, grade separated crossings, and pedestrian actuated HAWK (High-intensity Activated crossWalk) signalized crossings.

PUBLIC INVOLVEMENT

A community advisory group (Task Force) was formed by the Braddock District Supervisor to participate in the study. The Task Force met with the study team monthly during the course of the study, and actively participated in the development of evaluation criteria and final recommendations of the study.

Outreach to the larger community was conducted through public information meetings and online surveys, and the study team also met with various community groups and organizations throughout the study. Two online surveys were conducted, and four public information meetings were also held.

CONCLUSIONS

After an analysis of all the alternatives, including scoring of the evaluation factors with the Task Force and consideration of public input received, staff recommends the intersection and corridor improvements as the preferred alternative. It was also decided that a transit center or commuter parking facility will not be included as part of the project. The intersection and corridor improvements provide similar transportation benefits as the widening options at significantly lower costs and less impacts to the surrounding land, environment, and community. A list of the major components of the intersection and corridor improvements alternative and the concept plans are included in Attachment 1 and Attachment 2.

FISCAL IMPACT:

On January 28, 2014, the Board of Supervisors approved \$55.5 million for Braddock Road improvements as part of its Transportation Priorities Plan. \$10 million of the funding will be provided through Fund 40010 (County and Regional Transportation Projects). Staff intends to pursue Northern Virginia Transportation Authority regional funding to address the balance.

Board Agenda Item
November 21, 2017

ENCLOSED DOCUMENTS:

Attachment 1: Intersection and Corridor Improvements (List of Improvements)

Attachment 2: Intersection and Corridor Improvements (Concept Plans) - Available
online at: <https://www.fairfaxcounty.gov/fcdot/pdf/braddockroadstudy/plans1-5.pdf>

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT

Karyn L. Moreland, Chief, Capital Projects Section, FCDOT

Michael J. Guarino, Senior Transportation Planner, FCDOT

Tad Borkowski, Transportation Planner, FCDOT



Intersection and Corridor Improvements

Braddock Road at Guinea Road:

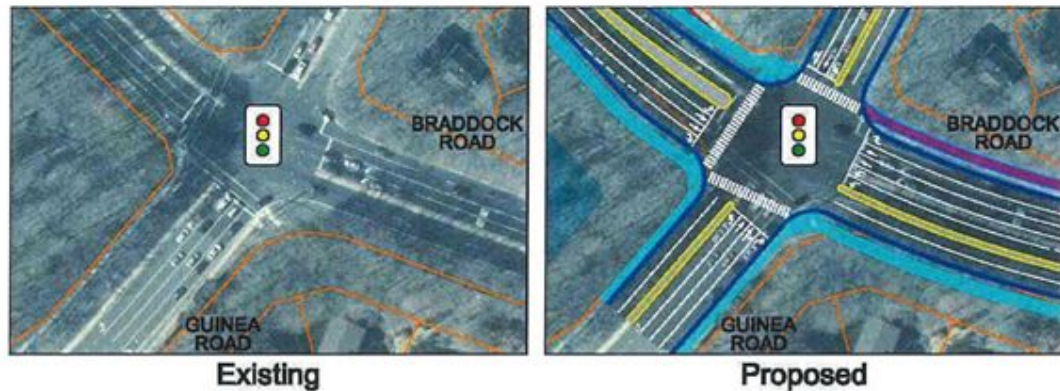


Figure 5-8a

Deficiencies

- Substandard curve radius through the intersection along Braddock Road

Improvements

- Realign Braddock Road through the intersection. Due to the realignment the entire intersection would shift to the South
- Northbound approach converted to left-turn, through, through-right, right-turn lanes (no additional pavement)
- Extend two-lane Northbound section north of intersection to Burnetta Drive
- Add right turn lane to Westbound Braddock Road turning on to Northbound Guinea Road

Braddock Road at Bradfield Drive:

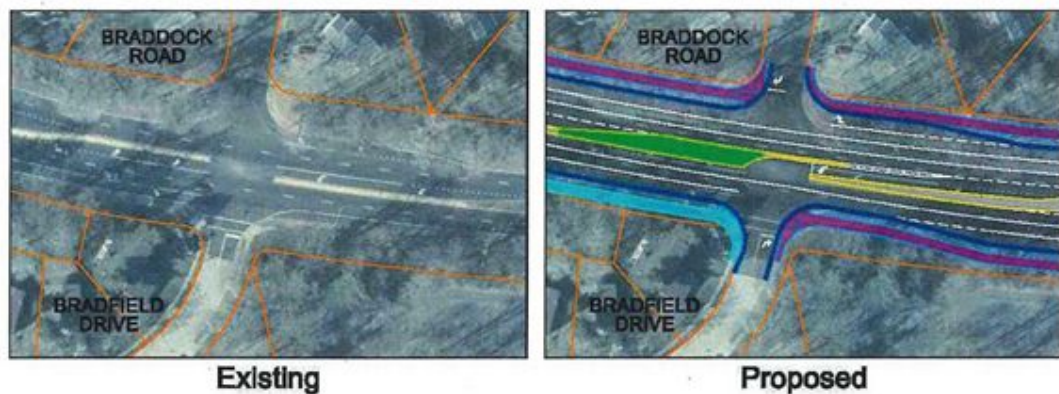


Figure 5-8b

Deficiencies

- Difficult and unsafe left turn movements from Bradfield Drive (north and south)

Improvements

- Restrict Bradfield Drive intersection to right in/right out both directions with channelized Braddock Road Westbound left-turn lane to Bradfield Southbound



Braddock Road at Dunleigh Drive/King David Blvd:

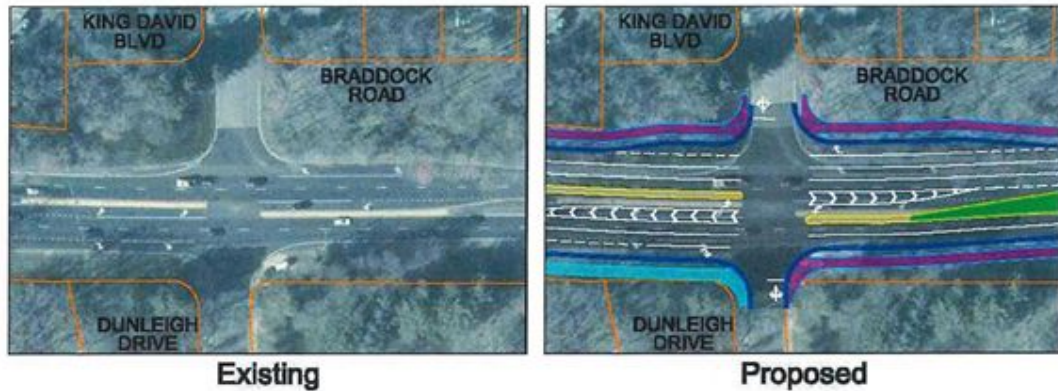


Figure 5-8c

Deficiencies

- Difficult and unsafe left turn movements from both side streets and Braddock Road

Improvements

- Within the vicinity of the intersection the median would be widened to 30 feet wide to provide a safe area for left turning vehicles from the side streets to stop in the median area

Braddock Road at Red Fox Drive (western connection):

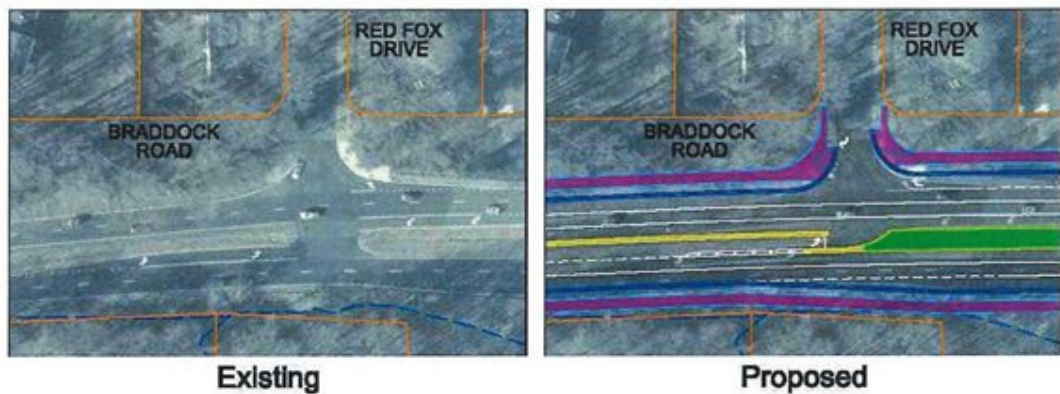


Figure 5-8d

Deficiencies

- Difficult and unsafe left turn movement from Red Fox Drive

Improvements

- Restrict Red Fox Drive (western connection) to right in/right out with channelized Braddock Road Eastbound left-turn lane to Red Fox Drive Northbound (western connection)



Braddock Road at Rolling Road:

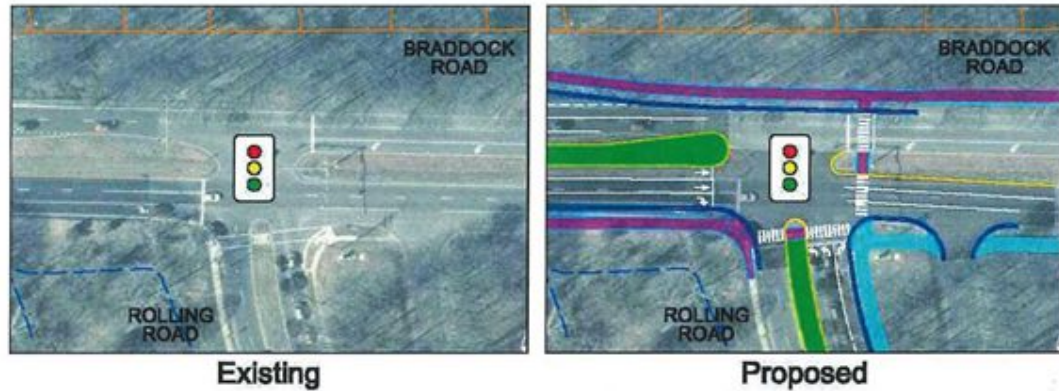


Figure 5-8e

Deficiencies

- Insufficient left turn storage for Rolling Road Northbound turning onto Braddock Road Westbound

Improvements

- Add right turn lane along Rolling Road Northbound and convert the existing right/left share lane along Rolling Road Northbound to left only

Burke Lake Road at Grantham Street:



Figure 5-8f

Deficiencies

- Difficult and unsafe left turn movement and through movement for Grantham Street and Kings Park Shopping Center entrance

Improvements

- Restrict Grantham Street to right in/right out
- Restrict shopping center drive to right in/right out with a left in from Burke Lake Northbound



Braddock Road at Burke Lake Road:



Figure 5-8g

Deficiencies

- Insufficient right turn capacity for Burke Lake Road Northbound turning onto Braddock Road Eastbound

Improvements

- Convert Northbound approach to triple right-turn only
- Northbound right-turn-on-red prohibited
- Extend Braddock Road Westbound dual left turns



Braddock Road at Kings Park Drive:



Figure 5-8h

Deficiencies

- Insufficient left turn storage for Braddock Road Westbound turning onto Southbound Burke Lake Road

Improvements

- Extend Braddock Road Westbound dual left turns turning onto Southbound Burke Lake Road
- Restrict Kings Park Drive to right in/right out by closing the median on Braddock Road
- Restrict the Parkwood Baptist Church access to right in/right out by closing the median on Braddock Road

Braddock Road at Stone Haven Drive:



Figure 5-8i

Deficiencies

- Difficult and unsafe left turn movement from Stone Haven Drive

Improvements

- Restrict Stone Haven Drive to right in/right out with channelized Braddock Road Eastbound left-turn lane to Stone Haven Drive Northbound



Braddock Road at Southampton Drive:

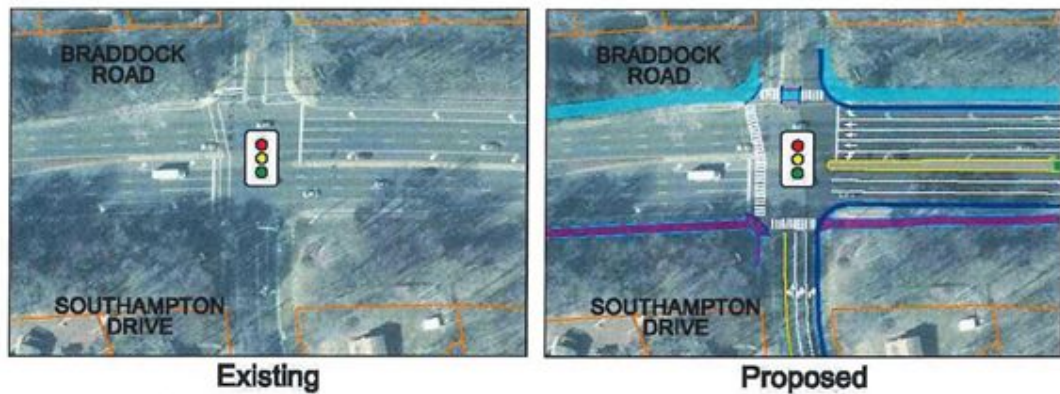


Figure 5-8j

Deficiencies

- Insufficient right turn capacity for Southampton Drive Northbound turning onto Eastbound Braddock Road

Improvements

- Add additional right turn lane to Southampton Drive Northbound turning onto Eastbound Braddock Road.

Braddock Road at Danbury Forest Drive/Wakefield Chapel Road (Conventional Intersection):

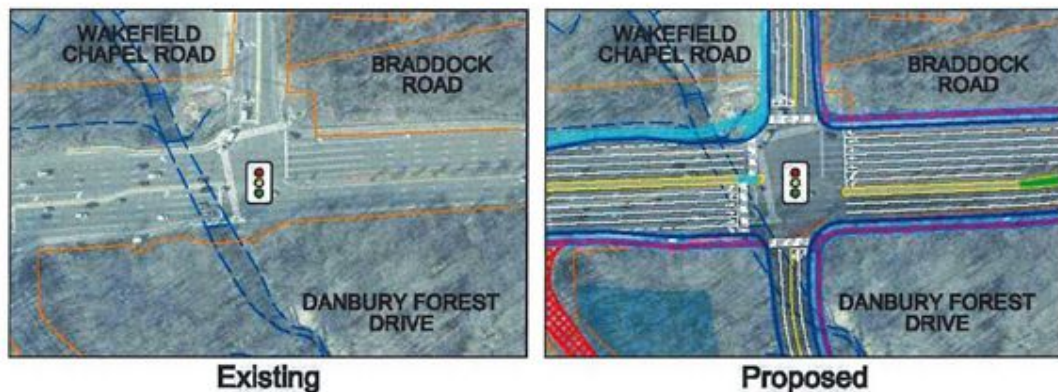


Figure 5-8k

Deficiencies

- The spacing for the Wakefield Chapel Road and Danbury Forest Drive intersections with Braddock Road is substandard

Improvements

- Realign Danbury Forest Drive to meet Wakefield Chapel Road
- Convert the Eastbound and Westbound left turn movements on Braddock Road to dual left-turn lanes
- Extend a second travel lane along Wakefield Chapel Road Northbound up to Stahlway Lane
- Danbury Forest Drive to be a four lane roadway until tying into the existing roadway



Braddock Road at Glen Park Road:

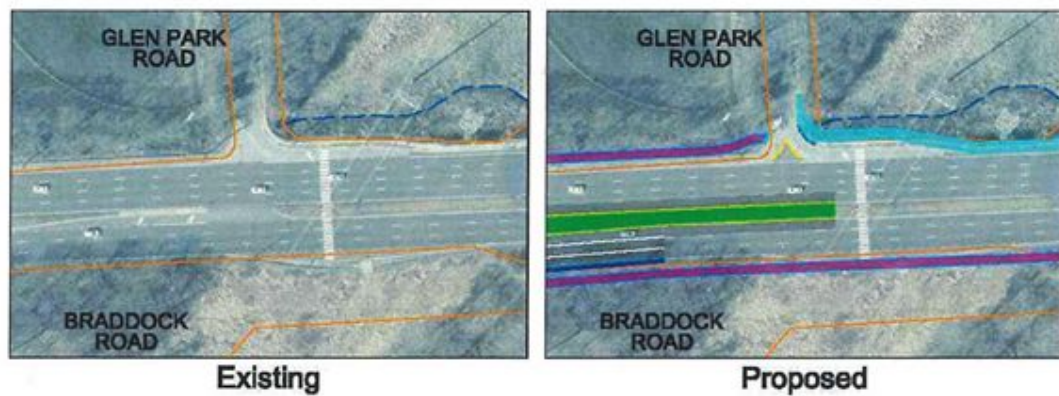


Figure 5-8l

Deficiencies

- Difficult and unsafe left turn movement from Glen Park Road

Improvements

- Restrict Glen Park Road to right in/right out by closing the median on Braddock Road

Braddock Road at Inverchapel Road:



Figure 5-8m

Deficiencies

- Difficult and unsafe left turn movement from Inverchapel Road

Improvements

- Restrict Inverchapel Road to right in/right out with channelized Braddock Road Westbound left-turn lane to Inverchapel Road Southbound



Braddock Road at Queensberry Avenue:



Figure 5-8n

- No Changes

Braddock Road at Port Royal Road/I-495 Southbound to Westbound exit ramp:

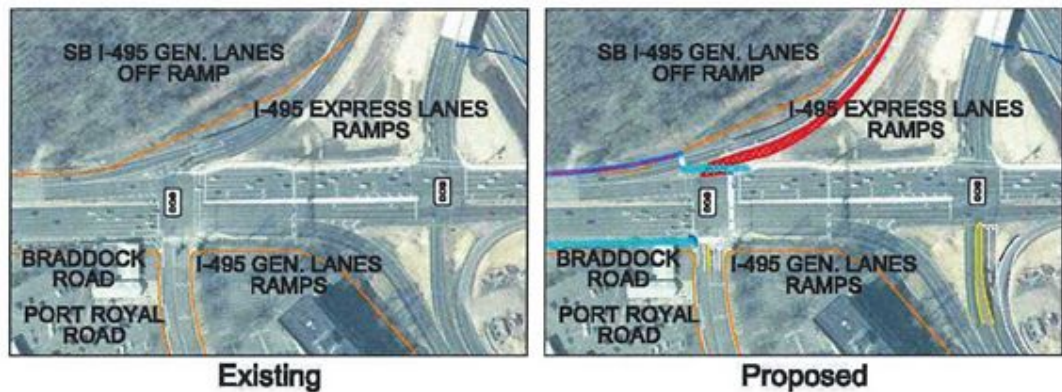


Figure 5-8o

Deficiencies

- I-495 Southbound exit ramp terminates at a signal

Improvements

- Eliminate movement from Southbound I-495 ramp to Port Royal Road
- Southbound I-495 Ramp to Port Royal Road traffic routed to SW quadrant with new left-turn ramp (dual left turn) at Braddock Road, then left-turn from Westbound Braddock Road to Port Royal Road



Braddock Road at I-495 Northbound to Eastbound Exit Ramp:

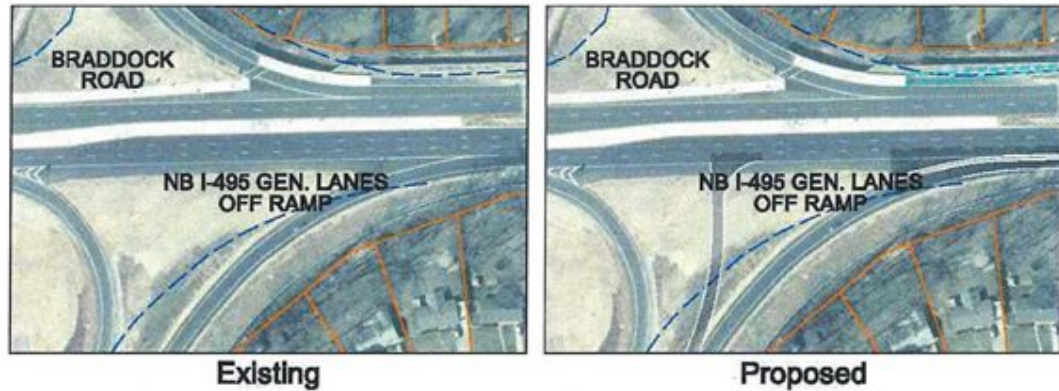


Figure 5-8p

Deficiencies

- Difficult and unsafe merging from the I-495 general lanes off ramp to the left turn movement on Ravensworth Road Northbound

Improvements

- Add a second ramp to create a more perpendicular intersection, creating additional weaving/storage distance along Braddock Road Eastbound turning on to Ravensworth Road Northbound



Braddock Road at Ravensworth Road:



Figure 5-8q

Deficiencies

Insufficient left turn storage for Eastbound Braddock Road turning on Northbound Ravensworth Road

Improvements

- Convert Eastbound approach to dual left-turn lanes turning on to Ravensworth Road Northbound
- Create Northbound dual lanes along Ravensworth Road that merge together before Heritage Drive
- Eliminate the right turn slip lane on Ravensworth Road Southbound turning onto Braddock Road Eastbound
- Add left turn lane to Ravensworth Road Northbound turning onto Heritage Drive

ACTION - 6

Adoption of the One Fairfax Policy that Defines Expectations and Processes for Consideration of Racial and Social Equity in the Planning, Development and Implementation of Policies, Practices and Initiatives Throughout all Publicly Delivered Services in Fairfax County Government

ISSUE:

In July, 2016, the Board of Supervisors adopted the One Fairfax Resolution that directed the development of a racial and social equity policy to ensure all individuals have an opportunity to reach their highest level of personal achievement.

Following a year-long policy development process undertaken by county government and FCPS leadership and staff, the One Fairfax policy establishes common, shared definitions; identifies areas of focus that support a thriving community and promote equity; and articulates the business processes and infrastructure roles at a high level to support successful implementation of this policy.

The intentional focus on racial and social equity positions Fairfax County government to proactively and collectively, with FCPS, our community, and other sectors including higher education, business, nonprofit, faith, philanthropy, and civic, to identify and address institutional and structural barriers to opportunity and to facilitate the full inclusion of the economic, social, and creative contributions of all county residents, resulting in greater economic security for families and a stronger local economy.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the **One Fairfax** policy and join with the School Board in defining expectations and processes for the consideration of racial and social equity when planning, developing, and implementing policies, practices and initiatives. This policy informs all other policies and applies to all publicly delivered services in Fairfax County Government and Fairfax County Public Schools.

Initial policy implementation will include working with community to identify equity goals, identifying the best and most immediate equity in practice opportunities, and organizing and mobilizing a work structure to support full implementation.

TIMING:

Board action is requested on November 21, 2017.

BACKGROUND:

For more than two decades, Fairfax County has implemented an array of initiatives focusing on aspects of racial and social inequities. The foundation laid by these initiatives has provided important lessons to move us beyond program and service level strategies to consider a more comprehensive approach that addresses the policies, systems and structures that drive inequities.

In February 2014, the Successful Children and Youth Policy Team endorsed recommendations regarding an intentional collective leadership approach to advance racial and social equity that outlined interrelated actions including community engagement, implementation of equity tools and infrastructure, and shared accountability by Fairfax County Government and Fairfax County Public Schools. Staff presented these recommendations and the foundations of **One Fairfax** to the Board of Supervisors Human Services Committee and the School Board on October 21, 2014 and December 8, 2014 respectively.

Fairfax County's Strategic Plan to Facilitate Economic Success, adopted in 2015, articulated goals and strategies to maintain and enhance our strong and vital community in order to sustain and grow economic prosperity. One of the unique elements of this plan was the inclusion of social equity as a primary component. Specifically, Goal 5, Action Item 5.5 of the Plan calls for the exploration of policy opportunities, strategies or frameworks to address the issue of social equity within the context of economic success.

Also in 2015, a baseline Equitable Growth Profile (EGP) analysis, completed by PolicyLink and The University of Southern California's Program for Environmental and Regional Equity in conjunction with a local, multi-sector advisory group, provided compelling evidence that equity is an economic imperative. Research shows that equitable regions experience stronger, more sustained growth; regions with lower income inequality and less segregation (by race and income) have more upward mobility; companies with a diverse workforce achieve a better bottom line; and a diverse population more easily connects to global markets.

The **One Fairfax** resolution, adopted by the Board of Supervisors and the School Board in July, 2016, proactively set the direction forward to move us beyond embracing our growing diverse population to implementing a growth model driven by equity. The **One Fairfax** resolution directed the development of a racial and social equity policy that will provide both the direction and means to work together with schools and communities to eliminate disparities and build a vibrant Fairfax County for all.

FISCAL IMPACT:

As has been the case with the work performed to date as the resolution and policy have been developed, existing resources will be utilized to support the One Fairfax initiative. The intentional focus on racial and social equity will be one of the lenses applied as future strategies to eliminate the gaps and increase opportunities for all, are developed and presented to the Boards for review. Specific budget impacts will be considered on a case by case basis by the Board of Supervisors and School Board as part of these discussions and in future budget processes.

ENCLOSED DOCUMENTS:

Attachment 1: One Fairfax Policy

Attachment 2: One Fairfax Resolution

Attachment 3: Equitable Growth Profile of Fairfax County Summary available online at:
http://nationalequityatlas.org/sites/default/files/Fairfax_Summary_16June2015_Final.pdf

Attachment 4: Equitable Growth Profile of Fairfax County available online at:
<http://nationalequityatlas.org/sites/default/files/Fairfax-Profile-6June2015-final.pdf>

STAFF:

Patricia D. Harrison, Deputy County Executive

David J. Molchany, Deputy County Executive

Joseph M. Mondoro, Chief Financial Officer

David M. Rohrer, Deputy County Executive

Robert A. Stalzer, Deputy County Executive

ONE FAIRFAX POLICY – November 21, 2017

I. PURPOSE

Fairfax County embraces its growing diverse population and recognizes it as a tremendous asset but also knows that racial and social inequities still exist. This policy defines expectations for consideration of racial and social equity, and in particular, meaningful community involvement when planning, developing, and implementing policies, practices, and initiatives. It provides a framework to advance equity in alignment with our stated visions and priorities. This policy informs all other policies and applies to all publicly delivered services in Fairfax County Government and Fairfax County Public Schools.

II. SUMMARY OF CHANGES SINCE LAST PUBLICATION

This is a new policy.

III. DEFINITIONS

Equity: The commitment to promote fairness and justice in the formation of public policy that results in all residents – regardless of age, race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, disability, socio-economic status or neighborhood of residence or other characteristics – having opportunity to fully participate in the region’s economic vitality, contribute to its readiness for the future, and connect to its assets and resources.

Equity Tools: Information and processes used to identify who is affected by a decision, policy, or practice; how they are affected; and to guide recommendations to encourage positive impacts and/or mitigate negative impacts.

Publicly delivered: The services provided by government or public schools either directly (through the public sector) or through financing the provision of services.

Race: A socially constructed category of identification based on physical characteristics, ancestry, historical affiliation, or shared culture.

Racial Equity: The absence of institutional and structural barriers experienced by people, based on race or color that impede opportunities and results.

Social Equity: The absence of institutional and structural barriers experienced by people, based on other societal factors such as age, sex, sexual orientation, gender identity, religion, national origin, marital status, disability, socio-economic status, neighborhood of residence, that impede opportunities and results.

IV. AREAS OF FOCUS TO PROMOTE EQUITY

Helping people reach their highest level of personal achievement is vital to our county's successful ability to compete in the global economy. Linking our residents and families to opportunities including education, workforce development, employment, and affordable housing helps ensure lifelong learning, better health, resilience, and economic success. The systems, structures, and settings in which our residents and families live, work, play, and learn, create an equitable community and are, in part, a product of policy and resourcing decisions.

Fairfax County Government and Fairfax County Public Schools, working in conjunction with higher education, business, nonprofit, faith, philanthropy, civic and other sectors, will give particular consideration to these initial areas recognizing that additional areas of focus may emerge based on changing factors and that assessment and prioritization are necessary to guide and inform collective actions to support a thriving community and promote equity with a goal of achieving the following:

1. Community and economic development policies and programs that promote wealth creation and ensure fair access for all people.
2. Housing policies that encourage all who want to live in Fairfax to be able to do so, and the provision of a full spectrum of housing opportunities across the county, most notably those in mixed-use areas that are accessible to multiple modes of transport.
3. Workforce development pathways that provide all residents with opportunity to develop knowledge and skills to participate in a diverse economy and earn sufficient income to support themselves and their families.
4. An early childhood education system that ensures all children enter kindergarten at their optimal developmental level with equitable opportunity for success.
5. Education that promotes a responsive, caring, and inclusive culture where all feel valued, supported, and hopeful, and that every child is reached, challenged, and prepared for success in school and life.
6. Community and public safety that includes services such as fire, emergency medical services, police, health, emergency management and code enforcement that are responsive to all residents so that everyone feels safe to live, work, learn, and play in any neighborhood of Fairfax County.
7. A criminal justice system that provides equitable access and fair treatment for all people.
8. Neighborhoods that support all communities and individuals through strong social networks, trust among neighbors, and the ability to work together to achieve common goals that improve the quality of life for everyone in the neighborhood.
9. A vibrant food system where healthy, accessible, and affordable food is valued as a basic human necessity.
10. A health and human services system where opportunities exist for all individuals and families to be safe, be healthy and realize their potential through the provision of accessible, high quality, affordable and culturally appropriate services.
11. A quality built and natural environment that accommodates anticipated growth and change in an economically, socially, and environmentally sustainable and equitable manner that includes mixes of land use that protects existing stable neighborhoods and green spaces, supports sustainability, supports a high quality of life, and promotes employment opportunities, housing, amenities and services for all people.

12. A healthy and quality environment to live and work in that acknowledges the need to breathe clean air, to drink clean water now and for future generations.
13. A parks and recreation system that is equitable and inclusive by providing quality facilities, programs, and services to all communities; balancing the distribution of parks, programs and facilities; and providing accessible and affordable facilities and programs.
14. A multi-modal transportation system that supports the economic growth, health, congestion mitigation, and prosperity goals of Fairfax County and provides accessible mobility solutions that are based on the principles associated with sustainability, diversity, and community health.
15. Digital access and literacy for all residents.
16. Intentional, focused recruitment efforts that bolster a diverse applicant pool; hiring and evaluation practices, and processes for employee feedback, to achieve and preserve a culture of equity and fairness for all employees.
17. Policies that prohibit all forms of discrimination under Federal and State law in county and school system activities, and ensure that all practices provide fair treatment for all employees, contractors, clients, community partners, residents, and other sectors who interact with Fairfax County including higher education, business, nonprofit, faith, philanthropy, and civic.

V. PROCESS

To achieve equity and advance opportunity for all, Fairfax County Government and Fairfax County Public Schools will work in partnership with others and utilize the influence of each respective institution to leverage and expand opportunity. Organizational capacity in the following areas will enable the development, implementation, and evaluation of policies, programs, and practices that advance equity:

a. Community Engagement

To foster civil discourse and dialogue, community engagement shall ensure that the breadth of interests, ideas, and values of all people are heard and considered. Outreach and public participation processes will be inclusive of diverse races, cultures, ages, and other social statuses. Effective listening, transparency, flexibility, and adaptability will be utilized to overcome barriers (geography, language, time, design, etc.) that prevent or limit participation in public processes. Fairfax County Government and Fairfax County Public Schools will engage with sectors such as higher education, business, nonprofit, faith, philanthropy, civic and others to collectively address barriers to opportunity.

b. Training and Capacity Building

Training will be designed for individual and collective learning with an emphasis on building competencies and skills to implement strategies that promote racial and social equity in employees' daily work. Foundational training will include, but will not be limited to: an understanding of implicit bias; institutional and structural racism; and the use of equity tools. Additional training for role and business area specific training will also be provided.

c. Applying Equity Tools

Consideration will be given to whole community benefits and burdens, identifying strategies to mitigate negative impacts, and promoting success for all people in planning and decision making.

Equity tools such as structured questions, equity impact analyses, disparity studies, etc. will be used to ensure that equity is considered intentionally in decision-making and the One Fairfax policy is operationalized.

d. Racial and Social Equity Action Planning

All organizations and departments within Fairfax County Government and Fairfax County Public Schools will conduct analysis, devise plans, set goals, and take actions through specific practices, policies, and initiatives within their purview.

e. Accountability Framework

Fairfax County Government and Fairfax County Public Schools will incorporate data and publish performance measures that can be analyzed, quantified, and disaggregated to evaluate the extent to which our systems are achieving goals identified through the racial and social equity action planning.

VI. ROLES

Fairfax County Government and Fairfax County Public Schools will designate and support staff members to lead the implementation of the One Fairfax policy. These staff members will work in conjunction with:

- The Board of Supervisors, School Board, and One Fairfax Executive Leadership Team to provide strategic, collective leadership in support of the equity-informed planning and decision-making processes prescribed by this policy and the development and pursuit of identified equity goals; and
- A multi-department, cross-systems equity staff team to facilitate coordination of racial and social equity action planning, collective action, and shared accountability across and within county and schools organizations.
- Boards, Commissions, Authorities and Advisory Committees to promote stakeholder engagement and input in support of equity informed planning and decision making.

Related policies and regulations:

Fairfax County Public Schools Policy 1450 – Nondiscrimination

Fairfax County Government Procedural Memorandum 39-06 – Harassment

Fairfax County Government Procedural Memorandum 39-04 – Reasonable Accommodation in Employment

Fairfax County Government Procedural Memorandum 39-05 – Reasonable Accommodation of Services and Devices

Fairfax County Government Procedural Memorandum 02-08 – Language Access Policy

The Code of Fairfax County, Virginia – Chapter 11 – Human Rights Ordinance

RESOLUTION

Attachment 2



Whereas, Fairfax County takes pride as a great place to live, learn, work, and play; and,
Whereas, Fairfax County is the largest and strongest economy in the Washington Metropolitan area and one of the strongest in the nation; and,
Whereas, county and school leaders and staff are committed to providing excellent services for every resident of Fairfax; and,
Whereas, Fairfax County government has established a vision of Safe and Caring Communities, Livable Spaces, Connected People and Places, Healthy Economies, Environmental Stewardship, Culture of Engagement and Corporate Stewardship; and Fairfax County Public Schools has established goals of Student Success, a Caring Culture, a Premier Workforce, and Resource Stewardship; and,
Whereas, Fairfax County embraces its growing diverse population and recognizes it as a tremendous economic asset but recognizes that racial and social inequities still exist; and,
Whereas, achieving racial and social equity are integral to Fairfax County's future economic success, as illustrated in the Equitable Growth Profile and highlighted as a goal in the Strategic Plan to Facilitate the Economic Success of Fairfax County; and,
Whereas, we define Racial Equity as the development of policies, practices and strategic investments to reverse racial disparity trends, eliminate institutional racism, and ensure that outcomes and opportunities for all people are no longer predictable by race; and
Whereas, we utilize the term Social Equity to consider the intersection and compounding effects of key societal issues such as poverty, English as a second language, disability, etc. with race and ethnicity; and,
Whereas, as servants of the public we are committed to the definition of social equity adopted by the National Academy of Public Administration – “the fair, just and equitable management of all institutions servicing the public directly or by contract; the fair, just and equitable distribution of public services and implementation of public policy; and the commitment to promote fairness, justice, and equity in the formation of public policy.”
Whereas, it is essential to identify and address institutional and systemic barriers that exist and understand that these barriers may impede access to opportunities for achieving the visions and goals set forth by county leaders; and,
Whereas, an extensive body of research has established that a community's access to an interconnected web of opportunities shapes the quality of life for all; and,
Whereas, to truly create opportunity, we need to understand and improve our work through a racial and social equity lens from the very core of the organization outward, focusing intentionally and deliberately towards sustainable structural changes; and,
Whereas, a growing number of local jurisdictions across the United States are adopting intentional equity strategies and see equity as an economic growth model;

NOW, THEREFORE, BE IT RESOLVED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS AND THE FAIRFAX COUNTY SCHOOL BOARD that:

The time is now to move beyond embracing diversity as an asset and implement a new growth model driven by equity — just and fair inclusion into “One Fairfax,” a community in which everyone can participate and prosper.

“One Fairfax” can only be realized with an intentional racial and social equity policy at its core for all publicly delivered services. A racial and social equity policy provides both the direction and means to eliminate disparities, and work together to build a vibrant and opportunity-rich society for all.

In July 2016, the Fairfax Board of Supervisors and School Board join in this resolution and direct the development of a racial and social equity policy for adoption and strategic actions to advance opportunities and achieve equity that include intentional collective leadership, community engagement, equity tools and infrastructure to support and sustain systemic changes, and shared accountability so collectively, we will realize “One Fairfax,” a community where everyone can participate and prosper.

July 12, 2016

Board Agenda Item
November 21, 2017

ACTION - 7

Approval of Fairfax Connector December 2017 Service Changes

ISSUE:

Board of Supervisors' approval of Fairfax Connector's December 2017 service changes that implement new express bus service from the Fairfax County Government Center to the District of Columbia via Interstate 66 (I-66), revise the schedule on express Route 395 serving the Pentagon to better address peak travel demand, and implement routing and running time adjustments to Route 463 to improve schedule reliability.

RECOMMENDATION:

The County Executive recommends that the Board approve the December 2017 service change proposal as outlined below.

TIMING:

Board approval is requested on November 21, 2017, to allow for implementation on December 2, 2017.

BACKGROUND:

Last year FCDOT submitted a grant application to Northern Virginia Transportation Commission (NVTC) for the implementation of express bus service along I-66 using the managed High Occupancy Toll (HOT) lanes inside the Beltway. These managed HOT lanes will start in December 2017. The grant included funding to cover operational costs and new vehicles for this service. Fairfax County was granted \$986,836 for one and a half years for operational costs and \$2.35 million for the purchase of five buses. Additional operating assistance will be provided in subsequent years. The purpose of the new service is to reduce congestion within the I-66 corridor inside the Beltway. The December 2017 service change proposal includes the implementation of this new express bus (Route 699) from the Fairfax County Government Center to the District of Columbia via I-66. This service, and proposed changes to Routes 395 and 463, are summarized below.

Proposal Details

Route 699: Fairfax County Government Center – State Department – George Washington University

- Express bus route featuring 10 inbound morning trips and 10 outbound afternoon trips operating during peak travel periods. The route will serve several activity

centers in the District of Columbia, including the State Department, World Bank, and George Washington University. Funding for the service is being provided through the multi-modal grant program managed by NVTC as part of the I-66 Express Lanes Project in the Beltway. This route is one of several transit and Travel Demand Management (TDM) projects being funded by NVTC to help manage peak-hour congestion in the I-66 corridor, allowing for more consistent travel times during periods of high travel demand.

Route 395: Gambrill Road – Pentagon

- Route 395 schedule has undergone revisions in two successive service changes.
- March 2017 – Additional inbound and outbound trips were added to the schedule to address customer travel demand.
- September 2017 – Some morning and afternoon trips were split between Gambrill Road and Backlick North Park-and-Rides as planning staff sought to address bus loading issues identified after the March service changes.
- Post September 2017 – operations staff added unscheduled “extra” buses to the route to address loading and service frequency problems cited by riders and verified by operations staff.
- Ridership on this route is very strong. Inbound trips in the morning average 29 passengers per trip, while the outbound and evening trips average 32 passengers per trip.
- This proposal adjusts the number of morning trips that will serve Backlick North Park-and-Ride, to better address customer demand.
- It also adjusts the number of afternoon trips serving Gambrill Road and Backlick North Park-and-Rides to reduce/eliminate standing bus loads.

Route 463: Maple Avenue – Vienna

- Realignment of the route occurred as part of the September 2017 service changes in response to elimination of Metrobus 2T.
- The Metrobus 2T elimination removed transit service from Tysons Towers Apartments, a senior housing development located in Tysons. The realignment of Route 463 restored transit service to Tysons Towers Apartments and other housing complexes along Gosnell Road.
- This proposal addresses running time delays resulting from the September 2017 realignment.
- This proposed change reroutes the buses onto Westpark Drive, International Drive, and Tysons Boulevard in Tysons to address traffic conditions and improve schedule adherence.
- It also adjusts running times to improve schedule reliability, especially during peak hours.

TITLE VI

The service changes proposed for implementation in December 2017 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*. Three routes are involved in these changes. Of those, Route 699 is qualified as experiencing a major service change. Further analysis suggested that this new route would not create a disparate impact on the minority riders nor a disproportionate burden on the low-income riders. The proposed changes will be a positive change for Fairfax Connector riders, including the communities along the routes.

FISCAL IMPACT:

This proposal expands service by approximately 3,735 annual revenue hours. Route 699 requires the purchase of five buses at a cost of \$2.35 million. Funds are available in the FY 2018 Budget in Fund 40000, County Transit Systems for these service changes, and no adjustment to the General Fund is required. Capital and operating funding to support the service expansion is contained within the NVTC multi-modal grant awarded to Fairfax County. Service changes to Routes 395 and 463 are cost neutral. There will be no additional impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment I – News Release / Public Outreach Information
Attachment II – Route Change Maps
Attachment III – Public Comment Summary
Attachment IV – Service Equity (Title VI) Analysis

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Dwayne Pelfrey, Division Chief, Transit Services Division, FCDOT
Michael Felschow, Planning Section Chief, Transit Services Division, FCDOT
Stuart Boggs, Senior Transportation Planner, Transit Services Division, FCDOT
Hejun Kang, Transportation Planner, Transit Services Division, FCDOT
Ray Johnson, Senior Transportation Planner, Coordination and Funding Division, FCDOT

Attachment I

News Release/Public Outreach Information

Public Feedback Sought on Proposed New Fairfax Connector Express Route and on Improvements to Existing Routes

October 6, 2017

UPDATED October 17, 2017

Fairfax County Department of Transportation (FCDOT) is requesting feedback on a **proposed Fairfax Connector express service from Fairfax County Government Center to downtown Washington, D.C.; and on improvements to existing express service from Springfield to the Pentagon, and to Route 463 in Vienna and Tysons.**

Proposed Changes Scheduled for December 2017 Implementation

Route 699 – Fairfax County Government Center – Downtown Washington, D.C.

The proposed new route aims to serve major regional employment and educational centers and **will operate from the Fairfax County Government Center.**

Stops in downtown Washington, D.C., include the **U.S. Department of State, the World Bank, and the George Washington University campus.**

The service will feature 10 inbound trips in the morning and 10 outbound trips in the afternoon.

This route will be funded through a multi-modal grant from the Northern Virginia Transportation Commission (NVTC) in conjunction with the I-66 Express Lanes Project.

Route 395 – Gambrill – Pentagon Express

Proposed improvements include **adjustments to the number of morning and afternoon rush-hour trips serving the Backlick Park-and-Ride to address increased demand for service.**

Route 463 – Maple Avenue - Vienna

Proposed improvements include **running time adjustments and a reroute on Westpark Drive, International Drive and Tysons Boulevard to improve schedule reliability.**

Opportunities for Public Input

FCDOT will host two outreach event on the proposed changes:

Thursday, Oct. 19, 2017, from 6-8 p.m., at Eagle View Elementary, 4500 Dixie Hill Road, Fairfax. [Transit access: Fairfax Connector Routes 605 and 621.](#)

****NEW** Monday, Nov. 6, 2017, from 6-8 p.m., at Irving Middle School, 8100 Old Keene Mill Rd, Springfield. [Transit access:](#) *Fairfax Connector Route 310.***

At these event, residents will learn more about the proposed service and will be able to provide feedback. The outreach event location is accessible by taking Fairfax Connector Route 605 or Route 621.

Public comment will be accepted until 5 p.m. on Friday, Nov. 10, 2017. To comment on the proposed route changes riders can also:

e-mail questions or comments to fairfaxconnector@fairfaxcounty.gov, or call 703-339-7200, TTY 711.

For More Information on Fairfax Connector Service

Visit www.fairfaxconnector.com

Call 703-339-7200, TTY 703-339-1608 (Monday - Friday, 5 a.m. to 10 p.m.; Saturday - Sunday, 7 a.m. to 9 p.m.)

Visit a [Connector Store](#)

Follow us on [Twitter](#) & [Facebook](#)

###



NEW Express Service Proposed to Begin December 2017

First Fairfax Connector service direct to Downtown D.C.

The proposed **Route 699** will operate express bus service from the Fairfax County Government Center to downtown Washington, D.C. and will include stops at the U.S. Department of State, the World Bank, and the George Washington University campus. The service will provide 10 inbound trips in the morning and 10 outbound trips in the afternoon.

Fairfax Connector will host outreach event to discuss the proposed service and to solicit feedback.

Thursday, October 19, 2017, 6 p.m. – 8 p.m.
Eagle View Elementary School
4500 Dixie Hill Road, Fairfax 2030

Transit access:
Fairfax Connector 605, 623 (for arrival before 7:11 p.m.), 621 (for arrival after 7:11 p.m.); **Metrobus** 1C

NUEVO servicio expreso propuesto para comenzar diciembre de 2017

Primer servicio de Fairfax Connector directo al centro de D.C.

La propuesta de la **ruta 699** operará el servicio de autobuses expresos desde el centro de gobierno del Condado de Fairfax al centro de la ciudad de Washington, D.C. y incluirá paradas en el Departamento de Estado de los Estados Unidos, el Banco Mundial y el campus de la Universidad de George Washington. El servicio ofrecerá 10 viajes de llegada por la mañana y 10 viajes de regresos por la tarde.

Fairfax Connector tendrá una reunión pública para explicar el servicio que se propone y para solicitar los comentarios del público.

Jueves, 20 de octubre del 2017, 6 p.m. – 8 p.m.
Eagle View Elementary School
4500 Dixie Hill Road, Fairfax 22030

El acceso de tránsito:
Fairfax Connector 605, 623 (para llegar antes de las 7:11 p.m.), 621 (para llegar después de las 7:11 p.m.); **Metrobus** 1C

For additional information:
Para más información:



fairfaxconnector.com



703-339-7200



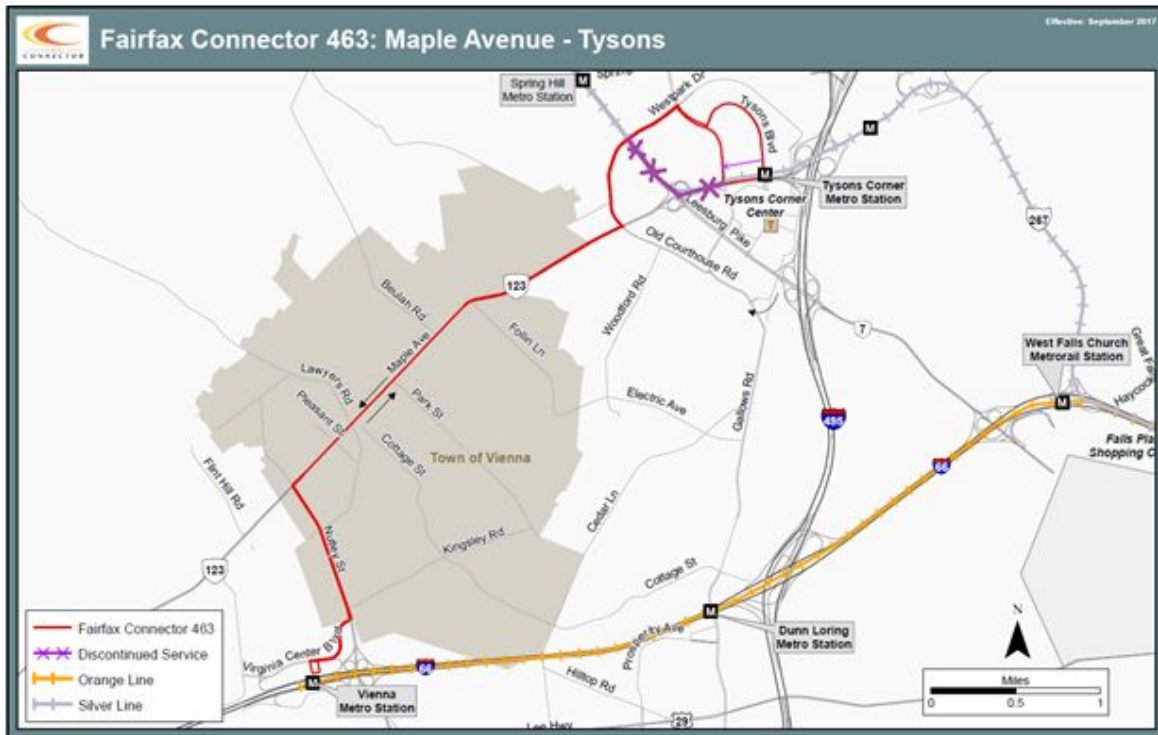
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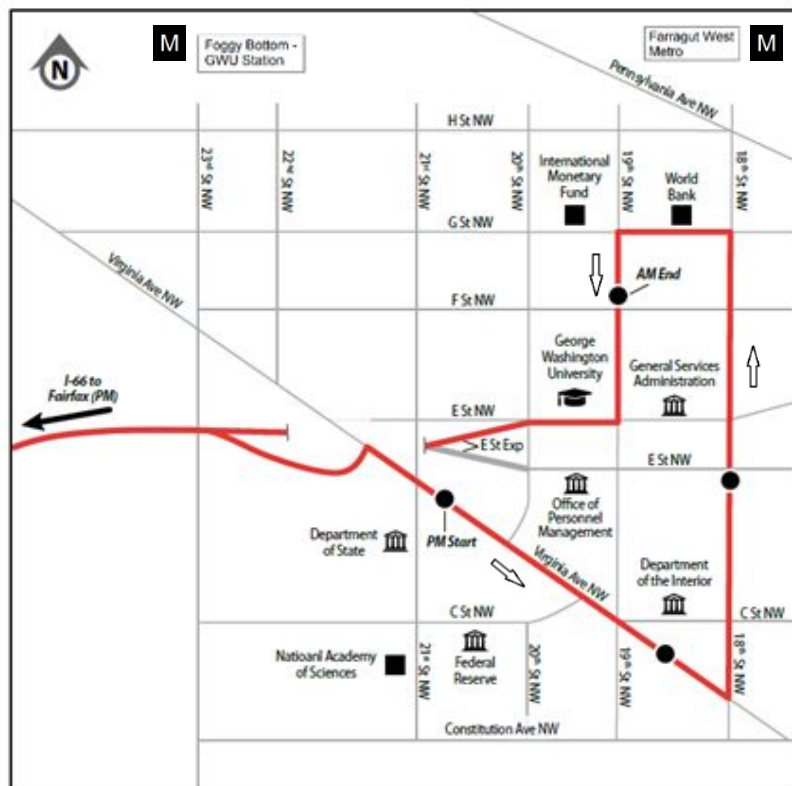
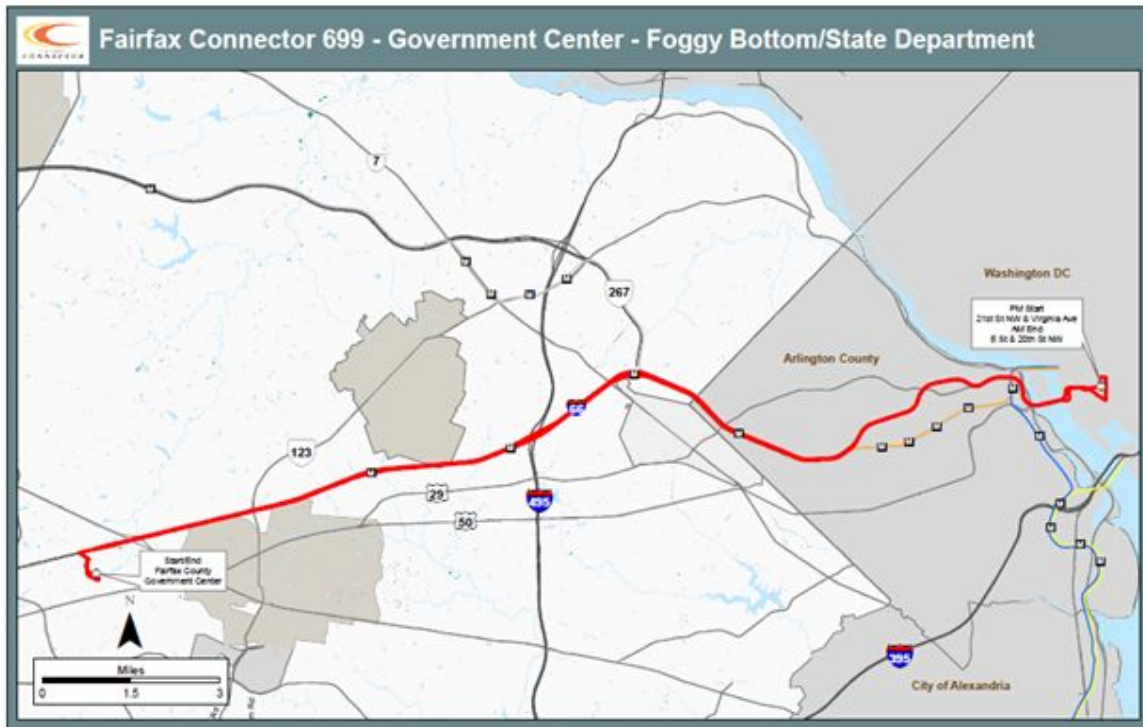
Fairfax County Department of Transportation (FCDOT) ensures nondiscrimination in all programs and activities in accordance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA). To request this information in an alternate format, contact FCDOT at 703-877-5600, TTY 711.

County of
Fairfax, Virginia



Route Change Maps





Public Comment Summary

The following is a summary of public comment received regarding the December 2017 service change proposal, (will include comments received through end of comment period on November 10, 2017, including comments received at the Public Meetings on October 19, and November 6, 2017.

- Public meetings: 2
- Public meeting attendees: 2
- Written, email, and telephone comments: 29

Route(s)	Comment	Response
395	The changes to the 395 Route are not supporting the commuter demand. Four times since the change, I have had to wait on a later bus because the scheduled bus is full to capacity. Prior to the schedule change, buses were full but not overfull and no one was turned away or made to wait. Everyday at the Pentagon, the line has approximately 125-150 people in it for the 5:35 bus. Obviously not all of those people can fit. This did not happen when there was a 5:15 bus. I recommend re-looking the schedule change to support people that are commuting.	The proposed December 2017 schedule changes to Route 395 will address this issue by adding service to both Gambrill Road and Backlick Park-and-Ride lots. Trips departing Gambrill Road Park-and-Ride will start at 5:05 AM with departure frequencies ranging from 10 to 20 minutes. Service from Backlick North Park-and-Ride will include a first departure at 5:37 AM with subsequent departures occurring approximately every 15 to 20 minutes with morning departures after 8:00 AM from both park-and-rides ranging from 30 – 40 minutes. Also, the 5:20 PM trip through the 5:55 PM trip departing the Pentagon would serve both Gambrill Road Park-and-Ride and Backlick North Park-and-Ride.
395	In thinking about the current 395 bus problems I highly recommend you step back from the specific route issues and look at your service to Fairfax County holistically. My specific point is that what happens with the 393 and 394 routes affects the 395. I have spoken to numerous riders over the past two years, often asking why they choose the 395 bus. The biggest driver in their choice is time between departure from the park and ride to arrival at the Pentagon, and reverse direction in the afternoon. I am confident that if you establish a direct Express run from the Saratoga Park and	Transit Services Division staff are currently evaluating a restructure of Routes 393 and 394 that would have Route 395 just serving Gambrill Road park-and-Ride and 393/394 serving Backlick North Park-and-Ride. This restructure is being considered as part of the Spring 2018 service change.

	Ride to the Pentagon, without additional stops it will become a popular option and take pressure off Gambrill and Backlick. Please give this option serious conversation.	
395	The new schedule has increased the amount of people by more than double on the evening busses 1640, 1655 and 1735. Last Thursday the 1640 couldn't fit all the passengers and now tonight the 1735 couldn't	The proposed December 2017 schedule changes to Route 395 will address this issue by adding service to both Gambrill Road and Backlick Park-and-Ride lots. Trips departing the Pentagon will start at 3:00 PM with departure frequencies ranging from 5 to 20 minutes. Two additional trips will serve Gambrill Road Park-and-Ride and 2 additional trips will serve Backlick North Park-and-Ride.
395	I'm not sure if the appropriate venue for my email, but thought I'd pass along my displeasure of the new bus schedule for 395. I'm at a loss to how someone decided it was a good idea to remove Gambril Rd stops between 4:55pm and 5:35pm, the heaviest rush hour points.	The proposed December 2017 schedule changes to Route 395 will address this issue by adding service to both Gambrill Road and Backlick Park-and-Ride lots. Trips departing the Pentagon will start at 3:00 PM with departure frequencies ranging from 5 to 20 minutes. Two additional trips will serve Gambrill Road Park-and-Ride and 2 additional trips will serve Backlick North Park-and-Ride.
395	Please bring back the rush hour schedule for route 395.	The proposed December 2017 schedule changes to Route 395 will address this issue by adding service to both Gambrill Road and Backlick Park-and-Ride lots. Trips departing Gambrill Road Park-and-Ride will start at 5:05 AM with departure frequencies ranging from 10 to 20 minutes. Service from Backlick North Park-and-Ride will include a first departure at 5:37 AM with subsequent departures occurring approximately every 15 to 20 minutes with morning departures after 8:00 AM from both park-and-rides ranging from 30 – 40 minutes.
395	Your express 395 is a horrible idea. The 395 express just left with 8 riders and	The -proposed December 2017 schedule changes to Route 395 will

	<p>now I have to wait 30 minutes for the normal 395, which will be standing room only. Same thing yesterday.</p>	<p>address this issue by adding service to both Gambrill Road and Backlick Park-and-Ride lots. Trips departing Gambrill Road Park-and-Ride will start at 5:05 AM with departure frequencies ranging from 10 to 20 minutes. Service from Backlick North Park-and-Ride will include a first departure at 5:37 AM with subsequent departures occurring approximately every 15 to 20 minutes with morning departures after 8:00 AM from both park-and-rides ranging from 30 – 40 minutes.</p>
395	<p>Hello. I ride the 395/394 from Backlick park and ride to the Pentagon everyday. I understand you are trying to work out the new schedule kinks... thanks. You have temporarily added a 395 bus from Backlick at 7:31 am. It is a great help as it gets us to the Pentagon before 8 am. This is important as my Backlick options at the work day end are 4:55pm, 5:05pm or 5:35 pm (since you terminated the 5:15pm). If I can get to the Pentagon and be in my office before 8am, then I can put in the needed hours to make the 5:05. Otherwise I have to catch the 7:19 in the morning (and don't get to see my twin 2 yr olds and 4 yr old at all before I leave. Not your problem, but it does impact me). The other option (and I highly recommend) is bringing back the 5:15 from Pentagon to Backlick. At that time of the day, it is standing room only on the 5:05 or I have to wait 30 minutes for the next Backlick bus. Kind of a pain.</p>	<p>The proposed December 2017 schedule changes to Route 395 will address this issue by adding service to both Gambrill Road and Backlick Park-and-Ride lots. Trips departing Gambrill Road Park-and-Ride will start at 5:05 AM with departure frequencies ranging from 10 to 20 minutes. Service from Backlick North Park-and-Ride will include a first departure at 5:37 AM with subsequent departures occurring approximately every 15 to 20 minutes with morning departures after 8:00 AM from both park-and-rides ranging from 30 – 40 minutes. Also, the 5:20 PM trip through the 5:55 PM trip departing the Pentagon would serve both Gambrill Road Park-and-Ride and Backlick North Park-and-Ride.</p>
395	<p>The new 395 schedule is terrible. The time between busses going from and to Gambrill Park and Ride is unacceptable. Think about this; by making Backlick and Gambrill specific runs you save some commuters about 10 minutes of commute time but now I may have to wait 40 minutes between busses where</p>	<p>The proposed December 2017 schedule changes to Route 395 will address this issue by adding service to both Gambrill Road and Backlick Park-and-Ride lots. Trips departing Gambrill Road Park-and-Ride will start at 5:05 AM with departure frequencies ranging from 10 to 20</p>

	<p>previously it was 15. It is a much worse deal and has made the overcrowding during peak hours worse. Please change back to the prior schedule immediately. Then if needed make adjustments for more frequent or better aligned runs that serve both Gambrill and Backlick</p>	<p>minutes. Service from Backlick North Park-and-Ride will include a first departure at 5:37 AM with subsequent departures occurring approximately every 15 to 20 minutes with morning departures after 8:00 AM from both park-and-rides ranging from 30 – 40 minutes. Also, the 5:20 PM trip through the 5:55 PM trip departing the Pentagon would serve both Gambrill Road Park-and-Ride and Backlick North Park-and-Ride.</p>
395	<p>On the new 395 PM southbound schedule, you deleted two buses from the Pentagon to Gambill Park and Ride. There used to be a 5:05 and a 5:15 bus to Gambrill, both of which are now gone. That leaves a 40 minute gap between buses from 4:55 to 5:35 right at the busiest time of the day. The predictable result this week is that the 5:35 bus to Gambrill is always packed, with the entire aisle filled with standing commuters. On Monday there were approximately 15 commuters left behind because that bus was already filled beyond capacity. This is dangerous to have so many people standing every day. Please either allow the 5:05 to stop at Gambrill or add back the 5:15 bus. Thanks.</p>	<p>The December 2017 schedule changes to Route 395 will address this issue by adding service to both Gambrill Road and Backlick Park-and-Ride lots. Trips departing the Pentagon will start at 3:00 PM with departure frequencies ranging from 5 to 20 minutes. Two additional trips will serve Gambrill Road Park-and-Ride and 2 additional trips will serve Backlick North Park-and-Ride.</p>
463	<p>Because of car problems, I have been taking the 463 sometimes to work and back and love the new route (Westpark is near where I live). I was delighted to see the detour and partake of its advantages!</p>	<p>To address schedule reliability on Route 463, Transit Services Division (TSD) staff are adding additional running time to the schedule to account for peak period traffic congestion along Maple Avenue and Chain Bridge Road. TSD will continue to monitor the performance of the route after the December service change to determine what, if any, additional modifications made be necessary to address schedule reliability.</p>
463	<p>Thank you so much for the opportunity to provide input regarding the Fairfax</p>	<p>As noted in the comment, Route 463 is not a direct replacement for</p>

	<p>Connector Bus 463.</p> <p>I am visually impaired and I used to take the 2T Metrobus from Dunn Loring Metro Rail station to downtown Vienna to do my twice-a-week shopping. I was very sad to learn that the 2T bus was eliminated recently due to cutbacks.</p> <p>Please consider extending this 463 route to the now very popular Dunn Loring rail station. While I'm grateful for the Fairfax buses, depending on the time of day, it can take me about twice as long as the 2T did to reach my destination. This is largely due to the fact that my trip has now become a two seat ride versus a one seat ride and, the total ride time is much greater than before.</p> <p>As a result, for riders like me, the Fairfax Connector buses are not a direct substitute for the 2T. When the cutback plan was brought up by Metro, riders were led to believe that the Fairfax buses would be a direct substitute.</p> <p>I depend on bus/rail solely to get places. I would like to continue to conduct my business independently and cannot afford the more costly Lyft, Uber or taxi. This extension of the 463 would help me and other riders a lot.</p> <p>Thank you for your consideration.</p>	<p>Metrobus 2T. Route 463 was modified within the constraints of the available operating budget to serve a portion of the 2T alignment. Route 462 was also modified to serve the southern portion of the alignment. Extension of Route 463 to Dunn Loring Station would increase the operating cost of that route beyond what is currently budgeted. The commenter indicates that they used to travel from Dunn Loring Station to downtown Vienna for shopping. This trip can still be accomplished from Vienna Metrorail Station via Route 463.</p>
463	<p>As a regular rider of the 463, I do understand and appreciate the changes to the route to accommodate the loss of the 2T, but the timetable that you have tried to establish for the additional stops is very troublesome for the rider. There should be a better frame of time mapped out for us as the current one does not take into account the additional time needed to pick passengers up from the</p>	<p>To address schedule reliability on Route 463, Transit Services Division (TSD) staff are adding running time to the schedule to account for peak period traffic congestion along Maple Avenue and Chain Bridge Road. TSD will continue to monitor the performance of the route after the December service change to determine what, if any, additional</p>

	<p>new stops. Keep up the amazing work and please try to make it more clear for the riders.</p> <p>Thank you for your time,</p>	<p>modifications made be necessary to address schedule reliability.</p>
699	<p>I would like to know the proposed route and stops in DC for the new Route 699 that leaves from the FC Gov Center.</p>	<p>Transit Services Division staff directed commenter to information detailing the December 2017 service change which can be found on the Fairfax Connector website at the following link: https://www.fairfaxcounty.gov/connector/news/2017/17_012.htm</p>
699	<p>I'd like to provide my feedback on the proposed Route 699, Government Center to Downtown DC. I saw the request for input on the Fairfax Connector Facebook Page.</p> <p>I have been asking about and begging for a similar route every time I see the Connector at events. I currently ride the 631/632/634 route from Stringfellow P&R to Metro, then onto Farragut West and then back in the evenings during normal rush hours. I 100% would utilize the proposed 699 route direct to DC. All three proposed destinations (State Dept, World Bank, and GW campus) would be a step up from my current transit route. I have considered traveling backward into Prince William County to utilize similar commuter busses to the city.</p> <p>I feel certain that this bus route would be a sure thing for me with the only possible exclusion being bad hours. I would hope that the bus return trips will run up until 6pm at least as I know that similar services sometimes tend to run much earlier. Another concern is have is the likelihood that once the route became common knowledge, it will become quickly overcrowded. That said, please</p>	<p>Route 699 will provide 10 inbound morning trips and 10 outbound afternoon trips to/from the District of Columbia. The route will provide service to several downtown destinations including the State Department, the World Bank, and George Washington University. The route was made possible by a grant from the Northern Virginia Transportation Commission (NVTC) as part of the Inside the Beltway I-66 Express Lanes project. The first morning departure from Fairfax County Government Center will be at 5:40 AM with the last morning departure occurring at 8:25 AM. The first afternoon departure from Virginia Avenue NW will occur at 3:25 PM with the last departure at 6:35 PM.</p>

	<p>give us a direct route downtown! I'll adapt!</p> <p>Thank you for listening. I'd be happy to provide more input if there were a future related survey.</p>	
699	<p>Hello, I cannot attend the Thursday October 19th outreach event but wanted to submit a question/request. Has FCDOT considered adding any additional new routes, in addition to proposed Rt 699, to provide additional service along the I-66 corridor? Given the I-66 Express Lanes Project and tolling beginning in December and its pending changes to my commute, I am looking for an express route that goes directly to the Pentagon and Crystal City originating from either at the Fairfax County Government Center or the Stringfellow commuter lot. Currently based on where I live (Fair Oaks) my only mass transit options are to go to the Vienna metro or to drive to Springfield or Reston to take a commuter bus. I would gladly take a Fairfax Connector bus if it serviced my desired areas. Thanks for considering!</p>	<p>Transit Services Division staff are preparing a grant request to the Northern Virginia Transportation Commission's (NVTC) Multimodal "Commuter Choice" Grant program to fund an express bus route that will operate from Vienna Metrorail Station to the Pentagon via I-66. NVTC will make a decision regarding this funding request in Spring 2018.</p>
699	<p>I strongly support the implementation of Route 699 from Government Center to DC. This new route would have a significant positive impact on my daily commute and that of so many of my neighbors.</p> <p>I live in the Carriage Park neighborhood adjacent to Fairfax County Government Center and work downtown near the World Bank. My current commute involves either driving downtown via I-66/Route 50, or driving on I-66 to Vienna Metro station, where I catch a train downtown. Traffic is increasingly heavy, and my commute is getting longer and</p>	<p>The express bus fare of \$4.25 will be charged for this route. Projected running time to State Department stop on Virginia Avenue NW will be approximately 43 minutes in the morning. Afternoon running time from the State Department stop to Government Center Park-and-Ride will be approximately 49 minutes. The first morning departure from Fairfax County Government Center will be at 5:40 AM with the last morning departure occurring at 8:25 AM. The first afternoon departure from Virginia Avenue NW will occur at 3:25 PM with the last departure at</p>

	<p>more tedious.</p> <p>If the Route 699 bus was implemented, my commute would be completely car-free. I would walk to/from the bus stop, and I know many of my neighbors would too. This would take so many cars off the roads and give us a practical way to reduce both our carbon footprint and our commute time.</p> <p>Almost all other suburban counties in the DMV (e.g Loudoun, Prince William, PG County) have similar commuter buses in effect. I strongly feel that this area of Fairfax County is in need of a route downtown to remain an attractive place to live for young professionals like myself.</p> <p>I am not able to make the meeting on 10/19, so would like to ask a few questions:</p> <ol style="list-style-type: none"> 1. When would the first/last bus leave (in both directions)? 2. How much would the bus fare be? 3. How long would the journey downtown be expected to take (in both directions)? 	6:35 PM.
699	<p>The proposed Route 699 – Fairfax County Government Center – Downtown Washington, D.C. is a fantastic idea. I live in Fairfax and have had to connect via the Pentagon for years. This would be a much better option for many of us in Fairfax and points west/south to have direct service to DC.</p>	<p>Route 699 will provide 10 inbound morning trips and 10 outbound afternoon trips to/from the District of Columbia. The route will provide service to several downtown destinations including the State Department, the World Bank, and George Washington University. The route was made possible by a grant from the Northern Virginia Transportation Commission (NVTC) as part of the Inside the Beltway I-66 Express Lanes project. The first morning departure from Fairfax County Government Center will be at 5:40 AM with the last morning</p>

		departure occurring at 8:25 AM. The first afternoon departure from Virginia Avenue NW will occur at 3:25 PM with the last departure at 6:35 PM.
699	<p>Regarding proposed Route 699, I specifically support adding this route as it would make my daily commute to the Vienna Metro Station (and then into DC) significantly easier and less expensive for me.</p> <p>The other routes would not affect my personal commute but it sounds as if they would ease the burden on a number of other Fairfax Connector patrons.</p>	Route 699 will provide 10 inbound morning trips and 10 outbound afternoon trips to/from the District of Columbia. The route will provide service to several downtown destinations including the State Department, the World Bank, and George Washington University. The route was made possible by a grant from the Northern Virginia Transportation Commission (NVTC) as part of the Inside the Beltway I-66 Express Lanes project. The first morning departure from Fairfax County Government Center will be at 5:40 AM with the last morning departure occurring at 8:25 AM. The first afternoon departure from Virginia Avenue NW will occur at 3:25 PM with the last departure at 6:35 PM.
699	The new express route 699 from Fairfax to Washington is an excellent idea. If you're targeting World Bank staff, you may want to consider a stop at 18th and Pennsylvania, i.e. between the two main World Bank buildings.	Planning staff selected stop locations after conducting field investigations of the proposed route and after operating a test bus during peak morning and afternoon travel conditions. The planned stop on 19 th St. NW south of G Street NW is a short walk to both the World Bank and International Monetary Fund buildings.
699	I recently heard of the new Route 699 and would like to express my support for this route. I think it's a necessary route and will be utilized fully.	Route 699 will provide 10 inbound morning trips and 10 outbound afternoon trips to/from the District of Columbia. The route will provide service to several downtown destinations including the State Department, the World Bank, and George Washington University. The route was made possible by a grant from the Northern Virginia Transportation Commission (NVTC) as part of the Inside the Beltway I-66

		Express Lanes project. The first morning departure from Fairfax County Government Center will be at 5:40 AM with the last morning departure occurring at 8:25 AM. The first afternoon departure from Virginia Avenue NW will occur at 3:25 PM with the last departure at 6:35 PM.
699	<p>I am writing to provide input regarding the proposed Fairfax to DC bus service.</p> <p>I am a resident of Fairfax county for the last 9 years and have been taking bus to Vienna metro to commute to DC (Farragut west) for work. The commute is time consuming and frustrating because of bad and unreliable Metro service.</p> <p>Fairfax connector service on the other hand has been incredible in providing timely and reliable service. I took the 621-622 route for 5 years and am now using the Stringfellow park and ride service.</p> <p>A direct service to DC would be highly appreciated and will eliminate daily frustration with commute.</p> <p>Thank you so much for considering this option.</p>	<p>Route 699 will provide 10 inbound morning trips and 10 outbound afternoon trips to/from the District of Columbia. The route will provide service to several downtown destinations including the State Department, the World Bank, and George Washington University. The route was made possible by a grant from the Northern Virginia Transportation Commission (NVTC) as part of the Inside the Beltway I-66 Express Lanes project. The first morning departure from Fairfax County Government Center will be at 5:40 AM with the last morning departure occurring at 8:25 AM. The first afternoon departure from Virginia Avenue NW will occur at 3:25 PM with the last departure at 6:35 PM.</p>
<u>699</u>	<u>Can't wait for 699; a lot folks will jump on this wagon if I-66 is too slow. Will there be more commuter parking slots at Fairfax County Government Center?</u>	<u>Additional parking will be made available at the Government Center Park-and-Ride lot in advance of the start of service on December 4, 2017.</u>
<u>699</u>	<u>Got \$10 million as an advance payment for tolling i-66 tolls. Fairfax County has to rush to spend it any way possible. It doesn't matter how they spend they have money to run 3 lines, and they will do it. Stop this tax and spending madness.</u>	<u>Funding for Route 699 comes from a multi-modal grant provided by the Northern Virginia Transportation Commission (NVTC). The grant funds are being used to fund a range of multi-modal projects in the I-66 corridor that will add ridesharing opportunities to increase capacity and reduce congestion for all travelers on I-66.</u>

<u>699</u>	<u>Yes!!! Please!!! I would love a route from western Fairfax to downtown D.C. I'd 100 % take FFX Gov Center to State Department as long as the return buses ran until 6 pm.</u>	<u>Route 699 will provide 10 inbound morning trips and 10 outbound afternoon trips to/from the District of Columbia. The route will provide service to several downtown destinations including the State Department, the World Bank, and George Washington University. The first morning departure from Fairfax County Government Center will be at 5:40 AM with the last morning departure occurring at 8:25 AM. The first afternoon departure from Virginia Avenue NW will occur at 3:25 PM with the last departure at 6:35 PM.</u>
<u>699</u>	<u>Metro should operate the new service.</u>	<u>Fairfax Connector hourly service costs are lower than Metrobus. This allows Fairfax County to operate more service for a given amount of operating dollars.</u>
<u>699.</u>	<u>Fairfax County buses do not need to be travelling into the District of Columbia for any reason. Leave that stuff to WMATA</u>	<u>Fairfax Connector hourly service costs are lower than Metrobus. This allows Fairfax County to operate more service for a given amount of operating dollars.</u>
<u>699</u>	<u>Fairfax Connector bus routes should only stay inside Fairfax County and Fairfax City. Anything else is the responsibility of WMATA.</u>	<u>Fairfax Connector hourly service costs are lower than Metrobus. This allows Fairfax County to operate more service for a given amount of operating dollars.</u>
<u>699</u>	<u>Super we want this service.</u>	<u>Route 699 will provide 10 inbound morning trips and 10 outbound afternoon trips to/from the District of Columbia. The route will provide service to several downtown destinations including the State Department, the World Bank, and George Washington University. The first morning departure from Fairfax County Government Center will be at 5:40 AM with the last morning departure occurring at 8:25 AM. The first afternoon departure from Virginia Avenue NW will occur at 3:25 PM with the last departure at 6:35 PM.</u>

<p><u>699</u></p>	<p><u>I whole heartedly love the idea of the new connector route from Government center to Washington DC. I would use it rather than drive in when I have to go into DC for meetings. While I am not a routine commuter into DC I would certainly use the bus instead of drive.</u></p> <p><u>Thanks for the opportunity. And I will happily promote it on Clean Fairfax's social media as well should this come to pass!</u></p>	<p><u>Route 699 will provide 10 inbound morning trips and 10 outbound afternoon trips to/from the District of Columbia. The route will provide service to several downtown destinations including the State Department, the World Bank, and George Washington University. The first morning departure from Fairfax County Government Center will be at 5:40 AM with the last morning departure occurring at 8:25 AM. The first afternoon departure from Virginia Avenue NW will occur at 3:25 PM with the last departure at 6:35 PM.</u></p>
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Title VI Service Equity Analysis – Proposed December 2017 Fairfax Connector Service Changes

Summary of Analysis Results

The service changes proposed for implementation in December 2017 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*. Three routes are involved in these changes. Of those, one new route is qualified as experiencing a major service change. Further analysis suggested that this new route would not create a disparate impact on the minority riders nor a disproportionate burden on the low-income riders. The proposed changes will be a positive change for Fairfax Connector riders, including the communities along the routes.

Relevant Fairfax County Title VI Program Elements

A service equity analysis may require the evaluation of as many as four items, depending on the nature of the route, the proposed changes to it, and the environment that it serves. The policies listed in this section are contained in the County's Title VI Program, as approved by the Board of Supervisors on July 25, 2017.

A major service change is defined as either an increase or a decrease of 25 percent or more in either daily revenue service hours, revenue service miles, or both for the individual route being modified.

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.

An adverse effect occurs when the proposed service change meets any of the following criteria for minority populations and low-income populations:

- *New or Additional Service*: if other service was eliminated to release resources to implement it;
- *Headway Changes*: if headway(s) increase by at least 20 percent;
- *Alignment Changes*: if at least 15 percent of the alignment is eliminated or modified;
- *Span of Service Changes*: if the span of service decreases by at least 10 percent; or
- *Elimination of an entire route*.

"If a transit provider chooses not to alter the proposed service changes 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." (Circular C 4702.1B, page IV-16; emphasis in original.)

FCDOT measured the minority population living within the service area of the affected route alignments and compared the percentage of minority population within that area to the percentage of non-minorities living in the same service area to determine whether the service change will cause a disparate impact. The percentage of low-income households within the service area of the route alignment is also measured and compared to the percentage of non-low-income households in the same service area to determine whether a service change will cause a disproportionate burden.

Overview

The routes included in the December 2017 service change include 699, 395 and 463.

Route 699 – Fairfax County Government Center – State Department

- This new route aims to serve major activity centers in Washington D.C., which will operate 10 inbound morning trips and 10 outbound afternoon trips during peak traffic hours on weekdays only.

Route 395 – Gambrill – Pentagon Express

- Add two morning departures from Backlick North Park-and-Ride and one afternoon arrival at Gambrill Road Park-and-Ride to meet the travel demand at these two facilities.

Route 463 – Maple Avenue - Vienna

- Proposed improvements include running time adjustments and reroute onto Westpark Drive, International Drive and Tysons Boulevard to improve schedule reliability.

Each of the three routes included in the service change was first evaluated against the Major Service Change threshold defined in the County's Title VI Program. Table 1 shows that only route 699 met the Major Service Change threshold.

Table 1: Service Changes Proposed

Route	Proposed Service Changes	Percent Changes in Revenue Hours			Percent Changes in Revenue Miles		
		Weekday	Sat	Sun	Weekday	Sat	Sun
395	Schedule adjustment	2%			1%		
463	Schedule adjustment	0% -2%	0%	1%	1% -13%	1%	1%
699	Add new express route	100%			100%		

Route 699 is then examined to determine whether or not adding this new route creates a disparate impact and/or disproportionate burden. If such an impact is identified, then further justification for the service change is provided.

New Route

Route 699 – Government Center –State Department

FCDOT plans to add Route 699 weekday peak service to Downtown D.C.

Disparate Impact: The minority population that lives within the service area¹ of Route 699 within Fairfax County is 45 percent, and the non-minority population living in the same service area is 55 percent (Table 2). The difference between minority population and non-minority population affected by the proposed service change is -10 percent, which does not exceed the disparate impact threshold of 10 percent. Also, the implementation of this new route will not result in a reduction of service to other minority populations within the County, instead, it will increase access to jobs for minority populations and all populations throughout the region. Therefore, the proposed new route will not create a disparate impact.

Table 2: New Route Disparate Impact

Route	Total Route Population	Minority Population	Non-minority Population	% of Minority	% of Non-minority	Difference	Disparate Impact
699	177,294	80,504	96,790	45%	55%	-10%	No

Figure 1 shows the proposed route alignment in relation to predominantly minority census block groups.

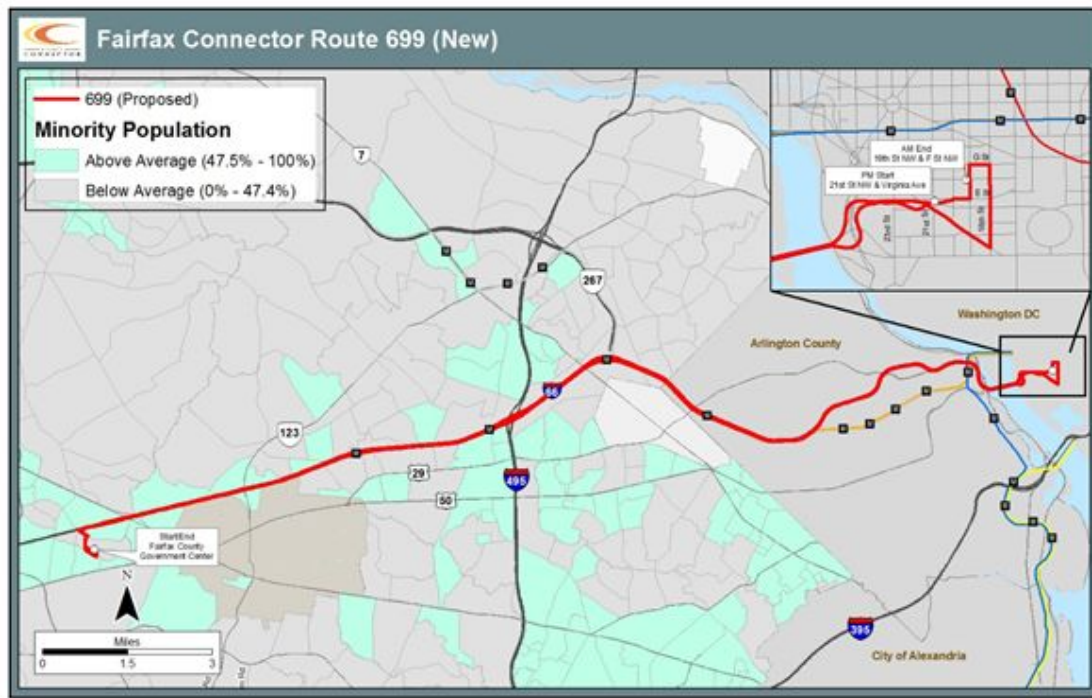


Figure 1: Route 699 Minority Population Map

Disproportionate Burden: The low-income households that live within the service area of Route 699 within Fairfax County is 15 percent. This is 70 percent less than the percentage of non-low-income households (Table 3). The difference between the low-income households and non-low-income households does not exceed the disproportionate burden threshold of 10 percent. Therefore, implementing the new route will not create a disproportionate burden on low-income households.

¹ The demographic information for this route was pulled from a 4.5-mile buffer around the Fairfax County Government Center Park-and-Ride facility. 4.5-mile is the median distance traveled to a similar Park-and-Ride facility in Reston, which serves the express route 599, according to a license plate study conducted in 2008.

Table 3: New Route Disproportionate Burden

Route	Total Route Households	Low-Income Households	Non-low-income Households	% of Low-income	% of Non-low-income	Difference	Disproportionate Burden
699	60,559	9,007	51,552	15%	85%	-70%	No

Figure 2 shows the proposed route alignment in relation to predominantly low-income census block groups.

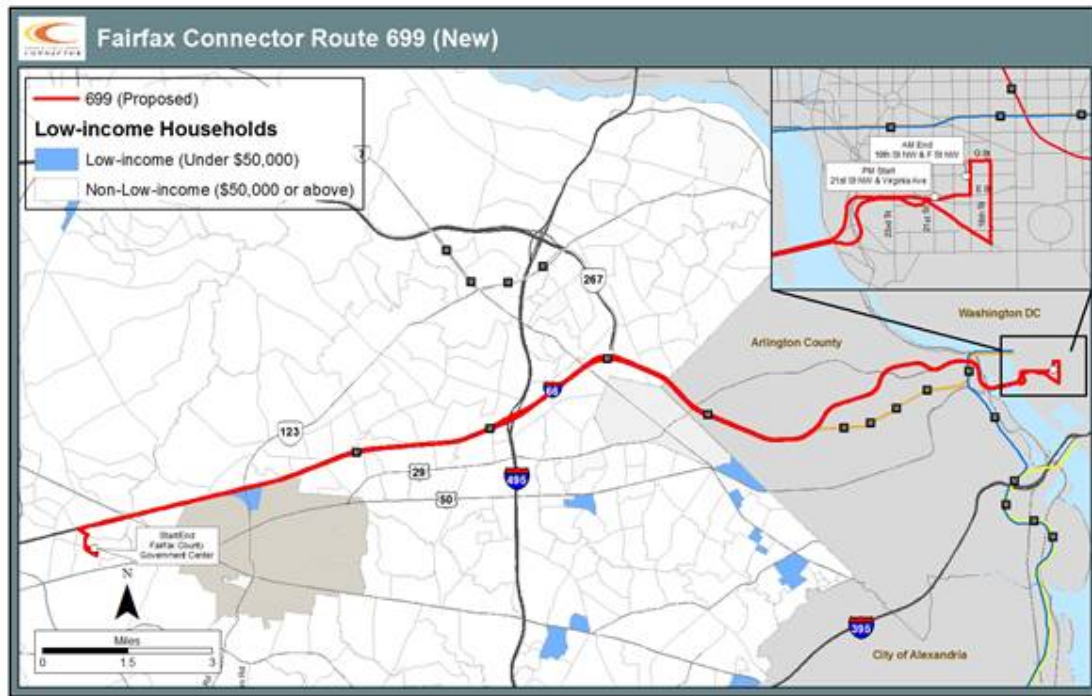


Figure 2: Route 699 Low-income Population Map

Conclusion

The service changes proposed for implementation in December 2017 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*. The analysis showed that the proposed service changes will not create a disparate impact on minority riders nor a disproportionate burden on low-income riders. Overall, the proposed service changes in December 2017 will improve service for Fairfax Connector riders, including the communities along the routes.

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ACTION - 8

Endorsement of Comments on the Transform 66 Outside the Beltway Project - Design Public Hearings (Braddock, Hunter Mill, Providence, Springfield and Sully Districts)

ISSUE:

Board endorsement of comments on the Transform 66 Outside the Beltway Project.

RECOMMENDATION:

The County Executive recommends that the Board endorse the comments on the Transform 66 Outside the Beltway Project which are contained in the letter to Susan Shaw, Virginia Department of Transportation (VDOT) Megaprojects Director, (Attachment I) and the associated attachment. The staff comments were prepared to ensure that the project yields increased benefits, remains fully in conformance with the Fairfax County Comprehensive Plan, and that impacts to County residents are minimized.

TIMING:

Board action is requested on November 21, 2017, so that the Board's comments can be sent to VDOT before November 29, 2017, the due date to be included in the public hearing record.

BACKGROUND:

On November 3, 2016, Governor McAuliffe announced that the Commonwealth had selected I-66 Express Mobility Partners (EMP) to finance and deliver the Transform 66 Outside the Beltway project. On December 7, 2016, the CTB endorsed the Commissioner's final Finding of Public Interest and supported the Commissioner's execution of a Comprehensive Agreement with EMP. As part of its proposal, EMP has refined the concept plans from that were included in the VDOT Request for Proposal (RFP) plans.

Based on review of the latest Design Public Hearing Plans, staff has developed the overarching comments below for EMP and VDOT to address as the design is finalized. These comments are consistent with comments previously approved by the Board:

- Continue to minimize right-of-way impacts on adjacent residential properties, considering the Design Public Hearing Plans as the maximum footprint (both horizontally and vertically);

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- Continue to minimize the heights of elevated flyover and interchange ramps where possible, especially at the I-66 interchanges with Route 28 and I-495, to minimize noise, visual and right-of-way impacts on nearby residential communities;
- Allow appropriate space for the completion of other future roadway improvements identified in the County's Comprehensive Plan especially for the interchange configurations that have been revised from the previous VDOT RFP plans, such as at the I-66 Interchanges with Route 28 and the Fairfax County Parkway;
- Allow adequate time for the County to coordinate with VDOT and EMP on the Final Design Plan development, as well as Final Environmental and Traffic Analyses which will be completed after the Design Public Hearings;
- Address traffic impact areas within quarter-mile of the corridor, especially with the latest revised configurations being proposed as part of the Design Public Hearing Plans;
- Pursue stormwater management strategies beyond the minimum needed to meet the requirements, in light of shortcomings in the existing stormwater management system, the county's and VDOT's respective MS4 (Municipal Separate Storm Sewer System) permit requirements and stream impairments (and associated Total Maximum Daily Load [TMDL] development) near and downstream from the project area;
- Partner with the county's Stormwater Planning Division to address stated concerns regarding stormwater management needs and opportunities;
- Address other environmental concerns, including: heights of noise barriers; minimization and mitigation of the loss of tree cover (and the use of native species in landscaping efforts); and impacts to Resource Protection Areas, Environmental Quality Corridors, parks, historic properties, and wildlife habitats;
- Pursue landscaping efforts to mitigate the loss of tree cover and associated visual and ecological impacts, and the use of native species in these landscaping efforts.
- Continue coordination on the portions of regional trail segments not within the I-66 right-of-way to be able to provide full connectivity of the proposed parallel I-66 regional trail at the time of the project opening;
- Ensure that the regional trail and associated facilities, such as physical barriers that separate the trail with the highway, meet or exceed the minimum standards (both horizontally and vertically), to ensure user satisfaction and safety; and
- Continue to strategize coordinated implementation of Inside and Outside the Beltway which include, but are not be limited to, considering the variation of truck restrictions for the segments of I-66 Inside and Outside the Beltway.

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The following comments are for VDOT and EMP to address during the five-year construction period:

- Minimize and mitigate construction noise (especially at night), develop specific procedures related to how the noise level will be monitored and enforced during construction and consider using innovative construction techniques to minimize noise;
- Implement the land acquisition process as soon as possible after specific impacts are known and ensure that through the relocation process, property owners secure properties with similar characteristics to their current properties, such as proximity to Metrorail;
- Maintain safe pedestrian and vehicular access to Metrorail stations and pedestrian facilities with particular attention around Metrorail stations and schools during and after construction;
- Maintain proper erosion, siltation and stormwater management equipment and facilities during construction to ensure that no additional sediments will be deposited in the existing pond located near the project limits;
- Consider traffic calming strategies on roads that will potentially be used to avoid the I-66 corridor during construction;
- Ensure that lane transitions, particularly at the end of the bridges are done safely with adequate signage;
- Provide ample notification regarding road and trail closures;
- Provide ample notification to residents of upcoming construction activities; and
- Continue to engage in community outreach throughout the construction period.

The letter in Attachment I represents a summary of County-wide issues related to the latest Design Public Hearing Plans, as well as the anticipated construction milestones and approach. In addition, detailed comments from the Department of Planning and Zoning (DPZ), Department of Public Works and Environmental Services (DPWES) and the Fairfax County Park Authority (FCPA) have been included, as attachments A to the letter. Follow-up technical comments may also be sent to VDOT by Fairfax County staff before the end of the comment period.

After the submission of comments by November 29, 2017, the following upcoming key milestones for the Transform 66 Outside the Beltway Project are anticipated:

November 2017	Design Public Hearings
December 2017	Construction begins within existing VDOT right-of-way
Spring 2018	Construction activities increase throughout the corridor
December 2022	Project Completion Date

Staff will continue to work with the I-66 Project Team as the project advances to provide technical comments and to identify and address concerns as they affect Fairfax County.

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FISCAL IMPACT:

This action has no direct fiscal impact on Fairfax County.

ENCLOSED DOCUMENTS:

Attachment 1: Letter to Susan Shaw, VDOT Megaprojects Director, transmitting the Board's comments on the Transform 66 Outside the Beltway Project – Design Public Hearing Plans

Attachment A: Comments based on reviews from the DPZ, DPWES and FCPA staff members

STAFF:

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Noel Kaplan, Senior Environmental Planner, Fairfax County DPZ

Andy Galusha, Senior Landscape Architect/Park Planner, Fairfax County Park Authority

Sung Shin, Senior Transportation Planner, FCDOT



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ATTACHMENT 1

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November 21, 2017

Ms. Susan Shaw, P.E.
Virginia Department of Transportation
Northern Virginia District Office
4975 Alliance Drive
Fairfax, Virginia 22030

**Reference: Fairfax County Comments on the Transform 66 Outside the Beltway Project
– Design Public Hearing Plans**

Dear Ms. Shaw:

On November 21, 2017, the Board of Supervisors approved the following comments on the materials presented at the recent I-66 Outside the Beltway Design Public Hearings. The County appreciates the work that has been undertaken on this project to date and the opportunity to provide comments on the project.

The I-66 Project is extremely important to Fairfax County. It is expected to provide much needed mobility benefits in this extremely congested corridor. As a design-build-finance-operate-maintenance contract, there remain many decisions large and small that will affect the final project. Furthermore, the construction, which will last approximately five years, will have a significant impact for nearby residents and for I-66 users. Therefore, these comments address considerations that the County deems important as the plans are finalized and the construction period begins:

As the design is finalized, I-66 Express Mobility Partners (EMP) and Virginia Department of Transportation (VDOT) should:

- Continue to minimize right-of-way impacts on adjacent residential properties, considering the Design Public Hearing Plans as the maximum footprint (both horizontally and vertically);
- Continue to minimize the heights of elevated flyover and interchange ramps where possible, especially at the I-66 interchanges with Route 28 and I-495, to minimize noise, visual and right-of-way impacts on nearby residential communities;
- Allow appropriate space for the completion of other future roadway improvements identified in the County's Comprehensive Plan especially for the interchange configurations that have been revised from the previous VDOT Request for Proposal (RFP) plans, such as at the I-66 Interchanges with Route 28 and the Fairfax County Parkway;

- Allow adequate time for the County to coordinate with VDOT and EMP on the Final Design Plan development, as well as Final Environmental and Traffic Analyses which will be completed after the Design Public Hearings;
- Address traffic impact areas within quarter-mile of the corridor, especially with the latest revised configurations being proposed as part of the Design Public Hearing Plans;
- Pursue stormwater management strategies beyond the minimum needed to meet the requirements, in light of shortcomings in the existing stormwater management system, the county's and VDOT's respective MS4 (Municipal Separate Storm Sewer System) permit requirements and stream impairments (and associated Total Maximum Daily Load [TMDL] development) near and downstream from the project area;
- Partner with the county's Stormwater Planning Division to address stated concerns regarding stormwater management needs and opportunities;
- Address other environmental concerns, including: heights of noise barriers; minimization and mitigation of the loss of tree cover (and the use of native species in landscaping efforts); and impacts to Resource Protection Areas, Environmental Quality Corridors, parks, historic properties, and wildlife habitats;
- Pursue landscaping efforts to mitigate the loss of tree cover and associated visual and ecological impacts, and the use of native species in these landscaping efforts.
- Continue coordination on the portions of regional trail segments not within the I-66 right-of-way to be able to provide full connectivity of the proposed parallel I-66 regional trail at the time of the project opening;
- Ensure that the regional trail and associated facilities, such as physical barriers that separate the trail with the highway, meet or exceed the minimum standards (both horizontally and vertically), to ensure user satisfaction and safety; and
- Continue to strategize coordinated implementation of Inside and Outside the Beltway which include, but are not limited to, considering the variation of truck restrictions for the segments of I-66 Inside and Outside the Beltway.

As construction proceeds, EMP and VDOT should:

- Minimize and mitigate construction noise (especially at night), develop specific procedures related to how the noise level will be monitored and enforced during construction and consider using innovative construction techniques to minimize noise;
- Implement the land acquisition process as soon as possible after specific impacts are known and ensure that through the relocation process, property owners secure properties with similar characteristics to their current properties, such as proximity to Metrorail;
- Maintain safe pedestrian and vehicular access to Metrorail stations and pedestrian facilities with particular attention around Metrorail stations and schools during and after construction;
- Maintain proper erosion, siltation and stormwater management equipment and facilities during construction to ensure that downstream areas will not be adversely affected (e.g., there will be no additional scouring of stream channels and no additional sediment deposition in any downstream ponds and/or stream beds);

- Consider traffic calming strategies on roads that will potentially be used to avoid the I-66 corridor during construction;
- Ensure that lane transitions, particularly at the end of the bridges are done safely with adequate signage;
- Provide ample notification regarding road and trail closures;
- Provide ample notification to residents of upcoming construction activities; and
- Continue to engage in community outreach throughout the construction period.

In addition to the comments noted above, detailed comments based on reviews from the Department of Planning and Zoning (DPZ), Department of Public Works and Environmental Services (DPWES) and the Fairfax County Park Authority (FCPA) have been included, as Attachment A to this letter. Follow-up technical comments may also be sent to VDOT by Fairfax County staff before the end of the comment period.

Fairfax County continues to support the Commonwealth's efforts to address multimodal mobility in the I-66 Corridor and to move the most people as efficiently as possible. We also look forward to working closely with the Commonwealth to complete this mutually beneficial project to County residents and the region.

If you have any questions or need additional information, please contact Tom Biesiadny of the Department of Transportation at 703-877-5663.

Sincerely,

Sharon Bulova
Chairman

Attachment: As Stated.

cc: Members, Fairfax County Board of Supervisors
Kirk W. Kincannon, Acting County Executive
Robert A. Stalzer, Deputy County Executive
Catherine A. Chianese, Assistant County Executive
Helen Cuervo, District Administrator, VDOT, Northern Virginia
Renee Hamilton, Deputy District Administrator, VDOT, Northern Virginia
Tom Biesiadny, Director, Fairfax County Department of Transportation

**Transform 66 Outside the Beltway Project Design Public Hearing Plans
Comments from the DPZ and DPWES-Stormwater Planning Staff Members**

Stormwater Management/Watershed Protection and Restoration

- Pursue stormwater management strategies beyond the minimum needed to meet the requirements, in light of shortcomings in the existing stormwater management system, the County's and VDOT's respective MS4 (Municipal Separate Storm Sewer System) permit requirements and stream impairments (and associated Total Maximum Daily Load [TMDL] development) near and downstream from the project area.
- Partner with the County's Stormwater Planning Division (SWPD) on the development of stormwater management strategies. SWPD staff has considerable interest and expertise in identifying stormwater management opportunities that would go beyond the minimum regulatory requirements to optimize ecological outcomes in a manner that would be both cost-effective and protective of adjacent properties and environmentally-sensitive areas. Further, SWPD may be able to identify stormwater management strategies that would both meet the project's needs while improving downstream conditions in furtherance of Fairfax County's watershed management goals. These efforts would be similar to the efforts that were pursued for the I-495 Express Lanes. It appears from the October 2017 set of design plans, that there has been considerable conceptual stormwater design work done without any additional discussion with SWPD staff. It is our understanding that initial construction efforts are scheduled to commence soon, and once those efforts are underway, opportunities to partner will become significantly more difficult to pursue. Therefore we recommend that this coordination effort occur immediately.
- Avoid direct discharges into the streams where feasible and clarify how the project team will ensure that stormwater runoff discharges will not create or aggravate adverse stream erosion and/or flooding issues and how pollutant runoff from the project will be minimized. The Concept Plans indicate that there will be relatively long segments of the highway without stormwater management facilities (e.g., no such facilities are identified between the Bull Run crossing and the Lee Highway interchange, between the Fairfax County Parkway and Route 50 interchanges, between the Route 50 and Route 123 interchanges, and between the Nutley Street interchange and the area near the Wesleyan Street cul-de-sac), and there are a few stream crossings that are not near any proposed stormwater management facilities, suggesting that there may be direct discharges into these streams. Many of these areas do include opportunities to provide stormwater management in accordance with the county's watershed management plans. This could include retrofits to existing facilities, stream restoration and other Low Impact Development (LID)/ Green Stormwater Infrastructure (GSI) projects.
- Avoid disturbances to Environmental Quality Corridors (EQCs) and retain existing tree cover to the extent feasible during the detailed design process. The revised footprint for a stormwater management facility along the north side of I-66 to the west of Stringfellow Road suggests that this facility will now be constructed outside of the EQC (previous plans identified a larger potential facility footprint), within an area that had been identified on the approved development plan as an area that had been reserved for a possible future HOV flyover ramp. We appreciate the project team's sensitivity to our concern about the EQC and recommend that this sensitivity be

retained as detailed plans are developed for this facility. Please consider this also at the locations of the two proposed stormwater management shown to the north of I-66 on sheet 5 of 10 of the Segment 2 Concept Plans.

- Consider, for the two proposed stormwater management facilities shown to the north of I-66 on sheet 5 of 10 of the Segment 2 Concept Plans, alternative approaches to stormwater management that would have a more limited (or no) impact on clearing/land disturbance. Both of these facilities, as shown on the plans, would be located within open space areas that were identified on the development plan that was approved in 1993 in conjunction with rezoning application RZ 92-Y-018, although the westernmost of the two facilities is shown in a location that was identified on the development plan as a possible location for a stormwater management facility. Both of these areas were subsequently placed into a conservation easement. If such alternative approaches is not feasible, consider designing the facilities to provide water quality benefits that would compensate for the loss of these tree preservation/conservation easement areas.
- Pursue efforts to minimize or avoid stormwater management facility disturbance to RPAs and consult SWPD for guidance as to whether there may be possible stormwater management alternatives that would reduce or eliminate the extent of disturbance in these areas. The following areas are of particular note:
 - Within the interchange area of I-66 and U.S. Route 50 (Sheet 9 of 10 of the Segment 2 Concept Plans). The easternmost two of these facilities (and the largest of the proposed facilities) would be constructed along a perennial stream that flows through this area and would require extensive construction within/disturbance to the associated Resource Protection Area.
 - The area where two stormwater management ponds are being proposed between I-66 and Bushman Drive (Sheet 4 of 10 of the Segment 3 Concept Plans).
- Pursue efforts to design stormwater management facilities such that clearing is minimized, and consider incorporating design concepts that will restore/enhance ecological values within stormwater management ponds.
- Seek opportunities to pursue stream and wetland compensation efforts close to the areas of impact. The implementation of projects identified in the County's watershed management plans may support such efforts.

Tree Cover

- Pursue landscaping efforts to mitigate the loss of tree cover and associated visual and ecological impacts, and the use of native species in these landscaping efforts.

Noise

- Clarify the locations of potential noise walls for the portion of Segment 1 in Fairfax County. There is a fair amount of confusion regarding potential locations of noise barriers for this segment, as the cartographic symbol that appears to have been applied for potential noise barrier locations is finer than the symbol that is used to identify potential barrier locations for Segments 2 and 3. Further, while beginning and end points of barriers are identified in some places, there

is at least one location (along the south side of the highway, east of the Cub Run bridge, Sheet 9 of 11, Segment 1) where this hasn't been done.

- Prior to finalization of decisions on noise barrier locations and heights, allow DPZ staff to review and comment on forthcoming final noise analysis in conjunction with a review of design plans showing locations and heights of proposed noise barriers.
- Within the final noise analysis, consider and address County staff's earlier comments on the Preliminary Noise Analysis, and the following issues in particular:
 - The gap between the proposed and existing barriers in the southwest quadrant of the Route 28 interchange;
 - The gap in the existing barriers along the south side of I-66 near Wharton Park Court.
 - Analysis of barrier feasibility along the north side of I-66 between Route 50 and Jermantown Road (i.e., would smaller segments of the previously analyzed barrier potentially meet the cost-effectiveness criterion).
- Clarify the status of the following noise barriers:
 - The September 30, 2015, draft design plans identified a potential "feasible and reasonable" noise barrier along the north side of I-66 between Bull Run and Bull Run Post Office Road. This potential barrier is not shown on the current design plans.
 - The May 2015 Preliminary Noise Analysis identified a feasible and reasonable noise barrier (Barrier AB & X) along the north side of I-66 extending from Heron Drive (just east of Route 28) to the Fair Lakes retail center. This barrier is not identified, though, on Sheet 1 of 10, Segment 2.

Comments from the Fairfax County Park Authority Staff Members

- As stated in FCPA's comments on the March 2017 plan set, from previous conversations with VDOT, staff understood that there was to be a trail along the new Walney/Braddock overpass per the Countywide Trails Plan. This is not reflected on sheet 02_02 of the October 2017 Plan set.
- The proposed ballfield entrance road shown on sheet 02_03 bows away from Route 28 and intrudes into the girls' diamond softball field, impacting its use. This should be addressed.
- At the new entrance road intersection with the proposed Poplar Tree Road extension, on sheet 02_04 a notation states "Proposed Right of Way". Is this a new right-of-way and does it take park property at all? It appears to follow the current park property line and old ROW shape. Please clarify why it is designated as "Proposed Right of Way".
- In multiple locations on sheets 02_01, 02, 03, & 04, the proposed sound walls and retaining walls are shown directly next to or on top of the park boundary. These built features will need space behind them for construction and maintenance, which will in turn require easements from FCPA.
- Few utilities and/or their relocations/easements are shown. Staff will need to review utility impacts when they are available.

ACTION - 9

Approval of License Agreement with the Gum Springs Historical Society for the Use of Space within Gum Springs Community Center (Mount Vernon District)

ISSUE:

Board approval to license space at the Gum Springs Community Center at 8100 Fordson Road to the Gums Springs Historical Society to permit the storage and display of museum artifacts.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize staff to execute a license substantially in the form of Attachment 2 and to direct staff to continue to allow the space to be used as a museum until otherwise directed by the Board.

TIMING:

Board action is requested on November 21, 2017, to allow the Board to formalize its relationship with the Gums Springs Historical Society and the operation of a museum at the Gum Springs Community Center.

BACKGROUND:

Gum Springs Historical Society, Inc. (GSHS) is a Northern Virginia-based, tax exempt public charity pursuant to Section 501(c)(3) of the Internal Revenue Code whose mission is to promote the historical and cultural heritage of Gum Springs, the oldest African American community in Fairfax County. GSHS currently occupies Suites 136 A-F at the Gum Springs Community Center (Community Center) at 8100 Fordson Road, also identified by Tax Map Parcel No. 1012 01 0047. GSHS uses approximately 1,747 square feet of space (Premises) for the interpretation and storage of pictures and artifacts that are representative of the history of Gum Springs.

The term of the license agreement will be continuous, subject to the right of GSHS to terminate the agreement with 30 days' written notice and the separate right of the County to terminate the agreement 30 days after the Board's approval of the termination. The County will allow the GSHS to use the Premises without charge. Because GSHS is a charitable institution that provides a service to Fairfax County residents, including the educational enrichment of students and the greater community, the Board is authorized to permit the GSHS to use the licensed space without payment of consideration pursuant to Va. Code Ann. § 15.2-953.

Normal operating hours of the museum are Tuesdays and Thursdays from 10 a.m. to 2 p.m., and on Saturdays from 1 p.m. to 3 p.m. GSHS will provide entrance to the museum at all other times by appointment between 10 a.m. and 5 p.m., Monday

Board Agenda Item
November 21, 2017

through Saturday. GSHS will not have access to the Premises outside of the normal operating hours of the Community Center, and will coordinate its activities with Community Center staff to ensure that its programs and visitors do not interfere with other ongoing public functions at the building.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1 – Location Map for Community Center
Attachment 2 – Draft License Agreement between the Board and GSHS

STAFF:
David J. Molchany, Deputy County Executive
Jose A. Comayagua, Jr., Director, Facilities Management Department
Christopher A. Leonard, Director, Neighborhood and Community Services

ASSIGNED COUNSEL:
Daniel Robinson, Assistant County Attorney

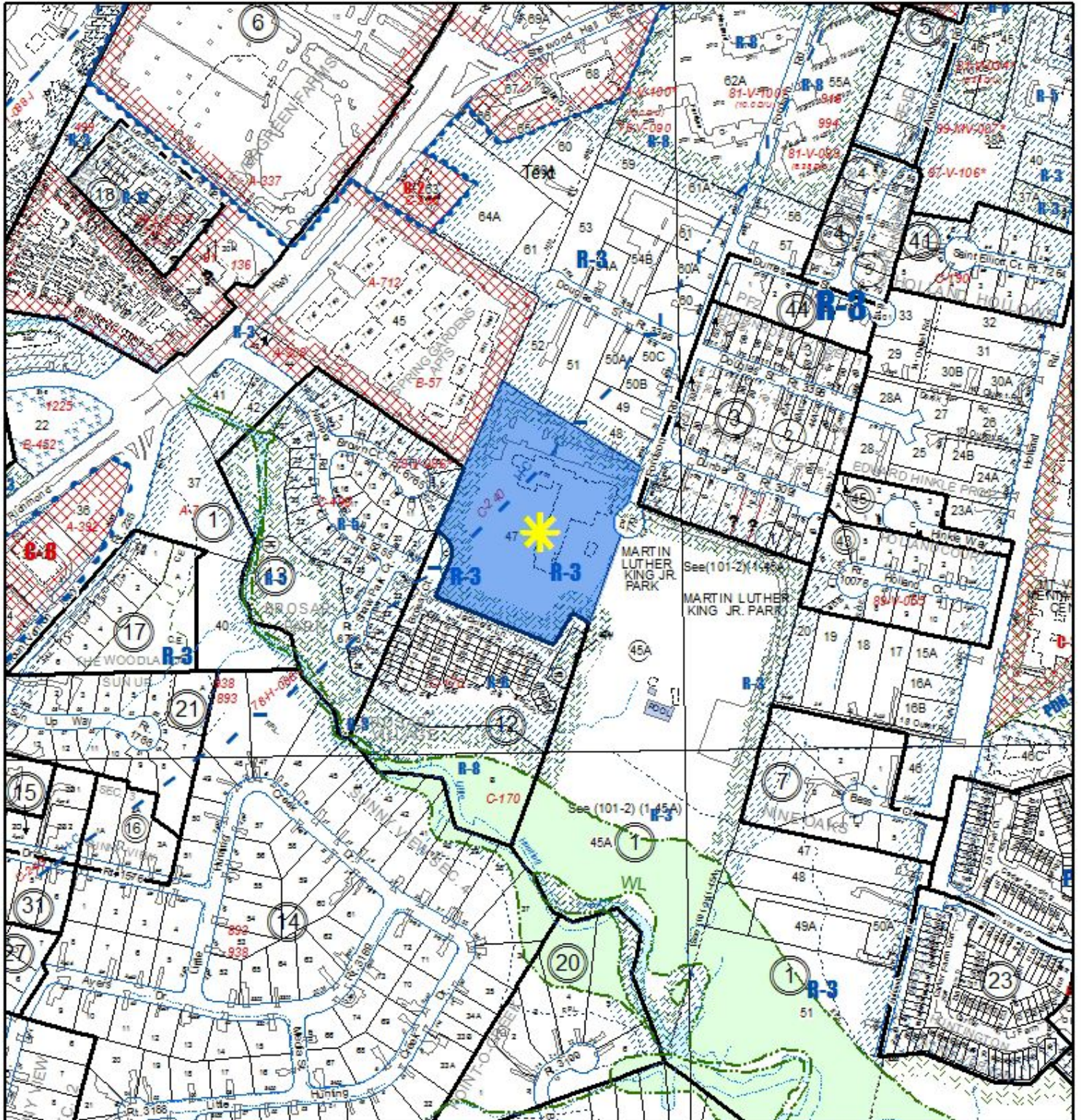


Gum Springs Community Center

8100 Fordson Road
Tax Map No.1012 01 0047
Mount Vernon District



0 155 310 620 Feet



Revised

<p style="text-align: center;">COUNTY OF FAIRFAX LICENSE AGREEMENT</p>

THIS LICENSE AGREEMENT ("Agreement") is between the **Board of Supervisors for Fairfax County, Virginia**, (the "County") and the **Gum Springs Historical Society, Inc. ("GSHS")**, whose address is 8100 Fordson Road, Alexandria, Virginia 22306.

WHEREAS, the County and GSHS desire to enter into an agreement for certain County-owned premises for the GSHS to promote and to provide long-term support for the customary programs of the Gum Springs Museum and the history of Gum Springs, the oldest African American community in Fairfax County, Virginia through lectures, historical exhibits, research and educational programs for all interested persons (the "permitted use"); and

WHEREAS, GSHS will operate the Gum Springs Museum in accord with the terms of this Agreement, including the provisions of Exhibit A, which is attached hereto and incorporated herein; and

WHEREAS, the County's designated Neighborhood and Community Services Representative shall, except where otherwise stipulated, serve as the representative of the County;

NOW, THEREFORE, the parties mutually agree to the following:

1. **LOCATION OF PREMISES/PROPERTY**

- a. The premises which are the subject of this Agreement, hereafter referred to as the "premises," are Rooms 136 A, 136 B, 136 C, 136 D, 136 E, and 136 F located in the Gum Springs Community Center ("GSCC"), 8100 Fordson Road, Alexandria, Virginia 22306. The premises have been occupied and used by GSHS since 1996 and shall continue to be used by the GSHS solely for the permitted use and for no other purpose.
- b. It is agreed that by occupying the premises, GSHS acknowledges that it has had full opportunity to examine the building and accepts the premises "as is". This Agreement does not grant any right to make changes or additions to the premises. This Agreement does not grant any right to light or air over or about the premises.
- c. GSHS agrees to confine its use of the premises to the areas specifically described in this Agreement and any common areas necessary for entering or leaving the building, which is limited to hallways, stairways, doorways, elevators, and restrooms. GSHS agrees not to use, occupy, or obstruct any room or any area of the building not specifically authorized for use by GSHS.

2. **TERM and RENT:** GSHS has been occupying the premises since 1996. The term of this Agreement shall run indefinitely, unless the Agreement is terminated in accordance with Section 4, Section 10 or Section 18 of the Agreement. GSHS will not be charged monetary rent for its use of the Premises during the term of this Agreement. During the term of the Agreement, the County shall not permit any third party to use the premises for any activity which interferes with the operation of the Gum Springs Museum. The County and its contractors may enter upon the premises, or any portion thereof, for the purpose of inspection of the same, or performing any repairs herein allowed to be performed by the County.

3. **USE:** GSHS warrants that the premises will be used lawfully for the permitted use and agrees to abide by all the laws and regulations of all lawful authorities and for no other purpose. GSHS agrees that its use of the premises will not interfere with the use of the space by the County or any other party authorized by the County. GSHS shall only have access to the premises during regularly scheduled business hours of the Gum Springs Community Center ("GSCC"). County will inform GSHS of any planned building closures and/or scheduling conflicts, not related to inclement weather, in a timely manner. If for some reason GSCC faces an emergency closure not related to inclement weather, County will notify GSHS's single point of contact, who shall be designated in writing by GSHS.
4. **DEFAULT**
 - a. If GSHS breaches or violates any of the terms, conditions or covenants contained in this Agreement, and such breach or violation continues for thirty (30) days after written notice from the County, then GSHS shall be considered to have caused an event of default ("Event of Default"). If GSHS breaches or violates any of the terms, conditions or covenants contained in this Agreement more than three (3) times in a twelve (12) month period, and the County provides written notice of each such breach or violation, then GSHS shall be considered to have caused an Event of Default. Upon the occurrence of an Event of Default, this Agreement shall, at the sole option of the County, terminate upon 20 days written notice to the GSHS. GSHS shall cease its operations on the premises by close of business on such date of termination and vacate the property by close of business on such date of termination. Further, the County is authorized, with or without process of law, to repossess the premises, and, should GSHS fail to vacate the premises as provided herein, the County is authorized to enter onto the premises, and to expel and remove GSHS, together with all property of every kind belonging to it.
 - b. If GSHS abandons the premises or ceases to operate or use the premises for the intended use, GSHS shall vacate the premises within 30 days after the premises is abandoned or GSHS ceases to operate or use the premises and the Agreement will be terminated.
5. **PARKING** GSHS and Gum Springs Museum visitors shall have shared use, with other visitors and staff of the GSCC, of the parking lot of the Gum Springs Community Center at the sole risk of GSHS.
6. **MODIFICATION AND REPAIRS**
 - a. GSHS agrees to accept the premises "as is".
 - b. All improvements or modifications to the premises, including but not limited to structural, interior and exterior modifications or additions shall be subject to prior written approval by the County. GSHS will submit plans and specifications for approval.
 - c. If GSHS is approved to make modifications, the modifications shall be and remain the sole property of the County at the termination of the Agreement.
 - d. GSHS shall not place any of its organizational lettering, signs or objects on doors, windows or outside walls of premises without the permission of the County, which permission shall not be unreasonably withheld but which shall be subject to risk management approval in its absolute discretion. The Gum Springs Museum banner that is currently hanging in the GSCC is approved unless risk management advises otherwise.

- e. GSHS shall not, without the prior approval of the County, paint, paper, decorate, or drive nails into, deface or injure the walls, ceiling, woodwork, or floors of premises, install any electrically or mechanically operated equipment (including air conditioners) in the premises. At the termination of this Agreement, or any extension or renewal thereof, all such improvements shall be and remain the property of the county. GSHS agrees that the County may, at its sole and absolute discretion, require such improvements to be removed and premises restored to original condition, with such removal and restoration to be at GSHS's expense.
- f. GSHS shall be responsible for repairs or maintenance necessitated by the negligence of the GSHS, its agents, guests or invitees; and all damage to the premises caused by the GSHS or its agents, guests or invitees shall be repaired promptly by or at the expense of the GSHS.
- g. Any renovation or improvements made or obtained by GSHS are made at GSHS's sole risk and expense, and the County shall not be held responsible for any claims for injury or loss of property due to renovation or improvements made by or for GSHS.
- h. Any movable partition, trade fixtures, floor covering, or equipment installed in the premises at GSHS's expense shall remain the property of the GSHS and may be removed by the GSHS.

7. **SERVICES PROVIDED BY THE COUNTY**

- a. County agrees to provide the following utilities to the premises for normal business operations; provided, however, the County shall not be liable for failure to furnish any of these utilities.
 - 1) Electrical service for normal business operations. GSHS shall not connect any additional fixtures, appliances or equipment to the premises electrical system or make any alteration to the system, without the County's written approval.
 - 2) Heat. Provided daily to maintain comfortable occupancy of the premises under normal business conditions.
- b. County agrees to provide full maintenance to the premises during the term of this Agreement to include heat, plumbing, electrical, sewer and water systems, snow and ice removal in accordance with the County snow policy, sanding or salting of the driveway, walks and parking areas, grass cutting, and repair to the doors, windows and roof, not caused by the negligence of the GSHS.
- c. County agrees to provide support copying/printing for the GSHS museum programing as deemed appropriate by the County.
- d. County agrees to include the premises in the scheduled program of custodial services for the GSCC. This subsection (d) does not obviate GSHS's requirements under paragraph 8 of the GSHS Roles and Responsibilities attached as Exhibit A.
- e. County agrees to be responsible for maintaining any equipment owned by the County and which the County, at its sole discretion, may provide for use in the premises.
- f. County will include advertising regarding GSHS's activities at the GSCC in GSCC publications and will provide printing for the annual GSHS magazine. The scope and extent of the services provided in this subsection (f), including whether any these services are provided during a fiscal year, are subject to the sole discretion of the

Director of NCS or his designee after a review of the annual appropriations dedicated to the Gum Springs Community Center.

8. **LIABILITY AND INSURANCE**

- a. **Liability for damage to Personal Property and Person.** All personal property owned, stored or used by GSHS (including its employees, business invitees, customers, clients, etc.), agents, family members, guests or trespassers, in and on the premises, shall be and remain at the sole risk of the GSHS, and the County shall not be liable to them for any damage to, or loss or theft of such personal property arising from any act of any other persons nor from the leaking of the roof, or bursting, leaking, overflowing of water, sewer or steam pipes, or from heating or plumbing fixtures, or from electrical wires or fixtures, or from air-conditioning failure. The County shall not be liable for any personal injury to the GSHS (including employees, business invitees, customers, clients, etc.), agents, family members, guests or trespassers arising from the use, occupancy and condition of the premises.
- b. **Liability Insurance.** GSHS will maintain commercial general liability insurance with limits of not less than \$1,000,000 per occurrence. If GSHS fails to maintain the required insurance, the County may, but does not have to, maintain the insurance at GSHS's expense. The policy shall expressly provide that it is not subject to invalidation of the County's interest by reason of any act or omission on the part of GSHS. The limits of the insurance will not limit the liability of GSHS.
- c. **GSHS's Insurance Policies.** The County does not provide any type of insurance which would protect the GSHS's personal property from loss by fire, theft, or any other type of casualty loss. It is GSHS's responsibility to obtain such insurance. The GSHS, at its sole expense, shall secure its own insurance to protect GSHS and its property against all perils of whatever nature for One Hundred (100%) percent replacement of the stored property. Insurance on the GSHS's property is a material condition of this Agreement. GSHS shall make no claim whatsoever against the County in the event of any loss.
- d. **Indemnification.** GSHS agrees to indemnify and hold harmless the Board of Supervisors of Fairfax County, Fairfax County, its officers, agents and all employees and volunteers from any and all claims for property damage, death, bodily injuries and personal injuries, including cost of investigation, all expenses of litigation, including reasonable attorney fees and the cost of appeals, arising out of any claims or suits because of GSHS, including its agents, employees, volunteers, business invitees, customers, guests or trespassers arising from the use, occupancy and condition of the premises.

9. **RESPONSIBILITIES OF GSHS:** GSHS agrees:

- a. Not to injure or deface or suffer to be injured or defaced the premises or any part of the property and to promptly replace or repair any damages to the premises, other than damage to structural portions.
- b. To keep the premises in good order and condition at all times and to notify the County of any defects in or damage to the structure, equipment, or fixtures of the premises.
- c. Not to strip, overload, damage or deface the premises.
- d. Not to keep gasoline or other flammable material or any explosive material in or near the premises. GSHS will not allow any equipment or practice that might void insurance coverage on the premises.

- e. To take appropriate measures to conserve and efficiently use energy and other resources such as heat, water and utilities.
 - f. Not to allow on the premises any illegal, unlawful or improper activity which would be noisy, boisterous or in any manner constitute a nuisance to adjacent properties.
 - g. To supervise and conduct its activities in such a manner as to insure no disruption to the enjoyment and possession of other occupants of the building.
 - h. To comply with all rules, regulations, and conditions of this Agreement, which include the GSHS Roles and Responsibilities set forth on the attached Exhibit A and the County's policies applicable to the GSCC, copies of which are available upon request. Any violation of the rules, regulations and conditions, including the GSHS Roles and Responsibilities and the County's policies applicable to the GSCC, shall be a violation of this Agreement.
 - i. Not to obstruct or use the sidewalks, passages, and stairways and any other parts of the building which are not occupied by GSHS for any other purpose than entering and exiting the building.
 - j. GSHS shall be responsible for all repairs or maintenance or other damages caused by GSHS's use or occupancy of the premises.
 - k. GSHS shall not incur any long distance telephone charges. Any such charges incurred will be the financial responsibility of the GSHS, and GSHS will be billed accordingly.
 - l. GSHS shall be responsible for making a reasonable effort to secure the premises and the equipment held within the property cited in 1.a. of this Agreement. GSHS will be responsible for all equipment stored in the cited property.
10. **DAMAGE BY FIRE OR CASUALTY:** If the premises or any essential part of the premises is destroyed or damaged by fire or other casualty, so as to render it unfit for the use for which authorized by this Agreement, and the County, at its option, determines that use of the premises as required under the Agreement shall cease, the county shall be entitled to terminate this Agreement upon 15 days written notice. The county shall have the right, at its option, to repair such destruction or damage and GSHS shall, when the premises is rendered fit for purposes for which authorized for use by GSHS, continue to use the premises as provided in this Agreement .
 11. **WAIVER:** The county shall not be liable for, and GSHS releases the county and its agents, employees, volunteers, contractors, and waives all claims for, damage to person or property sustained by the GSHS or any occupant of the premises resulting from the premises or any equipment or appurtenance becoming out of repair, or resulting from an accident at the building, or resulting directly or indirectly from any act or neglect of any GSHS occupant of the building.
 12. **NOTICE OF DEFECTS:** GSHS shall give the County prompt written notice of accidents or defects on or about the premises or damages to the premises.
 13. **INTEREST IN PROPERTY:** Nothing in this Agreement shall be interpreted to create anything other than that provided by the terms of the Agreement and shall specifically not create any right, title or interest in property nor shall it create an easement.
 14. **COMPLIANCE WITH LAWS:** GSHS agrees to abide by the laws of the Commonwealth and the County in the performance of its services.

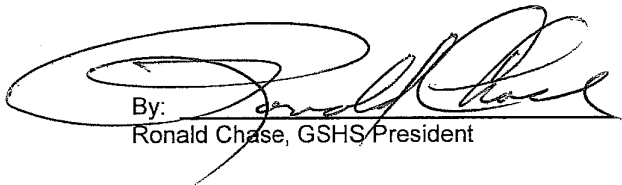
15. **SURRENDER OF POSSESSION:** GSHS agrees to remove all its goods, equipment and effects from the premises, in the event this Agreement expires or is terminated, and shall leave the premises in a clean condition reasonably acceptable to the county.
16. **ASSIGNMENT:** GSHS shall not transfer or assign this Agreement, nor sublet any part of the premises without the written consent of the County.
17. **RULES AND REGULATIONS:** GSHS and its agents and employees shall abide by and observe such reasonable rules and regulations as may be promulgated from time to time by the Fairfax County Board of Supervisors for the operation and maintenance of the building.
18. **TERMINATION OF AGREEMENT:** The Agreement is revocable at will by the County with the approval of the County Board of Supervisors, and upon such approval the Agreement will be terminated by the County 30 days after written notice of such termination is provided to GSHS. The County may also terminate the Agreement in compliance with Sections 4 and 10 of this Agreement. GSHS may terminate this Agreement by providing the County with 30 days written notice of such termination. GSHS will be required to vacate the premises by close of business of Agreement termination date. Expiration or termination of this Agreement by either party shall not relieve or release GSHS from any liability or obligation which may have been incurred or assumed by GSHS prior to such expiration or termination.
19. **COUNTY'S FINANCIAL OBLIGATION:** All of the County's financial obligations under this Agreement are subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations.
20. **NO PARTNERSHIP:** Nothing contained in this Agreement shall be deemed to create a partnership or joint venture of or between the County and the GSHS.
21. **COMMON AREAS:** The County reserves the right to alter the common areas, as deemed necessary, in the sole discretion of the Fairfax County Board of Supervisors, so long as such alteration does not interfere with the GSHS's reasonable use of the space for the purposes authorized by this Agreement. This includes but is not limited to the parking area, grounds, common hallways, walkways, etc. and such right shall not be infringed by GSHS.
22. **SEVERABILITY:** If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws in effect during the term of this Agreement, it is the intention of the parties that the remainder of this Agreement shall not be affected thereby.
23. **NOTICES:** All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail. Notices to the respective parties shall be addressed as follows:

If to the GSHS: Gum Springs Historical Society, Inc.
8100 Fordson Road
Alexandria, VA 22306

If to the County: Fairfax County Government Center
Facilities Management Division
Attention: Leasing Agent
12000 Government Center Parkway
Suite 424
Fairfax, Virginia 22035

24. **ENTIRE AGREEMENT:** This Agreement contains the entire agreement between the County and GSHS. Oral statements, representations, and prior agreements not contained or referenced in this Agreement, shall have no force or effect. This Agreement may be modified only in writing executed by both parties.

GUM SPRINGS HISTORICAL SOCIETY

By: 
Ronald Chase, GSHS President

**BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA**

By: _____
David J. Molchany, Deputy County Executive

08-07-2017
DATE

DATE



County of Fairfax, Virginia

EXHIBIT A

GSHS Roles and Responsibilities

1. GSHS will operate the museum at the GSCC on Tuesdays and Thursdays from 10am – 2pm, and on Saturdays from 1pm – 3pm. GSHS will provide entrance to the museum all other times by appointment during the year at the designated museum location between 10am and 5pm, Monday through Saturday. GSHS will notify GSCC staff when appointments are scheduled outside of the publicized times listed on Tuesdays, Thursdays, and Saturdays. This program will be closed on Fairfax County holidays and times when the GSCC is closed for operation.
2. GSHS will not admit visitors into the museum through the external museum door before 10am or after 5pm. The external museum door must remain locked before 10am and after 5pm regardless of whether the GSCC is otherwise open for operation.
3. GSHS will provide to the County's designated Neighborhood and Community Services Representative ("NCS Representative") by January of each year, a proposed written schedule outlining requested dates and times of room use for special events and programs in the GSCC for that year. The NCS Representative will submit in writing to GSHS approval of the dates and times set aside for the GSHS use within 10 days after the county receives the request. The County agrees to accommodate, schedule permitting, alteration of GSHS's scheduled room usage based on changes to the GSHS's event schedule, provided advance notification is given (at least 30 days in advance, if possible) to the NCS Representative of requested changes.
4. GSHS will abide by the policies and procedures governing use of the GSCC, a written copy of which will be provided to the GSHS by the NCS Representative.
5. GSHS will not make any permanent, significant additions or changes to any NCS property without first obtaining written permission from the county.
6. All property purchased or given to the GSHS will remain the property and responsibility of the GSHS unless otherwise agreed to by the two parties.
7. GSHS will be responsible for returning NCS property to its original condition and location after each use, except for normal wear and tear. GSHS will be responsible for the repair or replacement of any items damaged or removed by the GSHS or its agents, employees or contractors. The GSHS is not responsible for damage caused by any other users of GSCC.

Department of Neighborhood and Community Services
12011 Government Center Parkway, Tenth Floor
Fairfax, VA 22035
703-324-4600, TTY 711, Fax 703-222-9792
www.fairfaxcounty.gov/ncs



8. GSHS will be responsible for maintaining in clean and safe condition all areas of the museum, the office area, and museum storage areas.
9. GSHS will make available to NCS limited complimentary tickets/admission for GSHS sponsored special event or program at the GSCC. These tickets may be distributed, at NCS's discretion, to persons served by the GSCC or other county programs or to individuals identified in the community who might not otherwise be able to attend for financial reasons.
10. GSHS will include, without charge, publicity/advertising regarding GSCC programs and activities in GSHS publications.
11. GSHS will designate a member who will serve as the single point of contact for NCS on GSCC use and scheduling issues.
12. GSHS will track and report to NCS total monthly visitation data from the museum.
13. GSHS will have a staff person present for all times during museum operating hours.
14. GSHS will develop and maintain a manual of procedures and checklists for museum operations in order for museum employees and volunteers to safely staff the museum.

ACTION - 10

Approval of a Pilot Body-Worn Camera Program for the Fairfax County Police Department

ISSUE:

Board approval to authorize a Pilot Body-Worn Camera (BWC) program for the Fairfax County Police Department for patrol and other uniformed operational police officers at the Mason and Mount Vernon District Police Stations.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the funding and implementation of the Pilot BWC program for the Fairfax County Police Department.

TIMING:

Board action is requested on November 21, 2017.

BACKGROUND:

As part of the Ad Hoc Police Practices Review Commission Final Report that was issued on October 8, 2015, recommendations were made by the Commission that Fairfax County Police Department officers be issued and required to utilize body-worn cameras in performance of their duties. The Police Department has recommended that prior to any full implementation a pilot program be implemented to assess policy, equipment, and program effectiveness. The Pilot BWC program will cover a 90-day period and provide the Department with the opportunity to review police-community member encounters as they occur, as well as provide an additional degree of safety for its officers as they patrol the streets of Fairfax County.

In March 2017 Police Department staff drafted a proposed Pilot BWC Policy that would be applicable to all members of the Fairfax County Police Department once a BWC program is established. Using the Virginia Department of Criminal Justice Services model policy as a base, the draft general order is the net result of a co-productive effort between members of the Police Department and a host of community stakeholders, including representation from the Fairfax County Police Civilian Review Panel, Communities of Trust Committee, Fairfax County chapter of the National Association for the Advancement of Colored People (NAACP), County Attorney's Office, Merrifield Crisis Response Center (MCRC), Commonwealth's Attorney's Office, victim services specialists, Fairfax County Independent Police Auditor, and other vital community

stakeholders. There are several intricacies contained within the policy that address the personal privacy rights and constitutional safeguards of individuals while ultimately seeking to promote transparency and accountability in police-community member contacts that occur within Fairfax County. This draft policy was presented and discussed at the October 10, 2017, Public Safety Committee meeting, and can be modified as needed based on the assessment results of the Pilot BWC program.

Upon approval of the pilot program, Richard R. Bennett Ph.D., Department of Justice, Law, and Criminology at American University is prepared to conduct a comprehensive evaluation of the effects the Pilot BWC program on use of force statistics, the number of community member complaints, changes in policing activities and the community members' assessment of police legitimacy. The analysis is expected to cover statistics and community member feedback over a 270-day span in order to assess the impacts prior to, during, and following the pilot program window.

After conducting a comprehensive procurement process that factored in both initial implementation costs and a 90-day proof-of-concept costs, the projected total cost of the Pilot BWC program in FY 2018 is \$684,151. The cameras that will be tested offer various features and mounts intended to capture the details of police-community member contacts without compromising the officer's job tasks or safety. The Pilot BWC program will include a designated number of cameras that will be assigned to approximately 230 uniformed operational police officers from the Mason and Mount Vernon District Stations. After the Pilot BWC program concludes, the Police Department will be better able to assess the performance of the cameras, the effectiveness of the draft policy, and the legitimacy in the community regarding use of force and complaints about officer conduct.

The Pilot BWC program will result in a projected ongoing annual cost for data storage of \$124,000 beginning in FY 2021. The contract does allow for the proof-of-concept to be extended from 90 days to 180 days. If the pilot program is extended from 90 days to 180 days, the cost for annual data storage will increase proportionally from \$124,000 to approximately \$248,000.

FISCAL IMPACT:

A one-time balance totaling \$2.3 million is available in the Reserve for Ad-Hoc Police Practices Review Commission Recommendations in FY 2018. This balance will be used to fund the Pilot BWC program. Recurring funding would need to be identified for future implementation and ongoing storage requirements by the Pilot BWC program. Recurring baseline funding of just under \$2.0 million is also available in the Reserve for Ad-Hoc Police Practices Review Commission Recommendations for recurring Pilot BWC program costs and other needs.

Board Agenda Item
November 21, 2017

ENCLOSED DOCUMENTS:

None

STAFF:

David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police
Joseph M. Mondoro, Chief Financial Officer
Wanda Gibson, Director, Department of Information Technology
Cathy A. Muse, Director, Procurement and Material Management

ASSIGNED COUNSEL:

Karen L. Gibbons, Deputy County Attorney

CONSIDERATION – 1

Proffer Interpretation Appeal Associated with The Reserve at Tysons Corner Related to Proffers Accepted for RZ/FDP 2003-PR-008

ISSUE:

Board consideration of an appeal of a proffer interpretation that determined Proffer 49 of RZ/FDP 2003-PR-008 remains in effect, but is not enforceable against a property not included in the subject rezoning.

TIMING:

Board deferred decision only at the October 24, 2017 Board meeting until November 21, 2017.

BACKGROUND:

On December 22, 2016, the Department of Planning and Zoning (DPZ) received a request for an interpretation of the proffers associated with RZ/FDP 2003-PR-008, a land use application that permitted the development of a residential community now referred to as “The Reserve at Tysons Corner” (hereinafter the “Reserve Property”). In this request, The Reserve at Tysons Corner Association, Inc., as the owners association, requested an interpretation regarding whether the proffers accepted in RZ/FDP 2003-PR-008 created a continuing obligation to provide offsite parking on an adjacent property (the “Meridian Property”), which was not subject to the proffers accepted with RZ/FDP 2003-PR-008. (See Zoning Determination in Attachment 1).

The Reserve Property and the Meridian Property were originally part of a single, 33.74-acre parcel zoned to the I-P District (now I-3) under RZ 75-7-004. In 2003, two concurrent applications were submitted to develop a portion of the property with residential development. One application, PCA 75-7-004-02, was submitted and approved to delete 19.04 acres from RZ 75-7-004. The other application, RZ/FDP 2003-PR-008, proposed to rezone the same 19.04 acres of land to the PDH-30 District. On March 15, 2004, the Board approved PCA 75-7-004-02 first, thereby deleting the 19.04-acre parcel, now the Reserve Property, from the original proffered conditions. On the same day, the Board then approved RZ 2008-PR-003. See Clerk’s March 15, 2004, Board summary, Attachment 2 (describing the approval as an “[a]mendment of the Zoning Ordinance, *as it applies to the property which is the subject*

of Rezoning Application RZ 2003-PR-008, from the I-3 and HC Districts to the PDH-30 and HC Districts, subject to the proffers dated March 14, 2004”).

The Reserve Property consists of 570 homes – 478 apartments owned by Simpson Property Group, LP and 92 townhomes which are owned individually and governed by the Townhouse at the Reserve Homeowners Association, Inc. It is located on the east side of Kidwell Drive, south of Leesburg Pike, west of Interstate 495 and south of Science Applications Court. Although it still shared the same tax map number as the Meridian Property at the time of the Reserve Property rezoning (RZ/FDP 2003-PR-008), it was separated, for zoning purposes, upon the Board’s approval of PCA 75-7-004-02. It is now identified as Tax Map Nos. 39-2((56)) A1, B3, 1-92, 39-2((1)) 13A5 and A6.

The Meridian Property (Tax Map Nos. 39-2((1)) 13D and 13E), is currently owned by Tysons Enterprise West, LLC, and Tysons Enterprise East, LLC, and is developed with two existing office/data center buildings and a surface parking lot.

Proffer 49, the proffer at issue in this appeal, was approved in connection with the Reserve Property rezoning (RZ/FDP 2003-PR-008). It envisioned the provision of 150 overflow parking spaces on the Meridian Property. Proffer 49 states:

Prior to the approval of the final site plan on the Application Property, the Applicant shall provide evidence that a parking agreement is in place with the owners of the adjacent I-3 parcel identified as Tax Map 39-2 ((1)) part 13, permitting overflow parking from the Application Property to utilize parking facilities on the I-3 parcel. A minimum of 150 overflow parking spaces shall be available to all residents of the Application Property during non-business hours on weekdays (after 6:00 pm) and on weekends. This parking agreement shall be recorded in the land records of Fairfax County.

The “adjacent I-3 parcel” referenced in this proffer is the Meridian Property, which was not included in RZ 2003-PR-008. In fact, by referring to it as “the adjacent I-3 parcel,” the proffer language makes clear that the Meridian Property was not part of the Application property subject to Proffer 49.

Zoning Determination

The Meridian Property recently obtained approval of PCA 75-7-003-3 and SE 2015-PR-021, which allow for redevelopment of the property, in part, with a full-size athletic field and parking garage. Because of the proposed redevelopment, the prior owner of the Meridian Property notified the Appellant in December of 2016 of its intent to terminate the parking agreement under the terms of a Declaration of Covenants

recorded in 2005. The Appellant submitted its proffer interpretation request to ask whether the Meridian Property is entitled to terminate the 150 offsite parking spaces in light of Proffer 49.

On May 30, 2017, the Zoning Evaluation Division (ZED) issued a determination letter in response to the Appellant's proffer interpretation request. Staff determined that, at the time of site plan approval, the Reserve Property demonstrated compliance with Proffer 49 by providing a copy of the Declaration of Covenants, Restrictions and Easements recorded on January 28, 2005 in Deed Book 16927 at Page 2195, which provided that the Meridian Property owner would provide to the Reserve Property owner the right to use 150 overflow parking spaces. The determination letter stated that the accepted proffers become part of the Zoning map for the property subject to the rezoning only, in this case the Reserve Property, and are not enforceable against an off-site property, in this case the Meridian Property. In addition, while the Meridian Property was included in a concurrent, but separate application (PCA 75-7-004-02), a proffer requiring provision of this parking was not included in proffers pertaining to that land area. Staff determined that Proffer 49 remains in effect for the Reserve Property and can be removed only through a Proffered Condition Amendment (PCA) approved by the Board of Supervisors.

The subject appeal was filed with the Board of Supervisors on June 29, 2017, by Lucia Anna Trigiani, agent for the Reserve, in the name of The Reserve at Tysons Corner Association, Inc. ("Association" and "Appellant") (See Attachment 3). The justification for the filing of the appeal alleges the following:

The Appellant is an aggrieved party and thus entitled to appeal the Zoning Determination regarding the proffers relating to RZ/FDP 2003-PR-008, because:

1. The Zoning Determination renders the Reserve Property in non-compliance with Proffer 49 through no fault of the Association or any of the members or residents who reside at the Reserve Property, and with no means of recourse or redress.¹
2. Members of the Association and residents of the Reserve Property bear significant hardship without access to the overflow parking.
3. The resulting non-compliance and lack of adequate parking have negative impacts on property values and the ability to sell property in the Reserve Property.

¹ Emphasis added by appellant.

For the reasons that follow, these allegations do not establish that the Appellant is aggrieved by the Zoning Determination.

Discussion

The Board's authority to accept proffered conditions arises from Virginia Code §§ 15.2-2296 and 15.2-2303, under the development scheme known as conditional zoning. The Virginia Code defines "conditional zoning," when part of classifying land within a locality into areas and districts by legislative action, as "the allowing of reasonable conditions governing the use of *such property*." Va. Code § 15.2-2201 (emphasis added). Once the Board approves a rezoning subject to proffered conditions, the proffers become a part of the zoning regulations *applicable to the property in question*. Zoning Ordinance § 18-204(3). Any development of the *property in question* must then be in substantial conformance with the proffered conditions. Zoning Ordinance § 18-204(4). Once proffered and accepted as part of an amendment, such conditions shall continue in effect until a subsequent amendment changes the zoning *on the property covered by the conditions*. Va. Code § 15.2-2303(A). The only way to impose (or enforce) proffered conditions on a property not subject to the original rezoning is by applying for an amendment. Zoning Ordinance § 18-204(6). The Meridian Property was not part of RZ 2003-PR-008, nor has the Board approved a proffered condition amendment to include the Meridian Property.

An applicant attempting to appeal a proffer determination to the Board must demonstrate that it is "aggrieved" by that determination. Va. Code § 15.2-2301; see Zoning Ordinance § 18-204 (10). For the reasons discussed below, the Appellant has not demonstrated that it is aggrieved by the Zoning Determination.

The Appellant has available means of redress.

For the reasons discussed above, Proffer 49 only applies to the Reserve Property. It required the demonstration of the provision of at least 150 overflow off-site parking spaces on the Meridian Property, which was to be secured via a parking agreement to be recorded in the land records prior to site plan approval. This private agreement was recorded in Deed Book 16927 at Page 2195, as required, and the proffer was noted as met for the purposes of site plan approval. The County has no legal authority to enforce Proffer 49 against the Meridian Property owner, and it also cannot enforce the provisions of a private agreement to which it was not a party.

The Zoning Determination does not render the property in noncompliance with Proffer 49 "with no means of recourse or redress," however. To the contrary, it plainly states that the Appellant may seek to amend the proffered conditions to delete the overflow parking requirement (notably, no enforcement action has been taken or even threatened

against the Appellant due to its noncompliance). Alternatively, the Appellant could also take private legal action against the Meridian Property owner to restore the offsite parking spaces, if necessary, or it could seek to, renegotiate a parking agreement with the Meridian Property owner.

The Reserve Property has Adequate Parking

The Appellant asserts in its second claim that it's left with inadequate parking. The Staff Report and Addendum prepared in conjunction with RZ/FDP 2003-PR-008, however, make no reference to the need for overflow parking. Rather, those documents state that "parking will be provided via structured parking within and/or adjacent to each of the multi-family buildings as well as on each single-family attached lot with additional visitor parking on the streets. Single-family attached units which are front-loaded will have driveways a minimum of 18 feet long²." Additionally, Sheet 2 of 13 of the approved CDP/FDP for RZ/FDP 2003-PR-008 demonstrates how adequate parking will be provided in accordance with Article 11 of the Zoning Ordinance in effect at the time of approval and in fact, the approved site as built for both The Reserve at Tysons Corner Townhomes (2481-SAB-002-1) and Multi-Family (2481-SAB-005-2) demonstrate that an excess of parking was provided on-site (total of 1,088 provided versus 997 spaces required). This excess parking does not include the 150 off-site overflow spaces. Based on this documentation, it appears that excess parking is already provided on the Reserve Property.

Impact on Property Values is Irrelevant to Zoning Determination

Finally, the Appellant contends that its non-compliance and lack of adequate parking have negative impacts on property values and the ability to sell property in the Reserve. Fiscal impacts are not taken into consideration during the staff's review of proffer language in response to a request for a determination. For the reasons described above, the Appellant may exercise various means of recourse to come into compliance with Proffer 49. It also has excess parking spaces onsite and could seek to renegotiate a new parking agreement with the Meridian Property for additional off-site parking.

Summary

The Zoning Determination properly concluded that accepted proffers become part of the Zoning map for the property subject to the rezoning only and are not enforceable

² See Page 18 of Staff Report Applications RZ/FDP 2003-PR-008 (concurrent with application PCA 75-7-004-2) dated September 4, 2003 in Attachment 4.

Board Agenda Item
October 24, 2017

against an offsite property. Proffer 49 is therefore unenforceable against the Meridian Property. Accordingly, and for the reasons stated above, staff requests that the Board of Supervisors uphold staff's determinations in the May 30, 2017, letter.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Zoning Determination, dated May 30, 2017

Attachment 2: March 15, 2004, Clerk's Board Summary

Attachment 3: Letter dated June 28, 2017, to Clerk of the Fairfax County; Notice of Appeal of Zoning Determination for RZ/FDP 2003-PR-008 The Reserve at Tysons Corner

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Leslie Johnson, Zoning Administrator, DPZ

Tracy Strunk, Director, Zoning Evaluation Division (ZED), DPZ

Suzanne Wright, Chief, Special Projects/Applications/Management Branch, ZED, DPZ

Kelly M. Atkinson, Sr. Staff Coordinator, ZED, DPZ

ASSIGNED COUNSEL:

Laura S. Gori, Senior Assistant County Attorney



County of Fairfax, Virginia

Attachment 1

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

Lucia Anna Trigiani, Esq.
MercerTrigiani
112 South Alfred Street
Alexandria, VA 22314



May 30, 2017

Re: Interpretation for RZ/FDP 2003-PR-008; The Reserve at Tysons Corner; Tax Map Numbers 39-2 ((56)) A1, B3, 1-92, 39-2 ((1)) 13A5 and A6: Parking Obligation

Dear Ms. Trigiani:

This determination is in response to your letter of December 22, 2016, requesting an interpretation of the proffers, as well as the approved development conditions and Conceptual/Final Development Plan (C/FDP), accepted and approved in conjunction with the above-referenced application. As I understand it, you are requesting an interpretation of proffer language relating to parking on an adjacent offsite parcel. Specifically, your request concerns whether the proffers accepted in RZ/FDP 2003-PR-008 create a continuing obligation to provide offsite parking on an adjacent property (aka the "Meridian Property"). This determination is based upon your letter dated December 22, 2016, and Exhibit 1, entitled "Proffers RZ 2003-PR-008" dated March 14, 2004. Copies of this letter and exhibits are attached.

The subject property is located on the east side of Kidwell Drive, south of Leesburg Pike, west of Interstate 495 and south of Science Applications Court. The property is zoned PDH-30 pursuant to the approval of RZ 2003-PR-008 by the Board of Supervisors on March 15, 2004, with the Planning Commission approving FDP 2003-PR-008 on April 7, 2004, subject to proffers and development conditions. These applications permitted development of the property with 92 single-family attached and 478 multi-family dwelling units.

Prior to the approval of RZ/FDP 2003-PR-008, the subject property was part of a larger 33.74-acre property identified as Tax Map Number 39-2 ((1)) Parcel 13. This larger property was originally zoned to the I-P District (now I-3) pursuant to the approval of RZ 75-7-004 by the Board of Supervisors on October 29, 1975, subject to proffers. In 2003, two concurrent applications were submitted by Lincoln Property Company Southwest, Inc., in order to develop a portion of this overall property with the residential development described above. PCA 75-7-004-02 was submitted and approved on the entire 33.74 acres in order to delete 19.04 acres from RZ 75-7-004. RZ/FDP 2003-PR-008 was then approved, subject to proffers, to rezone that same 19.04 acres of land to the PDH-30 District. As the property included in all these applications was under single ownership, the proffers for both applications were signed by the same owner, Campus Point Realty Corporation II. The proffer at issue, however, was approved only in connection with the rezoning

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Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/



Lucia Anna Trigiani
Page 2

of the 19.04-acre parcel. Subsequent to the approval of RZ/FDP 2003-PR-008, the property subject to RZ/FDP 2003-PR-008 was subdivided from the larger property via approved site plans and record plats.

The proffer at issue with your current request is Proffer 49 of RZ 2003-PR-008, which envisioned the provision of 150 overflow parking spaces on the Meridian Property. Proffer 49 states:

Prior to the approval of the final site plan on the Application Property¹, the Applicant shall provide evidence that a parking agreement is in place with the owners of the adjacent I-3 parcel identified as Tax Map 39-2 ((1)) part 13, permitting overflow parking from the Application Property to utilize parking facilities on the I-3 parcel. A minimum of 150 overflow parking spaces shall be available to all residents of the Application Property during non-business hours on weekdays (after 6:00 pm) and on weekends. This parking agreement shall be recorded in the land records of Fairfax County.

It appears, through submitted plans for the subject property, that compliance with Proffer 49 was demonstrated to Fairfax County through the recordation of a parking agreement in the land records of Fairfax County. You state that you believe the Declaration of Covenants, Restrictions and Easements recorded on January 28, 2005 in Deed Book 16927 at Page 2195 in the Fairfax County land records is the document meant to satisfy Proffer 49—specifically, Section 12.17 of the Declaration of Covenants, Restrictions and Easements as it relates to Overflow Parking Spaces.

The 150 overflow parking spaces were to be located offsite from the 19.04 acres zoned PDH-30, on the portion which retained its I-3 zoning - the Meridian Property (Tax Map Numbers 39-2 ((1)) 13D and 13E), which is currently owned by Tysons Enterprise West LLC and Tyson Enterprise East LLC, and is developed with two existing office/data center buildings and surface parking. In accordance with PCA 75-7-003-3 and SE 2015-PR-021, the Meridian Property will be redeveloped, in part, with a full-size athletic field and parking garage. You now state that the Reserve at Tysons Corner Association Board has been notified that the prior owner of the Meridian Property seeks to terminate the parking agreement with the Association.

In accordance with Section 18-201 of the Zoning Ordinance (“Ordinance”), Board of Supervisors approval of a rezoning application constitutes a permanent (unless further amended) amendment to the Zoning Map. Further, per Section 18-204, any proffered conditions submitted as part of the rezoning application and accepted by the Board of Supervisors become “part of the zoning regulations applicable to the subject property in question, unless subsequently changed by an amendment to the Zoning Map.” Therefore, an approved rezoning and accepted proffers become a part of the Zoning map only for the subject property included in the application, in this case the 19.04 acres described in the application for RZ/FDP 2003-PR-008. Proffer 49 was a commitment

¹ Proffer #1 associated with RZ 2003-PR-008 states that “Development of the Application Property shall be in substantial conformance with the Conceptual/Final Development Plan (CDP/FDP) prepared by VIKI Incorporated, consisting of thirteen (13) sheets dated January 17, 2003 as revised through March 11, 2004...” As shown on Sheet 2 of the CDP/FDP, the portion of the property rezoned to the PDH-30 District per RZ 2003-PR-008 contains 19.04 acres, which is the Application Property referenced in Proffer 49. Please refer to Appendix 1 depicting the 19.04 acres subject to RZ 2003-PR-008, which is from the Staff Report published as part of this rezoning application.

Lucia Anna Trigiani
Page 3

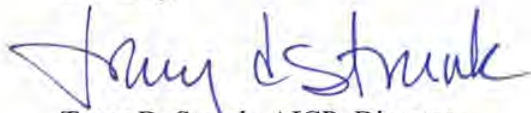
that required the demonstration of the provision of at least 150 overflow parking spaces on the offsite Meridian Property, which was to be secured via a parking agreement to be recorded in the land records. As noted above, this agreement was recorded in Deed Book 16927 at Page 2195 prior to the approval of the site plan, as required.

Proffer 49 specifically required that the overflow parking spaces on an offsite parcel were to be implemented by a private agreement. As noted above, accepted proffers become part of the Zoning map for the property subject to the rezoning only and are not enforceable against an offsite property. By referring to the Meridian Property as the "adjacent I-3 parcel," the proffer language makes clear that that property was not part of the Application property subject to the proffer.

Based on the foregoing, it is my determination that Proffer 49 remains in effect for the 19.04 acres included in RZ 2003-PR-008. Although Proffer 49 remains in effect, a proffer violation cannot be enforced on Meridian because the proffer does not apply to them. The proffer can be removed only through a Proffered Condition Amendment (PCA) application approved by the Board of Supervisors. Information on how to apply for a PCA can be found on our website at: <http://www.fairfaxcounty.gov/dpz/zoning/applications/>.

The determination has been made in my capacity as duly authorized agent of the Zoning Administrator and address only those issues discussed herein and not any separately recorded private agreements. If you have any questions regarding this interpretation, please feel free to contact Kelly M. Atkinson at (703) 324-1290.

Sincerely,



Tracy D. Strunk, AICP, Director
Zoning Evaluation Division, DPZ

N:\Interpretations\Reserve At Tysons Corner RZ 2003-PR-008\2017-02-22 Proffer Interpretation Response - Reserve At Tysons Corner RZ 2003-PR-008.Doc

Attachments: A/S

Cc: Linda Smyth, Supervisor, Providence District
Phillip Niedzielski-Eichner, Planning Commissioner, Providence District
Laura Gori, Esq., Assistant County Attorney, Office of the County Attorney
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Ellie Coddington, Acting Director, Code Development and Compliance Division, LDS
Ken Williams, Manager, Site and Technical Services, LDS
Michael Davis, Section Chief for Site Analysis, DOT
Suzanne Wright, Chief, Special Projects/Applications Management Branch, ZED, DPZ
Tysons Enterprise West, LLC, Owner, Tax Map 39-2 ((1)) 13D
Tyson Enterprise East, LLC, Owner, Tax Map 39-2 ((1)) 13E
File: RZ 2003-PR-008, PCA 75-7-004-03 and SE 2015-PR-021, PI 17 01 001, Imaging

MERCERTRIGIANI

Lucia Anna Trigiani
Pla.Trigiani@MercerTrigiani.com

Direct Dial: 703-837-5008
Direct Fax: 703-837-5018

December 22, 2016

OVERNIGHT MAIL

Barbara C. Berlin
Director of the Zoning Evaluation
Division Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

RE: Proffer RZ 2003-PR-008 dated March 14, 2004
Zoning Interpretation Request

Dear Ms. Berlin:

This firm represents The Reserve at Tysons Corner Association, Inc. ("Association"). The Association Board of Directors ("Association Board") has requested our assistance in submitting this interpretation request to you for consideration and response.

Background

The Association is a Virginia nonstock corporation responsible for the operation and administration of property located in Fairfax County, Virginia known as The Reserve at Tysons Corner ("Reserve Property").

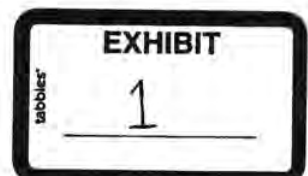
The Reserve Property is subject to a Declaration of Covenants, Conditions, Restrictions and Reservations of Easements recorded on March 24, 2006 in Deed Book 18311 at Page 1041 among the Fairfax County land records ("Land Records") and amended by the First Amendment to Declaration of Covenants, Restrictions and Reservation of Easements recorded on August 27, 2008 in Deed Book 20085 at Page 425 among the Land Records (as amended, the "Master Declaration"). A copy of the Declaration is enclosed behind Exhibit 1.

The Reserve Property is also subject to Declaration of Covenants, Restrictions and Easements ("SAIC Declaration") which was recorded on January 28, 2005 in Deed Book 16927 at Page 2195 by Campus Point Realty Corporation ("Campus"), which presumably owned the Reserve Property at that time – prior to creation of the Association. The Reserve Property is referred to as *Parcel 1* in the SAIC Declaration. A copy of the SAIC Declaration is enclosed behind Exhibit 2.

The SAIC Declaration also encumbers property located immediately north of the Reserve Property (on the north side of Science Applications Court) – referred to as *Parcel 2* in the SAIC Declaration ("Meridian Property"), which is owned or was recently owned by the Meridian

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MERCERTRIGIANI

Barbara C. Berlin
 December 22, 2016
 Page 2

Group or its affiliates. The Meridian Property is in the process of being redeveloped into a project we believe is referred to as *Tysons Technology Center*. The Meridian Property, or a portion thereof, is currently under contract or has sold to another party as of the date of this letter. To our knowledge, the Meridian Property, as subdivided, consists of property identified as Tax Map Numbers 039-01-0013D and 039-2-01-0013E.

We also believe that the Meridian Property is subject to development conditions imposed by Fairfax County pursuant to Proffers RZ 2003-PR-008 dated March 14, 2004 ("Conditions") – referred to as the *Application Property* therein. A copy of the Conditions is enclosed behind Exhibit 3. Number 49 of the Conditions provides:

Prior to approval of the final site plan on the Application Property, the Applicant shall provide evidence that a parking arrangement is in place with the owners of the adjacent I-3 parcel identified as Tax Map 39-2 ((1)) part 13, permitting overflow parking from the Application Property to utilize parking facilities on the I-3 parcel. A minimum of 150 overflow parking spaces shall be available to all residents of the Application Property during non-business hours on weekdays (after 6:00 p.m.) and on weekends. This parking agreement shall be recorded in the land records of Fairfax County.

The foregoing condition requires the owner of the Meridian Property to make available to residents of the Reserve Property a minimum of 150 "overflow" parking spaces on the Meridian Property. We are unaware of this condition being subsequently amended. The condition is *unqualified* in terms of its permanency.

Section 12.17 of the SAIC Declaration contemplates the overflow parking requirement, presumably in response to Number 49 of the Conditions. Section 12.17 provides:

The Parcel 2 Owner shall provide to the Parcel 1 Owner, for the benefit of the residents of Parcel 1, the right to use a minimum of 150 parking spaces on Parcel 2 during non-business hours on weekdays (i.e. after 6:00 p.m.) and on weekends ("Overflow Parking"). Prior to the sale or rental of the first housing units on Parcel 1, the Parcel 1 Owner or the Master Association shall establish, subject to the reasonable approval of the Parcel 2 Owner, reasonable rules and regulations for the use of the Overflow Parking. The Master Association (or, before there is a Master Association, the Parcel 1 Owner) shall enforce such rules and regulations. If the Parcel 1 Owner of the Master Association, as applicable, fails to establish and/or enforce such rules and regulations, in addition to any other remedies that may be available to it, the Parcel 2 Owner shall have the right to terminate the Parcel 1 Owner's right to use the Overflow Parking by sending a notice to the Parcel 1 Owner and, if the Parcel 2 Owner so elects, recording the same in the land records.

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Barbara C. Berlin
 December 22, 2016
 Page 3

However, unlike Condition 49, the language in Section 12.17 is *qualified* in that it provides that the Parcel 2 Owner (the owner of the Meridian Property) can *unilaterally* terminate the overflow parking arrangement if rules and regulations are not promulgated within a certain time frame.¹

Less than two weeks ago, in conjunction with the sale of the Meridian Property, Meridian presented the Association Board with a copy of a Parking Agreement for execution contemplating reduced parking (under the 150 required parking spaces) during construction on the Meridian Property, as well as a right of the owner of the Meridian Property to unilaterally terminate the Parking Agreement (and the right of the Association to park on the Meridian Property) with 30 days' prior written notice.

Because the Association will not execute the Parking Agreement in substantially the form presented to the Association Board, counsel for Meridian yesterday advised that Meridian will now terminate the right of the Association residents to use the overflow parking on the Meridian Property pursuant to the termination language contained in 12.17 of the SAIC Declaration. The Board anticipates this letter will be received shortly.

We believe that termination of the right of Reserve Property residents to overflow parking on the Meridian Property is in direct contravention of the requirement that Meridian make at least 150 parking spaces available to such residents pursuant to Number 49 of the Conditions, which although establishes limitations on such parking, does not contemplate termination.

Inquiry

With the foregoing context, the Association Board respectfully requests the following question be answered:

Is the owner of the Meridian Property entitled to terminate the right of individuals residing on the Reserve Property to 150 overflow parking spaces on the Meridian Property under Number 49 of the Conditions?

In conjunction with this question, the Association Board requests, pursuant to the Freedom of Information Act, copies of all documents in Fairfax County's possession pertinent to these inquiries which are not included with this correspondence. Please advise whether there is a cost associated with providing copies of these documents.

¹ The Master Declaration also makes reference to this overflow parking, although it is not so qualified. Specifically, Article XIV, Section 8 provides: *The Property is benefitted by the right to the use of the "Overflow Parking" as described in Section 12.17 of the SAIC Declaration. It is expressly agreed that the Association is empowered to act on behalf of all Lot Owners with respect to the use and maintenance of the Overflow Parking and any dealings in connection therewith the owner of the land on which such Overflow Parking is located. The Association shall have the right to promulgate from time to time and enforce reasonable, non-discriminatory rules and regulations with respect to the use of such Overflow Parking by the Lot Owners and Residents.*

MERCERTRIGIANI

Barbara C. Berlin
December 22, 2016
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Should you have any questions, please contact me directly. Your consideration of this matter is greatly appreciated.

Sincerely,



Lucia Anna Trigiani

LAT/jlr

Enclosures - Exhibits 1, 2, 3 and 4 and Application Fee

cc: Supervisor Linda Smyth

The Reserve at Tysons Corner Association, Inc. Board of Directors

#131072

LINCOLN PROPERTY COMPANY SOUTHWEST INC.

PROFFERS

RZ 2003-PR-008

March 14, 2004

Pursuant to Section 15.2-2303(a), Code of Virginia, 1950 as amended, and subject to the Board of Supervisors approving a rezoning to the PDH-30 District for property identified as Tax Map 39-2 ((1)) part 13 (hereinafter referred to as the "Application Property"), Lincoln Property Company Southwest, Inc., the Applicant in RZ 2003-PR-008 proffers for the owners, themselves, and their successors and assigns the following conditions. In the event that this Application is approved, any previous proffers for the Application Property are hereby deemed null and void and hereafter shall have no effect on the Application Property.

Development Plan

1. Development of the Application Property shall be in substantial conformance with the Conceptual Plan/Final Development Plan (CDP/FDP) prepared by VIKI Incorporated, consisting of thirteen (13) sheets dated January 17, 2003 as revised through March 11, 2004, which CDP/FDP proposes a maximum of 570 dwelling units (including ADUs), with a maximum of 92 single family attached dwellings and 478 multi-family dwelling units. With the development of 570 dwelling units, there will be a minimum of 30 affordable dwelling units provided, based on compliance with Section 2-800 of the Zoning Ordinance. . If fewer number of market rate units are built, a proportionately fewer number of ADUs will be provided. The Generalized Development Plan for companion application PCA 75-7-004-2 is shown on Sheets 4 and 5.

Secondary uses shall be limited to unmanned bank teller machines, swimming pool and associated facilities, fitness centers, basketball half-court/racquetball court/sports court, business/telecommuting centers, video/entertainment centers, leasing offices, recreational/community rooms, outdoor recreational uses, and other accessory uses typically provided in multi-family communities.

2. Notwithstanding that the CDP/FDP is presented on thirteen (13) sheets and said CDP/FDP is the subject of Proffer 1 above, it shall be understood that the CDP shall be the entire plan shown on Sheets 2 and 3, relative to the points of access, the maximum number and type of dwelling units, the amount of open space, the general location and arrangement of buildings and parking, and the peripheral setbacks. The Applicant or successors have the option to request a FDPA for elements other than the CDP elements from the Planning Commission for all of or a portion of the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance, if in conformance with the approved CDP and proffers.
3. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The



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Applicant or successors shall have the flexibility to modify the layouts shown on Sheets 2 and 3 of the CDP/FDP without requiring approval of an amended CDP/FDP provided such changes are in substantial conformance with the CDP/FDP as determined by the Department of Planning and Zoning ("DPZ") and do not increase the number of dwelling units, decrease the amount of open space, or decrease the setback from the peripheries.

4. Advanced density credit shall be reserved as may be permitted by the provisions of Paragraph 5 of Section 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein, including road dedications, park dedications and school dedications, or as may be required by Fairfax County or Virginia Department of Transportation ("VDOT") at the time of site plan approval.

Owner Associations

5. Prior to the issuance of the first Residential Use Permit ("RUP") on the Application Property, the Applicant shall establish an Umbrella Owners Association ("UOA") in accordance with Virginia law. Individual homeowner associations and/or condominium owners associations ("HOA/COAs") shall be formed for various areas of the Application Property in accordance with Virginia law. Each HOA/COA and rental component shall be a member of the UOA with voting rights based on the number of dwelling units within each. The respective UOA and HOA/COA documents shall specify the maintenance obligations as may be outlined in these proffers and as may be agreed upon between the HOA/COAs and rental components.

Transportation

6. At the time of site plan approval, or upon demand by Fairfax County, whichever shall occur first, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way along the Application Property's Gallows Road frontage measuring a minimum of seventy-four (74) feet from the existing centerline as shown on Sheet 3 of the CDP/FDP.

Townhouse units fronting on Gallows Road shall be set back a minimum of 15 feet from the dedicated right-of way. Initial purchasers of the townhouses along Gallows Road shall be advised in writing prior to entering into a contract of sale that Gallows Road is planned to be widened in the future.

7. At the time of site plan approval, the Applicant shall escrow the cost of constructing a future right-turn deceleration lane along the Gallows Road frontage of the Application Property, in an amount to be determined by Department of Public Works and Environmental Services ("DPWES"). The escrow shall include the cost of relocating, if determined necessary, the underground utilities existing at the time of rezoning approval which include a fiber optic line and water easement. This new turn lane is anticipated to

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be needed at such time as the existing right-turn deceleration lane becomes a future through lane on Gallows Road.

8. The Applicant shall construct extensions of the existing left turn lanes on northbound Gallows Road at the Merry Oaks Lane intersection and southbound Gallows Road at Science Applications Court within the existing right-of-way as may be approved by DPWES and VDOT. Such extensions, if permitted, shall be completed prior to the issuance of the 100th Residential Use Permit (RUP) for the Application Property.
9. Science Applications Court shall remain a private street. Commensurate with development of the Application Property, the Applicant shall construct improvements to Science Applications Court on a new alignment as shown on the CDP/FDP. The Science Applications Court approach to Gallows Road shall accommodate two lanes entering and three lanes exiting the Application Property.
10. Prior to site plan approval, the Applicant shall perform a warrant analysis to determine if a traffic signal is warranted at the intersection of Gallows Road and Madrillon Road. If the study shows a signal is warranted now or will be warranted with the build-out of the Application Property, the Applicant shall escrow the sum of \$25,000 with DPWES at the time of first site plan approval towards the design and installation of said traffic signal at the intersection of Gallows Road and Madrillon Road. If the signal has not been installed within five (5) years of the date of the rezoning approval, the escrowed amount shall be redirected to the Providence District Trails Fund.
11. The Applicant shall provide one (1) bus shelter along its Gallows road frontage with specific location determined by WMATA. The bus shelter shall be the typical open type and the installation shall be limited to the concrete pad, the shelter itself and a trash can. No bus turn outs or special lanes shall be provided by the Applicant. If, by the time of final bond release, WMATA has not determined the exact location of the bus shelter, the Applicant shall escrow the amount of \$20,000 with DPWES for the installation of a bus shelter by others in the future. Once installed, the bus shelter and trash can shall be maintained by the Application Property's UOA. Initial purchasers shall be advised in writing prior to entering into a contract of sale that the UOA shall be responsible for the maintenance of the bus shelter. The UOA/HOA/COA documents shall specify that the UOA is responsible for the maintenance of the bus shelter.

At the time of final site plan approval, the Applicant shall escrow the amount of \$20,000 with DPWES for the installation of a bus shelter by others along the southbound frontage of Gallows Road in the vicinity of the Merry Oaks Lane intersection, with the specific location determined by WMATA. If, by the time of final bond release, WMATA has not determined the exact location of the bus shelter, the \$20,000 escrow shall be redirected to DPWES for funding of another shelter elsewhere in the Dunn Loring/Tysons Corner area.

12. At the time of site plan approval, the Applicant shall dedicate in fee simple to the Board of Supervisors right-of-way along the Application Property's I-495 frontage measuring 25

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feet from the existing right-of-way as shown on Sheet 3 of the CDP/FDP. The Applicant shall provide ancillary utility and grading easements to a width determined by VDOT provided VDOT reconstructs any permanent improvements and landscaping disturbed with use of the easement. Subject to approval of a licensing agreement with Fairfax County, the Applicant shall maintain and have the usage of the dedicated area for open space until such time as construction of the I-495 improvements commence.

13. The use of mass transit, ride-sharing and other transportation strategies shall be utilized to reduce single occupancy vehicular (SOV) traffic from the Application Property during peak hours by a minimum of 20 percent of the trips generated according to the Institute of Transportation Engineers (ITE) Trip Generation Manual, 6th Edition. The transportation demand management ("TDM") plan shall consist of at least two Level 3 TDM elements as outlined in Attachment A and as defined by Fairfax County Department of Transportation ("FCDOT") for residential communities, in order to achieve the equivalent Level 4 (Platinum) program status. Tenants and purchasers shall be advised of this transportation strategy development proffer.

The Applicant shall designate an individual(s) to act as the Transportation Coordinator(s) whose responsibility shall be to implement the TDMs in coordination with the FCDOT. The transportation strategies management position may be a part of other duties assigned to the individual(s). The transportation management strategies shall be implemented after issuance of the 200th RUP for the Application Property. Strategies shall include the following:

- A. Providing amenities for bicycle storage;
- B. Providing a telecommuting center for all residents' use with the potential for upgrading to T-1 or similar secure lines;
- C. Providing internet connections in all dwelling units to facilitate working at home;
- D. Providing a concierge service/central area where residents can arrange certain services such as dry cleaning/pharmacy/grocery deliveries;
- E. Sidewalk system designed to encourage/facilitate pedestrian circulation; and
- F. Participation in a shuttle service as outlined in Proffer 14.

Strategies may include the following:

- A. Participation in the Fairfax County Ride Share Program;
- B. Dissemination of Ridesharing information in residential lease and purchase packages;
- C. Making ridesharing display maps and forms available to in each multi-family building;
- D. Providing Metro checks with rental contracts;
- E. Instituting a "Preferred Employer" program for SAIC offering reduced application fees, reduced deposits, and other incentives to encourage SAIC employees to live on the Application Property;

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- F. Implementing a comprehensive Ozone Action Days Program;
- G. Developing a web page for residents of the Application Property describing and updating information on TDM strategies and services; and
- H. Any other strategies found to be effective in reducing the number of single-occupancy vehicle trips, mutually agreed upon by the Applicant and FCDOT.

The Transportation Coordinator may work with adjacent homeowner associations to develop and share carpool, vanpool and other ride sharing information.

The Applicant shall notify FCDOT of the date that the TDM strategies are implemented. One year after the TDM strategies are implemented the Applicant shall conduct a survey of residents, visitors and employees to determine the transportation characteristics of building tenants and employees. This survey will form the basis of the on-going transportation management program.

Annually thereafter, the Transportation Coordinator shall conduct a multi-modal transportation split survey of the residents to demonstrate whether the goal of reducing SOV trips by 20 percent has been met during peak hours. The Transportation Coordinator shall prepare an annual report, in coordination with, and for review and approval of the FCDOT, which shall include the results of the survey and assess the success of the TDM strategies in reaching the stated goal and recommend adjustments in TDM strategies.

If the annual multi-modal transportation split surveys indicate that a reduction of SOV trips by 20 percent has not occurred, \$40.00 per occupied dwelling unit shall be contributed annually to a TDM fund for the Application Property until such time as the reduction has occurred. The TDM fund shall be used by the Transportation Coordinator to implement existing or new strategies to reduce SOV trips during peak hours. The terms of this proffer with regard to contributing to a TDM fund shall expire fifteen (15) years after the last RUP is issued.

14. The Applicant shall provide a shuttle bus/van service from the Application Property to the Dunn Loring Metro Station and other office campuses within Tysons Corner. The Applicant may provide this shuttle service in concert with an existing shuttle service provided by the adjacent I-3 property and may share in the cost of operation. The shuttle service shall be provided to meet peak hour demand and shall, at a minimum, operate on weekdays (except for federal holidays) for three hours during the morning peak and three hours during the evening peak. The shuttle service shall commence prior to the occupancy of the 200th RUP on the Application Property and shall operate for at least three years following the issuance of the last RUP. Cost of the shuttle service shall be borne by the UOA. Initial purchasers shall be advised in writing prior to entering into a contract of sale that the UOA will fund the cost of operating the shuttle. The UOA/HOA/COA documents shall expressly state that the UOA shall be responsible for operation of the shuttle. If it is determined by the Applicant that demand for the shuttle service does not warrant continuation, the Applicant may elect to cease operation.

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However, the Applicant shall provide ninety (90) days advance written notification to residents of the Application Property and FCDOT of the planned cessation of shuttle service. In addition, if FCDOT determines that the shuttle service interferes with the public bus service and notifies Applicant of same, the Applicant shall cease operation of the shuttle service upon ninety (90) days advance written notification to residents.

15. All private streets shall be constructed with materials and depth of pavement consistent with public street standards in accordance with the Public Facilities Manual, as determined by DPWES. The Applicant and subsequent UOA/HOA/COAs shall be responsible for the maintenance of all private streets. Initial purchasers shall be advised in writing prior to entering into a contract of sale that the UOA/HOA/COAs will be responsible for the maintenance of the private streets. The UOA/HOA/COA documents shall expressly state that the individual HOA/COA or rental component shall be responsible for the maintenance of the private streets serving that entity's development area.
16. The Applicant shall make a cash contribution to a fund administered by the FCDOT to be used toward Tysons Corner Area transportation improvements. The amount of the contribution shall be in keeping with the policy and formula adopted by the Board of Supervisors at the time of the approval of the rezoning (anticipated to be \$734.00 per dwelling). Using the rezoning approval date as the base date, this cash contribution shall be adjusted accordingly to the construction cost index as published in the *Engineering News Record*. The contribution shall be paid in two equal (2) installments; the first installment to be paid at the issuance of the first RUP; the remaining installment shall be paid twelve (12) months later, but no later than final bond release.
17. The Applicant shall install appropriate warning signage and/or markers on the east side of Gallows Road as determined by VDOT, advising motorists of the curve in Gallows Road immediately north of Science Applications Court. If by the time of final bond release for the Application Property, VDOT has not determined what signers or markers would be appropriate, the Applicant's obligation under this proffer shall be null and void.
18. To increase pedestrian safety crossing Gallows Road at Science Applications Court, the Applicant shall make the following improvements subject to VDOT approval:
 - A. Widen the existing concrete median located on the northern Gallows Road approach to a width of six (6) feet to provide for a pedestrian refuge. This shall be accomplished by shifting the Gallows Road curbing along the Application Property's frontage.
 - B. Re-paint the pedestrian crosswalk.
 - C. Install a new pedestrian signal that counts down the time available to cross the road.
 - D. Work with VDOT to ensure adequate crossing time.

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- E. Install "no turn on red while pedestrians are present" signage on the Gallows Road northern approach and on Merry Oak Lane's eastbound approach to the intersection.
19. The Applicant shall construct a secondary emergency only access point onto Gallows Road as shown on the CDP/FDP, commensurate with development of the townhouse section. This access shall be constructed of grasscrete, ritter rings or other similar materials and shall be chained at the property line so that it is used only in emergency situations.

Architectural/Landscaping Details

20. The architectural design of the multi-family buildings and townhomes shall be in substantial conformance with the general character of the elevations shown on Sheet 13. The Applicant reserves the right to refine the elevations as a result of final architectural design, so long as the character and quality of design remains consistent with those shown. The townhouses shall be a maximum of three stories above grade with an additional optional loft incorporated into the roof structure (maximum building height of 45 feet). Building materials may include one or more of the following: brick, stone, pre-cast concrete, siding, stucco (excluding dryvit or other similar synthetic stucco material) and glass. Building facades will be predominantly masonry. The façade of the parking structure associated with Building 2 shall be predominantly either masonry or pre-cast concrete.

A copy of the architectural plans shall be submitted to the Providence District Planning Commissioner for review and comment prior to final site plan approval. At the time of each submission of the final site plan to the County, a copy of the submission shall be provided to the Providence District Planning Commissioner for review and comment.

21. A landscape plan shall be submitted as part of the first and all subsequent submissions of the site plan and shall be coordinated with and approved by the Urban Forester. This plan shall be in substantial conformance with the landscape concepts plan as to quantity and quality of plantings, and in general conformance with the location of plantings as shown on Sheets 6. The Applicant shall work with the Urban Forester to select plant species that in addition to meeting other landscaping requirements such as durability, availability and aesthetics, also aid in the maintenance of air quality. Location of plantings may be modified based on utility location, sight distance easements, and final engineering details as approved by the Urban Forester, but shall be consistent in the number and type of plantings.
22. The design details shown on Sheets 6, 8, 9 and 10 submitted with the CDP/FDP illustrate the design intent and overall community organization of the proposed development. Landscaping and on-site amenities shall be substantially consistent in terms of character and quantity with the illustrations and details presented on these sheets. Specific features

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such as exact locations of plantings, pedestrian lighting, sidewalks to individual units, etc. are subject to modification with final engineering and architectural design. Landscaping and on-site amenities shall include:

- a. A landscaped entry feature to be provided on site to include an entrance monument and/or signage, ornamental trees and shrubs;
- b. Installation of streetscape elements and plantings along the Application Property's Gallows Road frontage as shown on Sheets 6 and 10 of the CDP/FDP. A planting strip a minimum of six (6) feet in width shall be provided between the future curb of Gallows Road anticipated with construction of an additional lane and the proposed asphalt trail. Street trees on the east side of the trail shall be planted at twice the density as street trees in the planting strip west of the trail, as shown on Sheet 10 of the CDP/FDP. Street trees shall be a minimum of three-inch caliper at the time of planting. Trees located within VDOT rights-of-way are subject to VDOT approval.
- c. Installation of streetscape elements and plantings along the south side of Science Application Court as shown on Sheet 9 of the CDP/FDP.
- d. A large community green in the eastern portion of the Property as shown on Sheet 8 of the CDP/FDP. This passive recreational area shall include pedestrian pathways, specialized landscaping, seating areas, and pedestrian lighting and shall be available for use by all residents of the Application Property.
- e. Landscaped courtyards within the multi family Buildings 2 and 3 as shown on Sheet 6 and detailed on Sheet 8 of the CDP/FDP. These courtyards shall incorporate a courtyard walk, special paving areas with seating or picnic areas, a mixture of deciduous, evergreen and ornamental plantings, and a lawn panel. Each courtyard may vary in design detail and amenities.

Sidewalk/Trails

23. The Applicant shall provide sidewalks on both sides of Science Applications Court and throughout the Application Property linking buildings as shown on Sheet 6 of the CDP/FDP. Such construction shall occur commensurate with the development of each section of the Application Property. In addition, the Applicant shall construct a minimum five (5) foot wide asphalt trail around the stormwater management pond and between the I-495 frontage and the proposed parking garage as shown on the CDP/FDP. Trail construction shall occur concurrently with the construction of the stormwater management ponds.

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24. The Applicant shall construct an eight (8) foot wide asphalt trail within the dedicated right-of way along the Gallows Road frontage as shown on Sheets 6 and 10 of the CDP/FDP.

Environment

25. All outdoor lighting fixtures shall be in accordance with the Performance Standards contained in Part 9 (Outdoor Lighting Standards) of Article 14 of the Zoning Ordinance. Fixtures used to illuminate residential streets, parking areas and walkways shall not exceed twenty (20) feet in height, shall be of low intensity design and shall utilize full cut-off fixtures which shall focus directly on the Application Property. All upper level parking deck lighting fixtures shall not exceed the height of the parapet wall. Lighting on the lower level of parking decks shall be installed between the ceiling beams to reduce glare.

To prevent parking deck lighting impacts on Tysons Executive Village, the southern façade of the parking deck located adjacent to I-495 shall be solid including a solid garage door or panel door which will not allow light to pass through.

26. Signage on the Application Property shall be provided in accordance with Article 12 of the Zoning Ordinance. If lighted, signage shall be internally lighted or directed downward.
27. Unless modified by DPWES, the Applicant shall provide stormwater detention and Best Management Practices as required by the Public Facilities Manual (PFM) and as depicted on the CDP/FDP in up to three enhanced extended detention facilities. Plantings shall be provided within these ponds to the extent permitted by the PFM. The design of the southern pond will require a modification of the PFM to allow the installation of a dam cut-off wall. The ponds shall be maintained by the UOA, in association with the owners of the commercial structures governed by PCA 75-7-004-2.
28. Within 90 days of the Board's approval of the rezoning of the Application Property, the Applicant shall submit a written comparative analysis to the Tysons Executive Village ("TEV") Homeowners Association Board of Directors [Tax Map 39-2 ((48))], DPWES, and the Providence District Supervisor analyzing the effects of existing and future development on the existing wet pond in the TEV subdivision for the entire watershed of the pond and comparing the advantages and disadvantages of converting it to a dry pond or maintaining it as a wet pond. The TEV HOA shall be given the opportunity to review the analysis and provide a written determination to the Applicant and Providence District Supervisor as to its decision to maintain or convert the pond. As a result of that determination and after review of that analysis by DPWES, the Applicant shall undertake the following actions:
- a. If TEV elects to maintain their stormwater management facility as a wet pond, the Applicant shall remove accumulated sediment from the pond and restore the pond

it to its originally designed storage capacity at no cost to TEV. Such improvement shall be made concurrent with initiation of clearing and grading on the Application Property subject to TEV providing any necessary permission and/or easements at no cost to the Applicant. The Applicant shall perform a bathometric survey of the TEV pond following completion of the pond improvements and shall perform a second bathometric survey following completion of construction on the Application Property. Should these surveys show an unacceptable level of sedimentation has occurred, as determined by DPWES, the Applicant shall restore the pond to its approved storage volume prior to final bond release on the Application Property.

The Applicant shall then enter into an agreement with TEV agreeing to pay its proportionate share of all future pond maintenance costs (as defined in said agreement). Said agreement shall be recorded in the land records.

- b. If TEV elects to convert their wet pond to a dry pond, the Applicant shall revise the TEV site plan accordingly and shall make the necessary improvements at no cost to TEV subject to TEV's written authority to do so and subject to DPWES approval. Landscaping in the pond shall be provided by Applicant as permitted by the Urban Forester and DPWES. In order to convert the pond it is understood that it may be necessary to provide Best Management Practices (BMPs) for TEV on the Application Property. Conversion of the pond shall occur concurrent with clearing and grading activities on the Application Property provided 1) the TEV site plan revision has been approved; and 2) TEV provides any necessary permission and/or easements at no cost to the Applicant. If the TEV site plan revision is not approved and/or necessary easements not provided prior to clearing and grading activities on the Application Property, the Applicant shall delay conversion of the pond until necessary approvals and easements are obtained but shall be allowed to proceed with clearing, grading and construction on the Application Property. Once the pond has been converted to a dry pond, TEV shall petition Fairfax County to accept maintenance of the pond. The Applicant shall be responsible for any additional improvements needed to ensure County acceptance.
- c. The Applicant shall bond these public improvements in keeping with standard County policies.

If TEV does not provide a written determination to the Applicant and Providence District Supervisor within 60 days of its receipt of the Applicant's written comparative analysis, the Applicant shall implement improvements specified in Paragraph "a" above.

- 29. In an effort to mitigate existing drainage problems within the adjacent Courts of Tysons ("COT") community, the Applicant shall:

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- a. Design and install a storm drain system to intercept stormwater from Gallows Road currently being piped along the COT northern boundary line. The new system shall redirect this storm drainage through the Application Property as generally shown on the CDP/FDP.
 - b. Provide an underground TV inspection of the condition of the existing storm drain from Gallows Road to the proposed intercepts and correct any breaks, malfunctions, or sedimentation found, as determined necessary and approved by DPWES. Implementation of this proffer is dependent on the COT granting any necessary easements or letters of permission at no cost to the Applicant.
 - c. The Applicant shall bond these public improvements in keeping with standard County policies.
30. A tree preservation plan shall be submitted as part of the site plan in conformance with the tree save areas shown on the CDP/FDP. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and reviewed and approved by the Urban Forestry Division. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches in diameter and greater within fifteen (15) feet of either side of the limits of clearing and grading. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the *Guide for Plant Appraisal* published by the International Society of Arboriculture.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing using four foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, shall be erected at the limits of clearing and grading as shown on the CDP/FDP. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. Three (3) days prior to the commencement of any clearing, grading, or demolition activities, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.

The Applicant shall strictly conform to the limits of clearing and grading as shown on Sheet 3 of the CDP/FDP.

The limits of clearing and grading shall be marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the limits of clearing and grading shall be walked with an Urban Forestry Division representative to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. Representatives of the COT and TEV HOAs shall be invited to participate in walking the

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limits of clearing and grading adjacent to their communities with the Applicant and the Urban Forester. Trees that are not likely to survive construction due to their species and/or their proximity to disturbance will also be identified at this time and removed as part of the clearing operation.

Any trees identified to be preserved adjacent to the COT, Courthouse Station and TEV property lines, which fail to survive within two years following construction activity shall be replaced by the Applicant with species as determined appropriate by the Urban Forester, in consultation with designated representatives of the COT HOA, Courthouse Station HOA, and TEV HOA and the UOA for the Application Property. To supplement the normal conservation escrow required, the Applicant shall post an additional \$10,000 in the conservation escrow at the time of site plan approval to ensure replacement of construction damaged trees.

31. A fence a minimum of six feet in height shall be provided between the southernmost stormwater management pond on the Application Property and the adjacent TEV, Courthouse Station, and COT subdivisions as depicted on the CDP/FDP. The fence shall be constructed with masonry piers and wooden inserts. The fence shall be field located, with review by the Urban Forester, to ensure minimal disturbance to existing vegetation. Deciduous and evergreen trees shall be installed between the wall/fence and adjacent subdivisions to supplement existing vegetation to be preserved, as determined by the Urban Forester. Any trees identified to be preserved which fail to survive a two year period following construction shall be replaced by the Applicant with species determined appropriate by the Urban Forester, in consultation with designated representatives of the COT HOA, Courthouse Station HOA, and TEV HOA and the UOA for the Application Property.

Installing the above-referenced fence will result in a double set of fencing along the COT eastern boundary. If, in the future, both the COT HOA and the UOA for the Application Property jointly decide to eliminate the second fence located inside the Application Property, nothing in this proffer should prevent removal of that fence. In the event the removal of such second fence is jointly decided, a shared fence maintenance agreement for the eastern boundary of COT shall be executed prior to any removal.

32. Within the tree save area shown on the Application Property immediately north of the COT and around the south end of the Kidwell Drive cul-de-sac, the Applicant shall provide supplemental evergreen and deciduous trees as determined by the Urban Forester in consultation with the COT HOA and Heritage Point HOA in an effort to create an effective year round screen. Care shall be taken to retain healthy quality vegetation to the maximum extent possible, while augmenting the screening opportunities.
33. All units constructed on the Application Property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES for either electric or gas energy homes, as applicable.

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34. Polysonics Corp. has prepared a Traffic Noise Analysis of the Application Property dated August 2003. This report provides an analysis of noise impacts associated with I-495 and Gallows Road. Based on the findings of that report, the Applicant shall provide the following noise attenuation measures:

- a. In order to reduce interior noise associated with Interstate 495 to a level of approximately 45 dBA Ldn, the garage associated with Building 3 shall be utilized as a noise attenuation barrier as shown on the CDP/FDP.
- b. In order to reduce interior noise to a level of approximately 45 dBA Ldn, for units which are projected to be impacted by highway noise from I-495 having levels projected to be greater than 70 dBA Ldn after the garage is in place, located on the eastern façade of Building 2 and the northern and southern facades of Building 3, these units shall be constructed with the following acoustical measures:

Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45. Doors and glazing shall have a laboratory STC rating of at least 37 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 45. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

- c. In order to reduce interior noise to a level of approximately 45 dBA Ldn for units which are projected to be impacted by roadway noise from Gallows Road having levels projected to be between 65 and 70 dBA Ldn, located on the western façade of Building 1 and the townhouse units facing Gallows Road, these units shall be constructed with the following acoustical measures:

Exterior walls should have a laboratory sound transmission class (STC) rating of at least 39. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 39. All surfaces should be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

- d. Prior to the issuance of building permits, alternative interior noise attenuation measures may be provided subject to the implementation of a refined noise study as reviewed and approved by DPWES after consultation with the Department of Planning and Zoning.

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- e. Due to the placement of structures on the site, additional exterior noise mitigation is not necessary for most of the outdoor recreational uses on the site. The jogging trail with exercise stations located adjacent to I-495 will be impacted by noise but mitigation is not provided.
- 35. If required by DPWES, a geotechnical engineering study shall be submitted to DPWES for review and approval prior to final site plan approval, and recommendations generated by this study shall be implemented as required by DPWES.
- 36. Prior to the issuance of a demolition permit or land disturbance permit, a rodent abatement plan shall be submitted to Fairfax County Health Department that will outline the steps that will be taken to prevent the spread of rodents from the construction site to the surrounding community and sewers. The Applicant shall implement the rodent abatement plan.

Miscellaneous

- 37. The Applicant shall contribute the amount of \$150,000 to Kilmer Intermediate School for the purchase of wireless computers or other technology based programs at the discretion of the principal. The Applicant shall provide documentation that this contribution has been made. Such contribution shall occur prior to the issuance of the first RUP for the Application Property
- 38. The Applicant shall contribute the amount of \$465,000 to the Board of Supervisors for the construction of capital improvements to schools in the vicinity of the Application Property. The contribution shall be paid in two (2) installments; the first installment of \$232,500 to be paid prior to issuance of the 100th RUP and the second installment of \$232,500 shall be paid prior to the issuance of the 300th RUP.
- 39. The Applicant shall comply with the Affordable Dwelling Unit (ADU) Program as set forth in Section 2-801 of the Zoning Ordinance unless modified by the ADU Advisory Board. The Applicant reserves the right to provide ADUs for all of the Application Property within the multi-family buildings. Two of the required ADUs (one one-bedroom unit and one two-bedroom unit) shall be designed and constructed to be fully handicapped accessible. Three of the required ADUs shall be designed and constructed as handicapped adaptable units and shall be made fully handicapped accessible if demand dictates.
- 40. No temporary signs (including "Popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 of Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on- or off-site by the Applicant or at the Applicant's direction to assist in the initial sale or rental of residential units on the Application Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and sale and/or rental of residential units on the Application Property to adhere to this proffer.

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41. The Applicant shall comply with Paragraph 2 of Section 6-110 of the Zoning Ordinance by contributing \$955 per dwelling unit for developed recreational facilities. The Applicant shall receive credit for the on-site recreational facilities which shall include, but not be limited to a swimming pool; a community center with exercise facilities; a tot lot; an indoor basketball half-court/racquetball court/sport court (either within one of the residential buildings or in a separate structure as shown on the CDP/FDP); and a jogging trail with exercise stations. Any additional money remaining which is not spent for on-site facilities shall be contributed to the Fairfax County Park Authority.
42. Prior to the issuance of the first RUP on the Application Property, the Applicant shall contribute the amount of \$150,000.00 to the Fairfax County Board of Supervisors for the acquisition of park land or improvement of park facilities in the Dunn Loring/Tysons Corner area.
43. A covenant shall be recorded which provides that townhouse garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles) and that parking shall not be permitted in driveways that are less than 18 feet in length. This covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the UOA/HOA/COA and the Fairfax County Board of Supervisors. Initial purchasers shall be advised in writing of the use restrictions prior to entering into a contract of sale and said restrictions shall be contained in the HOA/COA documents.
44. All front loaded townhouse driveways on the Application Property shall be a minimum of eighteen (18) feet in length from the garage door to the sidewalk.
45. A joint maintenance agreement between the UOA and the owners of the commercial structures governed by PCA 75-7-004-2 shall be provided for the maintenance of Science Application Court, pedestrian trails, and the stormwater management facilities serving the Application Property and the property subject to PCA 75-7-004-2. Purchasers shall be advised in writing prior to entering into a contract of sale that the UOA will share in the cost of such maintenance. The UOA documents shall expressly state that the UOA shall be responsible for shared maintenance of these facilities.
46. Property owners of two adjacent lots in TEV identified as Tax Map 39-2 ((48)) 9 and 10 have been utilizing portions of the Application Property as extensions of their rear yards. In order to allow this use to continue, the Applicant shall convey in fee simple the Outlot A-1 shown on the CDP/FDP to the owner of Lot 10 and Outlot A-2 as shown on the CDP/FDP to the owner of Lot 9. Conveyance shall occur prior to bonding of the site plan for the Application Property. The Deeds of Conveyance shall include restrictive covenants which provide, among other things, that (1) density from the out lots shall be reserved in perpetuity for the benefit of the remainder of the Application Property; (2) no structures shall be constructed on the out lots, rather the out lots shall be left as open space with existing trees preserved to the maximum extent feasible; and (3) any future rezoning, proffered condition amendment, final development plan amendment, or site

plan approvals for the remainder of the Application Property shall not require the inclusion of the out lots or the joinder or consent of the owners of the out lots so long as the rezoning, proffered condition amendment, final development plan amendment or site plan does not include the area of the out lots.

47. In order to provide a tot lot for the COT Homeowners Association [Tax Map 39-2 ((27))], the Applicant shall convey in fee simple Outlot A-3 as shown on the CDP/FDP to the COT. Prior to the conveyance, the Applicant shall:
- a. Install a tot lot on the outlot based on a determination as to the type of equipment COT desires. Such equipment cost shall not exceed \$20,000. Care shall be taken to minimize disturbance to existing quality vegetation. The final location of the tot lot shall be determined by the Urban Forester;
 - b. Construct a pedestrian connection between the existing COT property and the tot lot as generally shown on the CDP/FDP; and
 - c. Install a fence around the perimeter of Outlot A-3 and remove sections of the existing fence between COT and Outlot A-3 to allow the pedestrian connection.
 - d. Bond these improvements in keeping with standard County policies.

Such improvements shall be made subject to COT providing any necessary permission and/or easements at no cost to the Applicant, and COT providing timely input into the type of tot lot equipment and fencing desired. In the event COT has not provided information with regard to equipment selection and fencing in a timely manner prior to the Applicant applying for its 100th RUP, the Applicant may elect to contribute \$20,000 to the COT along with the fenced outlot conveyance and thereby be relieved of any further obligation to install the tot lot and pedestrian connection.

Conveyance of Outlot A-3 shall occur prior to issuance of the 100th RUP for the Application Property. The Deed of Conveyance shall include restrictive covenants which provide, among other things, that (1) density from the outlot shall be reserved in perpetuity for the benefit of the remainder of the Application Property; (2) no structures other than the tot lot shall be constructed on the outlot, (3) existing trees shall be preserved to the maximum extent feasible; and (4) any future rezoning, proffered condition amendment, final development plan amendment, or site plan approvals for the remainder of the Application Property shall not require the inclusion of the outlot or the joinder or consent of the owner of the outlot so long as the rezoning, proffered condition amendment, final development plan amendment or site plan does not include the area of the outlot.

48. Prior to the issuance of the first RUP on the Application Property, the Applicant shall either:

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- a. Contribute the sum of \$25,000 to the COT Homeowners Association for the maintenance and future replacement of the fence installed by the COT along its common boundary with the Application Property. The Applicant shall provide documentation to DPWES that this contribution has been made; or
- b. Enter into a fence maintenance agreement with the COT Homeowners Association. Said agreement shall specify that the COT and the Applicant, its successors or assigns shall share equally in the cost of future maintenance and/or replacement of the existing wooden fence along the Courts of Tysons northern boundary. The COT fence along its eastern boundary and the future fence around the tot lot described in Proffer 45 shall be the responsibility of the COT Homeowners Association. This agreement shall be recorded among the land records of Fairfax County. In the event an agreement to the satisfaction of both the parties has not been reached by the time the Applicant has applied for its first RUP, the Applicant shall contribute the sum of \$25,000 to the COT Homeowners Association for the maintenance and future replacement of the fence and shall be released of its obligation to enter into a joint fence agreement.

The COT Homeowners Association shall be given the opportunity to inform the Applicant in writing of which of the two alternatives they prefer. If COT fails to provide a written determination to the Applicant within 60 days of its receipt of the Applicant's request for a determination, the Applicant shall implement the alternative in Paragraph "a" above.

49. Prior to approval of the final site plan on the Application Property, the Applicant shall provide evidence that a parking agreement is in place with the owners of the adjacent I-3 parcel identified as Tax Map 39-2 ((1)) part 13, permitting overflow parking from the Application Property to utilize parking facilities on the I-3 parcel. A minimum of 150 overflow parking spaces shall be available to all residents of the Application Property during non-business hours on weekdays (after 6:00 pm) and on weekends. This parking agreement shall be recorded in the land records of Fairfax County.
50. Construction activity shall be permitted Mondays through Fridays from 7:00 a.m. to 7:00 p.m., Saturdays from 8:00 a.m. to 6:00 p.m. No construction activity shall be permitted on Sundays, Thanksgiving Day, Christmas Day and New Years Day. These construction hours shall be posted on the Application Property prior to any land disturbing activities. The Applicant shall include a construction hour notice in its contract with its general construction contractor.
51. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in the same instrument.
52. These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.

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53. The individual sections within the Application Property may be subject to Proffered Condition Amendments and Final Development Plan amendments without joinder and/or consent of the other property owner of the other sections/buildings.

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[SIGNATURES BEGIN ON NEXT PAGE]

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APPLICANT/CONTRACT PURCHASER
OF TAX MAP 39-2 ((1)) 13 pt.

LINCOLN PROPERTY COMPANY
SOUTHWEST, INC.



By: Richard N. Rose
Its: Vice President


[SIGNATURES CONTINUED ON NEXT PAGE]

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Attachment 1

TITLE OWNER OF TAX MAP 39-2 ((1)) 13

CAMPUS POINT REALTY CORPORATION II


By: Frederick R. Hazard
Its: President

[SIGNATURES END]

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1 of 5

Tax Parcel ID No. 039-2-01-0013

**DECLARATION OF CONDITIONS, RESTRICTIONS,
AND EASEMENTS**

THIS DECLARATION OF CONDITIONS, RESTRICTIONS, AND EASEMENTS (hereinafter "Declaration"), is made this 28th day of January, 2005 (the "Effective Date"), by CAMPUS POINT REALTY CORPORATION, a California corporation (hereinafter "Declarant").

WITNESSETH:

WHEREAS, Declarant owns fee simple title to those certain tracts of land located in Fairfax County, Virginia, described on (i) Exhibit A-1 attached hereto and made a part hereof ("Parcel 1") and (ii) Exhibit A-2 attached hereto and made a part hereof ("Parcel 2"); and

WHEREAS, Declarant intends to convey Parcel 1 to a third party; and

WHEREAS, Declarant desires to create and establish (i) certain conditions and restrictions relating to construction on Parcel 1, (ii) certain easements for the benefit of Parcels 1 and 2 for (a) access, ingress, egress and regress, and (b) storm water management and (iii) rights with respect to signage,

NOW THEREFORE, in consideration of Ten Dollars (\$10.00), the covenants and agreements set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant agrees, covenants, and declares as follows:



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ARTICLE I

GENERAL

Section 1.1. Definitions. The following words, when used in this Declaration, shall have the following meanings:

"Access Easement" shall have the meaning set forth in Section 3.1(a).

"Access Easement Area" shall mean those certain portions of Parcel 2 that are more particularly described in Exhibit B attached hereto and made a part hereof.

"Access Expenses" shall mean the reasonable costs and expenses of maintaining, repairing, and operating the Current Access Area and/or Access Easement Area. Access Expenses shall not include any amounts which would otherwise be included in Access Expenses which are paid to any Affiliate (as defined below) of the Parcel 1 Owner (as defined below) to the extent the costs of such services exceed the amount which would have been paid in the absence of such relationship for similar services of comparable level, quality and frequency rendered by persons of similar skill, competence and experience.

"Access Improvements" shall mean asphalt or concrete pavement, curbs, landscaping, directional signage, striping, lighting, utilities and other similar improvements constructed or installed in the Access Easement Area from time to time.

"Access Monument Sign" shall have the meaning set forth in Article VI.

"Affiliate" shall mean any person or entity controlling, controlled by, or under common control with, another person or entity. "Control" as used herein means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such controlled person or entity (the ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, at least fifty-one percent (51%) of the voting interest in, any person or entity shall be presumed to constitute such control).

"Business Days" shall mean Mondays through Fridays other than those days on which national banks are not open for business in the Commonwealth of Virginia.

"Current Access Area" shall mean the area on Parcel 1 and Parcel 2 identified on Exhibit E hereto which, as of the Effective Date, serves, and until such time as the Access Improvements are completed will serve, as the access to and from Gallows Road for Parcels 1 and 2.

"Current Access Improvements" shall mean the pavement, curbs, landscaping, directional signage, striping, lighting, utilities and other similar improvements existing in the Current Access Area as of the date hereof or constructed or installed from time to time.

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"First Class Standards" shall mean a quality that is equal to or in excess of the quality of similar facilities, services or improvements provided to or for the benefit of Class A office and/or luxury residential projects located in Fairfax County, Virginia.

"Governmental Authorities" shall mean the United States, the state, county, city and political subdivision in which the Parcels (as defined below) are located or which exercise jurisdiction over the Parcels or the Improvements (as defined below), and any agency, department, commission, board, bureau or instrumentality of any of them which exercises jurisdiction over the Parcels or Improvements, including, without limitation, the Virginia Department of Transportation.

"Improvement" or "Improvements" shall mean the buildings, structures, driveways, sidewalks and other improvements located on the Parcels from time to time.

"Initial Access Improvements" shall mean the Access Improvements to be constructed in the Access Easement Area in accordance with the Initial Development Plan and Section 3.2 hereof.

"Initial Development" shall mean the initial construction on Parcel 1 of Improvements that do not exist on Parcel 1 as of the Effective Date.

"Interest Rate" shall mean the lesser of (i) the rate per annum equal to the interest rate published from time to time as the prime rate in the Money Rates column of the Wall Street Journal (Eastern edition) (said rate to change on the first day of each calendar month) plus 300 basis points, or (ii) the then applicable maximum interest rate permitted to be charged by the laws of the Commonwealth of Virginia.

"Legal Requirements" shall mean any applicable law, statute, ordinance, order, rule, regulation, decree or requirement of a Governmental Authority and any other applicable public or private covenant, condition, restriction or other title matter affecting the Parcels as of the Effective Date.

"Mortgage" shall mean a lien, mortgage, deed of trust, deed to secure debt or other similar instruments securing the repayment of a debt to a bona fide third party (which is not an Affiliate of the borrower) and encumbering all or any portion of a Parcel or any interest (including any ground leasehold interest) therein; provided, however, that such term shall not include judgment or mechanic liens.

"Mortgagee" shall mean the mortgagee or beneficiary of a first lien Mortgage.

"Normal Business Hours" shall mean 7:00 a.m. to 7:00 p.m. on Business Days.

"Owner" shall mean the Person (as defined below) which is from time to time the record owner of fee simple title to any Parcel or any portion thereof, or the record lessee under any ground lease; provided, however, that such term shall not include any trustee under any Mortgage or any Mortgagee who may hold a lien against any such Parcel or leasehold interest under a ground lease pursuant to a Mortgage unless and until such party shall acquire record fee simple title or record leasehold title to any such Parcel through foreclosure, deed in lieu of foreclosure, or otherwise. A reference herein to "Owners" shall mean all Owners.

"Parcels" shall mean, collectively, Parcel 1 and Parcel 2.

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"Parcel 1 Owner" shall mean the Owner or Owners of Parcel 1 or any portion thereof, from time to time and as applicable.

"Parcel 2 Owner" shall mean the Owner or Owners of Parcel 2 or any portion thereof, from time to time and as applicable.

"Permittees" shall mean any Owner, and its tenants, licensees, invitees, subtenants or authorized occupants of any portion of a Parcel and/or the Improvements located thereon and the respective officers, directors, employees, agents, partners, contractors, subcontractors, customers, visitors, invitees, guests, licensees and concessionaires of any such Person.

"Person" or "Persons" shall mean individuals, partnerships, associations, corporations and any other forms of organization, or one or more of them, as the context may require.

"Substantial Completion of the Improvements" shall mean the completion of the applicable Improvement except for details of construction, decoration or mechanical adjustment that, in the aggregate, are minor in character and do not, either by their nature or because of the repair or completion work necessary, materially interfere with the intended use or enjoyment of the applicable Improvement, such that it would be reasonable under the circumstances for such Improvement to be made available for its intended use and completion of any such details would not unreasonably interfere with such use in due course after such Substantial Completion thereof. To "Substantially Complete" shall mean to bring the applicable Improvement to Substantial Completion.

"Taking" shall mean any taking or condemnation for public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or by voluntary conveyance in lieu thereof.

Section 1.2 Property Subject to this Declaration. Each Parcel or portion thereof and any right, title or interest therein shall be owned, held, leased, sold and/or conveyed by the existing Owners, and any subsequent Owner of all or any part thereof, subject to this Declaration and the covenants, conditions, restrictions, easements, charges and liens (except as set forth in Section 8.4 below) set forth herein; provided, however, that after Substantial Completion of the Improvements contemplated in the Initial Development Plan (as hereinafter defined), the following provisions of this Declaration shall no longer be applicable and no Parcel or any Owner thereof shall be subject to such provisions: (a) Article II; (b) Section 3.2(a); and (c) Section 11.5. Notwithstanding the foregoing, as to each of the outlot parcels described in Exhibit F attached hereto (each an "Outlot Parcel"), when such Outlot Parcel is conveyed to the owner of the property adjacent to said Outlot Parcel pursuant to the "Lincoln Property Company Southwest Inc. Proffers (R2 2003-PR-008)" dated March 11, 2004 applicable to Parcel 1 (and, in particular, proffers numbered 46 and 47), then such Outlot Parcel shall automatically be released from this Declaration.

Section 1.3 Applicability to Parcel 2. Nothing in this Declaration shall be construed to require any demolition, alteration, construction or reconstruction of any Improvement, any landscaping or grading, or any thing whatsoever on Parcel 2 except the work to be done by the Parcel 1 Owner pursuant to Article III hereof or to empower the Parcel 1

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Owner or any other party to require any such demolition, alteration, construction or reconstruction, or to restrict or prohibit the Parcel 2 Owner or the owner of any Improvement on Parcel 2 from demolishing, altering, rebuilding, restoring, repairing or reconstructing such Improvement following any casualty (whether partial or total) or from doing any other thing with Parcel 2 or the Improvements thereon.

ARTICLE II

CONSTRUCTION CONDITIONS AND RESTRICTIONS

Section 2.1 Conditions and Restrictions on Construction. Any and all construction activities on Parcel 1 and in the Access Easement Area shall be subject to the following conditions and restrictions:

(a) Diligent Completion of Construction. Subject to the last sentence of this Section 2.1(a), once commenced, demolition, alteration or construction of any Improvements on Parcel 1 or in the Access Easement Area, including, without limitation, demolition, alteration or construction connected with the Initial Development, shall be diligently pursued to completion as quickly as is commercially reasonable, subject to *force majeure*, so that it is not left in a partly finished condition any longer than is required by prudent construction practices. Notwithstanding anything to the contrary herein, the Initial Development may be constructed in phases, provided that once a phase is commenced, the Parcel 1 Owner of the phase under construction shall, subject to *force majeure*, pursue the construction of any Improvements commenced in such phase to final completion in accordance with the previous sentence or demolish said partially constructed improvements and promptly return the area substantially to the condition it was in prior to commencement of construction of said phase.

(b) Unobstructed and Safe Use of Access Easement. Throughout any period of construction on Parcel 1, the Parcel 1 Owner shall:

(i) subject to Section 3.3(c), not permit obstruction of the Parcel 2 Owner's use of the Access Easement or the Current Access Area as applicable; and

(ii) during hours of construction activity, post a traffic guard or guards on and/or in the vicinity of the Current Access Area and/or Access Easement Area as applicable in order to ensure the safety of all those using the Access Easement and, in all events, at least one such guard shall be posted during Normal Business Hours, when necessary or as determined by the Parcel 2 Owner, at the intersection of the Access Easement Area or the Current Access Area, as applicable, and Gallows Road.

(c) Vehicular Traffic. To the extent permitted by Legal Requirements, all vehicular traffic related to construction activities undertaken on Parcel 1 shall be diverted from the Access Easement Area or the Current Access Area, as applicable, onto an alternate path, road or other route on Parcel 1 as close to the Gallows Road end of the Access Easement Area or the Current Access Area, as applicable, as commercially reasonable so as to minimize the portion of the Access Easement Area and the Current Access Area, as applicable, that such vehicular traffic

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utilizes. The Parcel 1 Owner shall implement reasonable speed limits for such vehicular traffic so as to minimize the disturbance of dust and/or other airborne particles and to protect individuals and property from harm related to such vehicular traffic.

(d) Construction Parking. All vehicles utilized for or otherwise related to construction activities (including, without limitation, construction machinery and vehicles utilized by contractors, subcontractors and their employees and agents) shall be parked in a designated area on a portion of Parcel 1, and as far removed as feasible from Parcel 2.

(e) Minimization of Noxious Substances. During construction, the Parcel 1 Owner, shall minimize noise, odor and dust and/or other airborne particles, debris or any other thing that potentially may materially adversely affect Parcel 2, the Parcel 2 Owner or its Permittees.

(f) Utilities. The Parcel 1 Owner shall use all reasonable efforts not to interfere with the service of any utility, telecommunications services or systems or storm management systems that benefits Parcel 2 and, in all events, shall comply with the provisions of Article IV if any such interference is unavoidable.

(g) Correction or Mitigation of Adverse Effects. The Parcel 1 Owner at no cost or expense to the Parcel 2 Owner, shall use commercially reasonable efforts to mitigate to the extent possible and commercially reasonable any and all potentially material adverse effects on Parcel 2, the Parcel 2 Owner or its Permittees arising from or connected with construction activities on Parcel 1 and shall promptly remedy any material adverse effects on Parcel 2, the Parcel 2 Owner or its Permittees, as applicable, resulting from or in connection with such activities.

Section 2.2 Delivery of Plan Prior to Construction. On or before sixty (60) days prior to the commencement of any construction activities on its Parcel, the Parcel 1 Owner shall submit to the Parcel 2 Owner for its review and approval a detailed construction plan identifying how such Owner intends to comply with the restrictions set forth in Section 2.1 during such construction activities ("Plan"). The Parcel 2 Owner shall approve or disapprove such Plan within ten (10) business days after receipt thereof. In the event that the Parcel 2 Owner disapproves the Plan, which disapproval shall set forth in reasonable detail the reasons therefor, the other Owner shall revise the same within ten (10) days after receipt of the Parcel 2 Owner's disapproval of the Plan. Within ten (10) business days after receipt of the revised Plan, the Parcel 2 Owner shall approve or disapprove the same. In addition to its obligations under Section 2.1, the Parcel 1 Owner shall comply with the Plan as approved by the Parcel 2 Owner when conducting its construction activities on Parcel 1 and shall not commence such construction until the Parcel 2 Owner has approved the Plan. Prior to making any material change to the Plan, the Parcel 1 Owner shall submit such proposed changes to Parcel 2 Owner for its review and approval. If the Parcel 1 Owner constructs any Improvements in phases, it shall submit its Plan for each phase to the Parcel 2 Owner for its review and approval, unless such Plan has been previously approved by the Parcel 2 Owner.

Section 2.3 Delivery of Initial Development Plan Prior to Construction. Prior to execution of this Declaration, Parcel 1 Owner submitted to Parcel 2 Owner, and Parcel 2

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Owner has approved, the Conceptual/Final Development Plan dated March 11, 2004 (the "Initial Development Plan"). Prior to making any material change to the Initial Development Plan, the Parcel 1 Owner shall submit such proposed changes to the Parcel 2 Owner for its review and approval. The Parcel 2 Owner shall approve or disapprove any material changes to the Initial Development Plan within ten (10) days after receipt thereof. In the event that the Parcel 2 Owner disapproves any material changes to the Initial Development Plan, which disapproval shall set forth in reasonable detail the reasons therefor, the Parcel 1 Owner shall revise the same within ten (10) business days after receipt of the Parcel 2 Owner's disapproval of the Initial Development Plan. Within ten (10) business days after receipt of the revised Initial Development Plan, the Parcel 2 Owner shall approve or disapprove the same. In addition to its obligations under Section 2.1, the Parcel 1 Owner shall construct the Initial Development in accordance with the Initial Development Plan as approved by the Parcel 2 Owner.

ARTICLE III

ACCESS EASEMENT

Section 3.1 (a) Declaration of Access Easement. Subject to the provisions of this Declaration, Declarant hereby establishes and creates for the benefit of the Parcel 1 Owner and the Parcel 2 Owner and as an appurtenance to Parcel 1 and Parcel 2 a non-exclusive, perpetual easement over, upon, across and through the Access Easement Area (the "Access Easement") (i) for the purposes of pedestrian and vehicular ingress and egress between Gallows Road and the applicable Parcel, and (ii) for the purpose of constructing, operating, repairing, maintaining and (to the extent permitted herein) altering the Access Improvements.

(b) Declaration of Temporary Access. Until the Parcel 1 Owner has completed and opened the Initial Access Improvements for vehicular and pedestrian use in accordance herewith, the Declarant hereby establishes and creates for the benefit of the Parcel 1 Owner and the Parcel 2 Owner, and as an appurtenance to each of their Parcels, a non-exclusive easement over, upon, across and through the Current Access Area for the purpose of pedestrian and vehicular ingress and egress between the applicable Parcel and Gallows Road. Upon the termination of said temporary easement in accordance herewith, the temporary access easement established by that certain plat recorded at Deed Book 4800, Page 549 also shall be automatically terminated. If necessary, the Owners of the applicable Parcels shall record such documents as are reasonably necessary to confirm the termination or vacation of said temporary easement. The Parcel 1 Owner shall repair and maintain the Current Access Improvements until the Access Improvements are completed but shall not modify the Current Access Improvements or install new improvements within the Current Access Area without the prior consent of the Parcel 2 Owner, provided that such consent shall not be required to the extent any such modification of the Current Access Improvements or the installation of any new Improvements in the Current Access Area is contemplated in the Initial Development Plan.

Section 3.2 Construction, Operation, Maintenance and Alteration of Access Improvements.

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(a) Construction of the Initial Access Improvements will result in a loss of parking spaces on Parcel 2. Therefore, in connection with the construction of the Initial Access Improvements, the Parcel 1 Owner shall, at its sole cost and expense, and in a good and workmanlike manner and in accordance with Sections 2.1, construct for the benefit of the Parcel 2 Owner a sufficient number of parking spaces in the locations identified on Exhibit D-1 ("Relocated Parking") hereto to cause the number of parking spaces available on Parcel 2 to be the same following construction of the Initial Access Improvements as existed on Parcel 2 on the date hereof ("Existing Parking"). The Parcel 1 Owner shall construct the Relocated Parking in accordance with plans and specifications to be reasonably approved by the Parcel 2 Owner which plans and specification shall, at a minimum, conform with the Fairfax County Public Facility Manual except that the Relocated Parking shall be constructed with a 1 1/4 inch surface course, 3 inch base course and 8 inch compacted 21A subbase stone. In the event that the Parcel 1 Owner does not complete construction of the Relocated Parking before any of the Existing Parking becomes unuseable, the Parcel 1 Owner shall provide the Parcel 2 Owner with temporary parking spaces so that at all times the Parcel 2 Owner shall have access to and use of the same number of parking spaces it has as of the date hereof. Such temporary spaces shall be in the locations identified on Exhibit D-2 hereto, or in such other locations mutually acceptable to the Parcel 2 Owner and Parcel 1 Owner.

(b) In connection with the construction of the Initial Development, the Parcel 1 Owner shall, at its sole cost and expense, in a good and workmanlike manner (i) construct the Initial Access Improvements in accordance with (x) the requirements of Virginia Department of Transportation and the Fairfax County Public Facilities Manual as if such road was a public road provided that if there are any inconsistencies between the two, the more stringent standard shall apply and (y) plans and specifications approved by the Parcel 2 Owner in accordance with this Section 3.2(b) and (ii) install landscaping on the Access Easement Area and in that portion of Current Access Area that is not part of the Access Easement Area, based on plans and specifications reasonably acceptable to the Parcel 2 Owner which landscaping shall be deemed an Access Improvement. Prior to undertaking the construction of the Initial Access Improvements in accordance with the previous sentence, the Parcel 1 Owner shall submit to the Parcel 2 Owner, for its approval, the plans and specifications for such work and shall not commence such work until the Parcel 2 Owner has approved the same in accordance with the schedule set forth in Section 2.2. The Parcel 1 Owner shall Substantially Complete the installation of the Initial Access Improvements within eight (8) months after the commencement of construction of such improvements; provided, however, the Parcel 1 Owner shall not be obligated to lay the topcoat until twenty-four (24) months after commencement of construction of said improvements; and provided further that both time periods set forth in this sentence shall be extended day for day for each day of delay resulting from *force majeure*. If, at any time after construction activities related to the Initial Development commence, such construction activities cease for a period of more than ninety (90) days, including, without limitation, as a result of the completion of any phase of the Initial Development and a delay in the commencement of the next phase, the Parcel 1 Owner shall repair and restore, at the Parcel 1 Owner's sole cost and expense, the Access Easement Area, including, without limitation, any Access Improvements thereon, within thirty (30) days thereafter and otherwise in accordance with this Section 3.2. Thereafter when construction of the Initial Development resumes, upon Substantial Completion of any such work or any further interruption for more than ninety (90) days, the Parcel 1 Owner,

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at its sole cost and expense, shall again repave the Access Easement Area and, to the extent necessary, replace or repair the landscaping thereon, all subject to the provisions of this Section 3.2(b).

(c) The Parcel 1 Owner shall be obligated, for so long as the easement created pursuant to Section 3.1 exists, to repair and maintain the Current Access Easement and/or Access Easement Area, as applicable, in safe, clean, attractive and well-maintained condition and in accordance with First Class Standards, such maintenance to be done promptly and regularly and to include, but not be limited to, the following:

(i) Maintenance, repair and replacement of all paved surfaces, in a level, smooth, evenly covered and visually consistent condition;

(ii) Maintenance, repair and replacement of all curbs, curb cuts, gutters, walkways and retaining walls;

(iii) Maintenance, repair and replacement of all directional signs, markers (including, without limitation, any Access Monument Signs) and artificial lighting facilities (including, without limitation, the replacement of fixtures and bulbs);

(iv) Regular removal of all litter, trash, debris, waste, filth and refuse, including, without limitation, thorough sweeping of the Access Easement Area in order to keep the same in a clean and orderly condition at all times;

(v) Maintenance of all landscaping in a healthy, well-watered, well-pruned, mowed and attractive condition; and

(vi) Compliance with all Legal Requirements, including, without limitation, those related to health and safety, and all requests by Governmental Authorities made in accordance with Legal Requirements, including, without limitation, the Virginia Department of Transportation, provided that the Parcel 1 Owner shall notify the Parcel 2 Owner of any request by a Governmental Authority prior to undertaking such compliance (except in emergencies).

(d) The Parcel 1 Owner shall have the right, from time to time, to make changes in the Access Improvements and in the design (but not the location) thereof, subject to the prior written consent of the Parcel 2 Owner in accordance with the time periods set forth in Section 2.2, provided, however, (i) no such consent shall be required for any changes required by Legal Requirements or a Governmental Authority (unless various options are available, and then only as to which option is selected), (ii) any such changes must comply with Legal Requirements and be consistent with First Class Standards, and (iii) the Parcel 1 Owner shall use commercially reasonable efforts to ensure that throughout the time such changes are being made all parties entitled to use the Access Easement Area shall have continuous and reasonably unfettered access to the Access Easement Area and that such construction shall be completed in accordance with the provisions of Section 2.1.

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(e) Notwithstanding anything to the contrary contained herein, each Owner shall have the right to construct, at its sole cost and expense, access points and curb cuts on the Access Easement Area and/or to connect driveways, sidewalks, parking areas and other Improvements on such Owner's Parcel to the Access Easement Area without the other Owners' consent but with prior notice, so long as the orderly flow of vehicular and pedestrian traffic is not materially and adversely affected thereby, all work is done in accordance with all Legal Requirements and the Owners continue to have continuous and reasonably unfettered access to the Access Easement while such work is being conducted.

(f) The cost of the activities in subsection (c) shall be an Access Expense subject to Sections 3.5 and 3.6 below; provided, however, the cost of any capital improvements (other than costs incurred pursuant to Section 3.2(c)(ii) to the extent any such costs are deemed to be capital improvements), shall be solely the responsibility of the Parcel 1 Owner and not an Access Expense unless (x) (i) such cost is required to comply with a Legal Requirement or the request of a Governmental Authority and (ii) is not incurred as a result of or in connection with construction or any other activity on Parcel 1 or (y) such cost is pre-approved by the Parcel 2 Owner and the Parcel 2 Owner agrees when it provides such pre-approval to share the cost of such work. In all events and notwithstanding the foregoing, the Parcel 1 Owner shall be solely responsible for the costs and expenses of the Initial Access Improvements, including the Relocated Parking.

Section 3.3 No Walls, Fences or Barriers and Temporary Closure.

(a) No buildings, walls, fences or barriers of any sort or kind shall be constructed or erected on any Parcel by any Owner which would prohibit or materially impair the use or exercise of the Access Easement or, until the opening of the Initial Access Improvements for vehicular and pedestrian ingress and egress, of the Current Access Area.

(b) The Access Easement or a portion thereof may be dedicated to the public, provided that the Parcel 1 Owner and/or Parcel 2 Owner, as applicable, shall obtain the prior written consent of the other Owner prior to permitting any such dedication and further provided that the Parcel 2 Owner shall not bear any costs or expenses associated with such dedication. To the extent that all or any portion of the Access Easement is so dedicated, then the Parcel 1 Owner shall be relieved of its obligations to maintain the portion of the Access Easement that has been dedicated.

(c) The Parcel 1 and/or Parcel 2 Owner shall have the right to temporarily close a portion of the Access Easement Area or the Current Access Area for such reasonable periods of time as may be reasonably necessary for cleaning, repair, alteration, improvement or maintenance or as required for emergencies. Notwithstanding the foregoing, (i) before closing off any part of the Access Easement Area or Current Access Area as provided above (except for emergencies), the applicable Owner shall give at least ten (10) days' prior written notice to the other Owner of its intention to do so and shall coordinate its closing with the activities of the other Owner so that no unreasonable interference with the operation of the applicable easement occurs, (ii) any such closure shall be limited to the minimum period and minimum amount of

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closure reasonably necessary to achieve the applicable purpose and, to the extent reasonably feasible (except during emergencies), one drive lane shall be kept open for vehicular traffic, (iii) a safety guard or guards shall be placed on the Access Easement Area or Current Access Area, as applicable in order to facilitate the safe flow of traffic during any such closure and (iv) to the extent reasonably feasible (except for emergencies) any such closure shall not occur during Normal Business Hours.

Section 3.4 Hours of Operation. Subject to Section 3.3(c), the Current Access Area and, once constructed, the Access Improvements shall be open twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year, provided, that Parcel 2 Owner or Parcel 1 Owner, as applicable, shall temporarily close off the Access Easement Area or Current Access Area, as applicable, or a portion thereof for such reasonable periods of time as may be legally necessary to prevent the acquisition or creation of any prescriptive right by any Person or the public. Notwithstanding the foregoing, (i) before closing off any part of the Access Easement Area as provided above, the applicable Owner shall give at least ten (10) days' prior written notice to the other Owner of its intention to do so and shall coordinate its closing with the activities of the other Owner so that no unreasonable interference with the operation of the Access Easement occurs, (ii) any such closure shall be limited to the minimum period and minimum amount of closure reasonably necessary to prevent the acquisition or creation of any prescriptive right by any Person and, to the extent reasonably feasible, one drive lane shall be kept open for vehicular traffic, and (iii) to the extent reasonably feasible any such closure shall not occur during Normal Business Hours.

Section 3.5 Sharing of Access Expenses. Each Owner shall share in the Access Expenses based on the following: the Parcel 1 Owner shall pay 58.4% and the Parcel 2 Owner shall pay 41.6% of such Access Expenses.

Section 3.6 Calculation and Payment of Access Expenses.

(a) The Parcel 1 Owner shall keep accurate and complete books and records of all receipts and disbursements related to the operation, improvement, repair and maintenance of the Access Easement Area. Such books and records shall be available for inspection and copying by the other Owners during Normal Business Hours, and upon not less than five (5) days' prior written notice to the Parcel 1 Owner and shall be subject to any third party audit and/or inspection required by the other Owner, provided that no more than one (1) such audit and/or inspection shall be conducted during any calendar year. The Parcel 2 Owner shall continue to be obligated to make payments of its proportionate share of the Access Expenses required hereunder without offset or deduction notwithstanding the ongoing conduct of any such audit or inspection. The cost of any such third party audit or inspection shall be paid by the Owner requesting said audit; provided that if such audit reveals that the aggregate Access Expenses in a calendar year have been overstated by more than three percent (3%), the Parcel 1 Owner shall pay the cost of such audit.

(b) The Parcel 2 Owner shall reimburse the Parcel 1 Owner for its share of any Access Expenses pursuant to Section 3.5, within thirty (30) days after receipt of an invoice for the subject expense, provided that the Parcel 1 Owner shall provide sufficient documentation

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regarding any such expense to allow confirmation that such expense is an Access Expense and was incurred in accordance with the provisions of the Declaration. Any invoice not paid when due shall bear interest at the Interest Rate from the due date until paid.

Section 3.7 Name of Access Easement Area. Until such time as neither Science Applications International Corporation nor any of its Affiliates owns any of the Parcels or a portion thereof, the name of the street located on the Current Access Area or Access Easement Area, as applicable, shall be "Science Applications Court." Declarant expressly states that it is not assigning to the Parcel 1 Owner or any other party any legal rights that Declarant or its Affiliates may have to the use of the trade name "SAIC" or "Science Applications" or any terms or phrases incorporating the foregoing except to use the term Science Applications Court as part of its address. Notwithstanding anything to the contrary herein, in the event that the Parcel 2 Owner desires that the name of the street change from "Science Applications Court", the Parcel 1 Owner shall cooperate in such name change at no cost or expense to the Parcel 1 Owner.

ARTICLE IV

NON-INTERFERENCE WITH UTILITIES

Each Owner shall use all reasonable efforts not to interfere in any way with the service of any utility, telecommunication service or system (telephone, computer or other) or storm water drainage or detention system (including, without limitation, the telephone and data cables identified on Exhibit G hereto) that benefits any other Parcel without the prior written consent of the Owner of the affected Parcel. If such interference cannot be avoided, (i) the Owner who is responsible for such interference shall deliver prior written notice to the other Owner of the likelihood of such interference as long in advance as possible and, in all events, at least thirty (30) days prior to such work (except during emergencies), and shall coordinate such interference with the activities of the Owner of the affected Parcel so that no unreasonable interference occurs, (ii) any interference shall be limited to the minimum period and minimum extent reasonably possible, and (iii) to the extent reasonably feasible, any such interference shall not occur during Normal Business Hours (except during emergencies). At the request of any Owner, each Owner shall execute and record easements to allow the use of the telephone, data and other telecommunication cables referenced in this Article IV all in accordance with this Article IV.

ARTICLE V

STORM WATER EASEMENT; NEW STORM WATER FACILITIES

Section 5.1 Storm Water Easement For the Benefit of Parcel 2. There is hereby reserved in, over and across Parcel 1 for the benefit of Parcel 2:

(a) A non-exclusive, perpetual easement for storm water detention and drainage across that portion of Parcel 1 described in Exhibit C-1 attached hereto and made a part

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hereof ("Storm Water Easement Area"), including, without limitation, the right to install and repair underground pipes and tie into and utilize the sanitary and storm water sewers in or on the Storm Water Easement Area and downstream thereof, in accordance with Legal Requirements, provided that the Parcel 2 Owner shall promptly repair and restore the landscaping and any other Improvements on the Storm Water Easement Area or elsewhere on Parcel 1 that are damaged in connection with the Parcel 2 Owner's use of the easement granted herein. The Parcel 1 Owner shall be obligated to maintain the Storm Water Easement Area and any improvements for storm water detention and drainage located on Parcel 1 in compliance with all Legal Requirements. The Parcel 1 Owner shall have the right, at its sole cost and expense, to relocate the Storm Water Easement Area if such relocation is desirable in connection with any changes in the development of Parcel 1 so long as such relocation does not materially adversely affect storm drainage from Parcel 2.

(b) A non-exclusive, perpetual easement to compensatory storm water management capacity and Best Management Practices (BMPs) applicable in Fairfax County, Virginia as of the Effective Date sufficient to support Parcel 2 with (i) the Improvements located on Parcel 2 as of the Effective Date, (ii) any additional parking constructed thereon necessary to accommodate the parking requirements imposed by Legal Requirements for the Improvements located on Parcel 2 as of the Effective Date, and (iii) the Initial Access Improvements, on, over, across and under Parcel 1 and to the detention pond identified on Exhibit C-2 hereto, at no expense to the Parcel 2 Owner, provided that Parcel 2 Owner shall promptly repair and restore the landscaping and any other Improvements in such area or elsewhere on Parcel 1 that are damaged in connection with the Parcel 2 Owner's use of the easement granted herein, except to the extent resulting from the Initial Access Improvements which shall be shared by the parties as an Access Expense.

(c) The Parcel 1 Owner shall maintain the storm water detention and drainage systems provided for in subsections (a) and (b), provided that the Parcel 1 and 2 Owners shall share any cost or expense for such maintenance, including any cost and expense connected with compliance with a Legal Requirement, in proportion to the drainage flow into such detention system from each Parcel (excluding the flow from the Access Easement Area, if any) as determined by VTKA or another engineer mutually agreed upon by the Parcel 1 and Parcel 2 Owners, except that (i) the Parcel 2 Owner shall not be required to share in any fee, fine or levy resulting from the Parcel 1 Owner's failure to timely comply with any Legal Requirement or any costs resulting from or arising in connection with the development of Parcel 1, and (ii) the Parcel 1 Owner shall not be responsible for, or required to share in, any cost, expense, fee, fine or levy resulting from or arising in connection with the development of Parcel 2 (or any subsequent changes thereto) or any changes in Legal Requirements affecting Parcel 2 and not similarly affecting Parcel 1 (except to the extent relating to the Access Easement Area).

Section 5.2 Expansion or Installation of Storm Water Facilities.

In connection with the Initial Development or any subsequent development on Parcel 1, the Parcel 1 Owner, at its sole cost and expense and in accordance with Legal Requirements, shall (i) expand the existing detention pond in the Storm Water Easement Area and/ or (ii) install a new storm water management facility such that the then-existing facilities

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will continue to be sufficient to support Parcel 2 as required pursuant to Section 5.1. However, if any changes to Parcel 2 or the Improvements located thereon require the installation of additional facilities or the modification of then-existing facilities, then the Parcel 2 Owner shall be responsible for the cost and expense therefor; provided, however, that in no event shall the Parcel 1 Owner be obligated to expand or otherwise modify the Storm Water Easement Area in a manner that would reduce the amount of Parcel 1 that can be developed in accordance with the Initial Development Plan.

ARTICLE VI

MONUMENT SIGNAGE

Each Owner shall have the right, but not the obligation, to install one (1) monument sign ("Access Monument Sign"), at such Owner's sole cost and expense, in the area identified in Exhibit B in a specific location selected by such Owner in its reasonable discretion, provided that the Owners shall agree in advance on the size of any Access Monument Sign and the nature and size of the lettering and graphics thereon. Notwithstanding the previous sentence, the Parcel 2 Owner's sign may include the "SAIC" logo with blue lettering.

ARTICLE VII

MAINTENANCE AND OPERATION OF PARCELS

Subject to the Parcel 1 and Parcel 2 Owner's obligations pursuant to Section 3.2 and in addition to all other requirements set forth herein, each of the Parcel 1 and Parcel 2 Owners shall use reasonable efforts to maintain its Parcel at all times, including without limitation during construction activities thereon, in accordance with First Class Standards, including without limitation by keeping its Parcel clean and as free of debris as is reasonably possible.

ARTICLE VIII

REMEDIES

Section 8.1 Legal and Equitable Relief. The covenants, conditions, restrictions, reservations, easements and rights herein contained shall run with the land and shall be binding upon and inure to the benefit of each Owner, its respective successors and assigns, and all other persons, parties or entities claiming by, through or under any of the foregoing. In the event any Owner ("Defaulting Party") defaults in any of its obligations hereunder or in the event of any violation or threatened violation of this Declaration by a Defaulting Party or such Defaulting Party's Permittees and such Defaulting Party fails to cure such default or stop such

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violation or threatened violation within thirty (30) days after written notice from another Owner (the "Affected Party"), or if such default is not capable of being cured within such thirty (30)-day period, such Defaulting Party has not commenced the cure within such thirty (30)-day period and diligently pursued the completion of such cure, the Affected Party shall have the right to (i) institute legal action against the Defaulting Party for specific performance, injunctive relief, declaratory relief, damages, or any other remedy provided by law; provided, however, neither party shall be liable for consequential or punitive damages; (ii) recover damages for any such violation or default, and/or (iii) take self-help action to the extent and only to the extent permitted under Section 8.2 below. All remedies under this Declaration or at law shall be cumulative and not inclusive. As used herein, any reference to rights or remedies "at law" or "under applicable law" shall also include any rights or remedies "in equity".

Section 8.2 Right to Cure. In the event any Owner defaults under the provisions of this Declaration and such Owner fails to cure such default within the time period provided in Section 8.1 above, the Affected Party which sent the default notice shall have the right, but not the obligation, upon the expiration of such period, to cure such default for the account of and at the expense of the Defaulting Party. Prior to taking any such action, such Affected Party shall deliver thirty (30) days' prior written notice (which notice shall be in addition to the notice required under Section 8.1 hereof) to the Defaulting Party specifying with details the nature of the actions that such Affected Party giving such notice proposes to take in order to cure the claimed default. The Defaulting Party shall reimburse the Affected Party for expenses incurred by the Affected Party in connection with its exercise of its rights pursuant to this Section 8.2 within ten (10) days after an invoice therefor accompanied by appropriate supporting documentation for such costs.

Section 8.3 Interest. If any Affected Party so performs any of the Defaulting Party's obligations hereunder or if a Defaulting Party fails to make a payment under this Declaration to an Affected Party, the full amount of the cost and expense incurred by the Affected Party or the damage so sustained or the payment not made by the Defaulting Party to the Affected Party, as the case may be, shall immediately be due and owing by the Defaulting Party to the Affected Party and the Defaulting Party shall pay to the Affected Party upon demand the full amount thereof with interest at the Interest Rate from the date of payment (or in the case of a monetary default, the date such sum was due) until such payment is actually received by the Affected Party.

Section 8.4 Lien. The Affected Party is hereby granted a lien upon the Parcel of the Defaulting Party in the amount of any such payment made by the Affected Party or amount not paid by the Defaulting Party, pursuant to Sections 8.1, 8.2 or 8.3, together with interest at the Interest Rate thereon, which amount is not paid within thirty (30) days after demand is made, and said lien may be enforced by judicial foreclosure proceedings against the Defaulting Party's Parcel in accordance with then applicable Virginia law. The Affected Party shall have the right to file with the appropriate governmental office or offices a memorandum of lien, lis pendens or other notice or notices as may be required by law to give notice of such lien and the amount thereof, said notice or notices to be filed after the expiration of said thirty (30)-day period. The lien herein granted shall be prior to and superior to any other liens or encumbrances on the Defaulting Party's Parcel, including any liens arising or attaching before,

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on and/or after the date on which notice of such lien and the amount thereof is filed with the appropriate governmental office or offices, but excluding the lien held by a third party holder of a bona fide first lien Mortgage affecting the Defaulting Party's Parcel recorded prior to the date on which notice of such lien and the amount thereof is filed with the appropriate governmental office or offices (however, notwithstanding the foregoing, such lien created by this Article VIII shall expressly survive any foreclosure or other enforcement action taken under any such first lien Mortgage). Additionally, notwithstanding the foregoing, in no event shall the foreclosure or any other enforcement of such lien created by this Article VIII result in a termination of any lease of any portion of a Parcel or any Improvements thereon.

The holder of a Mortgage on all or any portion of a Parcel shall have the right to be subrogated to the position of the holder of any lien arising pursuant to this Article VIII affecting the property secured by its Mortgage upon payment of the amount secured by such lien.

Section 8.5 No Termination. A breach of this Declaration shall not entitle any party or person to cancel, rescind or otherwise terminate its obligations hereunder.

ARTICLE IX

MORTGAGEE PROTECTION

Each Affected Party giving a notice of default under this Declaration shall send, in accordance with Section 12.7 hereof, a copy of such notice to the Mortgagee under any Mortgage on the Parcel and/or Improvements of the Defaulting Party, provided such Mortgagee or Defaulting Party shall have previously sent such Affected Party a notice informing it of the existence of such Mortgage and the name of the person or officer and the address to which copies of the notices of defaults are to be sent, and such Mortgagee as recipient of notice pursuant to Section 12.7 below shall be permitted to cure any such default not later than sixty (60) days after a copy of the notice of default shall have been sent to such Mortgagee, provided that in the case of a default which cannot with diligence be remedied within such sixty (60)-day period, if such Mortgagee has commenced within such sixty (60)-day period and is proceeding with diligence to remedy such default, then such Mortgagee shall have such additional period as may be reasonably necessary to remedy such default with diligence and continuity, and during any such cure period the Affected Party shall forbear from exercising its remedy to enforce its lien against the Parcel of the Defaulting Party and/or Improvements thereon. Initiation of foreclosure proceedings against a Defaulting Party shall constitute "diligence" by a Mortgagee hereunder so long as such foreclosure proceedings are continuously pursued (provided that a stay issued during any bankruptcy, insolvency, or reorganization proceeding shall not be deemed to defeat continuous pursuance of such foreclosure proceedings). The foregoing requirements to give notice of default to a Mortgagee and allow such Mortgagee an opportunity to cure such default shall not preclude the exercise of any remedies by an Affected Party provided pursuant to Sections 8.2, 8.3 and 8.4 (except to the extent such Affected Party is required to forbear from exercising its lien pursuant to this Article IX). If a condominium association, a homeowners' association or another similar association has been established with respect to a Parcel or Parcels, then for purposes of this Article IX, an Affected Party giving a notice of default shall send such

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notice to the applicable association (or the declarant under the applicable operating documents if such association has not yet been established) in lieu of sending such notice to the Mortgagees (a "Unit Mortgagee") of the members (a "Unit Owner") of the applicable association. The association receiving such default notice shall have the right to cure any such default and/or send a copy of such default notice to the applicable Unit Mortgagee who shall have the right to cure such default.

ARTICLE X

ASSIGNMENT, TRANSFER AND MORTGAGE, LIMITATION OF LIABILITY

Section 10.1 Owner Not Released Except as Provided Herein

(a) If an Owner shall sell, transfer or assign all or any portion of its Parcel it shall (except as provided in this subsection (a) and, in the case of a ground lease, except as modified by Section 10.4), be released from its obligations hereunder with respect to such Parcel or portion thereof accruing from and after the date of such sale, transfer or assignment. It shall be a condition precedent to the release and discharge of any grantor or assignor Owner that the following conditions are satisfied: (a) such grantor or assignor shall give notice to the other Owners of any such sale, transfer, conveyance or assignment concurrently with the filing for record of the instrument effectuating the same (or in the case of a ground lease termination, within thirty (30) days after the termination thereof), and (b) the transferee shall execute and deliver to the other Owners a written statement in which (i) the name and address of the transferee shall be disclosed; and (ii) the transferee shall acknowledge its obligation hereunder and agreement to be bound by this Declaration and perform all such obligations applicable to it in accordance with the provisions of this Declaration. Failure to deliver any such written statement shall not affect the running of any covenants herein with the Parcels, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Declaration, but such failure shall constitute a default by the transferee hereunder. Notwithstanding anything to the contrary in this Section 10.1(a), the entity or entities to whom Declarant conveys Parcel 1 shall not have the right to sell, transfer or assign all or any portion of the Parcel without the prior written approval of Declarant until the earlier of (x) Substantial Completion of the Initial Development and (y) ten (10) years after the Effective Date; provided however, that nothing herein is intended to limit the Parcel 1 Owner's ability to transfer (I) all or any portion of the Parcel to an Affiliate, (II) if the Initial Development is completed in phases, any portion of the Parcel for which a phase has been finally completed to a third party; (III) all or any portion of the Parcel to an experienced, financially sound apartment, townhome, and/or condominium developer, having the reasonable ability to construct the improvements for its Parcel in accordance with this Declaration and applicable zoning approvals, subject to the Parcel 2 Owner's reasonable approval; or (IV) all or any portion of the Parcel to a Mortgagee (or otherwise prohibit said Mortgagee from exercising its remedies under a Mortgage including, without limitation, obtaining the Parcel through foreclosure or a deed-in-lieu). Any request submitted to the Parcel 2 Owner for approval shall be submitted with detailed information regarding the proposed purchaser or assignee and its plans for the Initial Development.

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(b) If any Parcel is sold or otherwise transferred (including via a ground lease), such transfers shall be subject to this Declaration and the transferees (including the lessee under any new ground lease and the lessor under a ground lease reacquiring possession upon termination of such ground lease) shall be bound by its transferor's obligations hereunder as fully as if such transferees were originally parties hereto, and such obligations shall run with and be binding upon the Parcels and be binding upon all subsequent Owners thereof, including any claims or liens arising under this Declaration against a prior Owner of a Parcel which shall continue as to any transferee of such Parcel. Notwithstanding anything to the contrary herein, in the event that all or any portion of Parcel 1 or Parcel 2 is subject to one or more condominium regimes, any and all such condominium regimes shall be subject and subordinate to this Declaration.

(c) In the event that a Parcel is divided into one or more separate legal lots, or condominiums, each of such separate legal lots shall thereafter be considered to be a "Parcel" as defined in this Declaration and the owners of each such legal lot shall be an "Owner"; provided, however, that, with respect to a condominium, the declarant under the condominium regime and, thereafter as appropriate under the applicable condominium operating documents, the condominium association, as opposed to the individual condominium unit owners, shall be considered the "Owner" hereunder, except as otherwise provided herein. Further, in the event that the multiple owners of a Parcel are members of a homeowner's association, the declarant under the operating documents of the homeowner's association and, thereafter, as appropriate under the applicable documents, the homeowner's association itself, as opposed to the individual members, shall be considered the "Owner" hereunder, except as otherwise provided herein and provided further that the association has the right and authority pursuant to the association's governing documents to undertake such obligations and to assess its members therefor without the approval of the members. In the event that a portion (but not all) of Parcel 1 or an interest therein is conveyed or otherwise transferred such that there is more than one Owner of the land that constituted Parcel 1 as of the Effective Date, then the Owners of such Parcel shall designate one of them who shall have authority to act on behalf of such Owners vis-à-vis the Owner of Parcel 2 and they shall notify the Parcel 2 Owner of said designee. Notwithstanding the foregoing, nothing herein shall affect any of the remedies available to the Parcel 2 Owner pursuant to Article VIII, including, without limitation, the right of self-help and the right to place a lien on the property of any Owner, including any owner of a condominium unit or member of a homeowner's association, pursuant to Section 8.4. No Owner of a legal lot(s) shall be obligated or liable for the acts or omissions of an Owner of another legal lot(s), and the obligations and liabilities of each Owner shall not be joint and several. Each Owner agrees that any claim or right (including lien rights) it may have against another Owner pursuant to this Declaration shall be made or asserted against the applicable Owner(s) and the applicable Parcel(s) whose actions or omissions are at issue. Notwithstanding anything to the contrary contained herein, in the event that the Parcel 1 Owner creates a master owner's association for Parcel 1 and such association has the obligation and authority pursuant to the association's governing documents to undertake the Initial Construction and Maintenance Obligations and has the ability to assess its members therefor without the approval of the members ("Master Association"), the Parcel 2 Owner shall assert any claims or right that the Parcel 2 Owner may have arising from or relating to the Initial Construction and Maintenance Obligations against the Master Association. Until a Master Association satisfying the requirements of the previous sentence is created, the Owners of

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Parcel 1 shall be jointly and severally liable for the Initial Construction and Maintenance Obligations. As used herein, "Initial Construction and Maintenance Obligations" shall mean only the obligations of the Parcel 1 Owner pursuant to Article 3, the expansion of the existing storm water detention pond pursuant to Section 5.2, and the obligation of the Parcel 1 Owner to maintain the Current Access Area, Access Easement Area and Storm Water Easement Area as set forth in this Declaration.

Section 10.2 Possessory Party Remains Responsible. Notwithstanding anything to the contrary herein contained, if any Owner shall (i) convey all or any portion of its Parcel in connection with a sale and leaseback or lease and sublease back, and it shall simultaneously become vested with a leasehold estate or similar possessory interest in its Parcel by virtue of a lease made by the grantee or lessee, as the case may be, or (ii) shall convey all or any portion of its Parcel or its interest therein by way of a Mortgage and retain its possessory interest in its Parcel, then, in neither of such events shall the assignee of this Declaration under such sale and leaseback or lease and sublease back, or the Mortgagee or beneficiary under any such Mortgage, be deemed to be an Owner with respect to such Parcel or portion thereof or to have assumed or be bound by any of such Owner's obligations hereunder for so long as such Owner shall retain such possessory interest, and such obligations and the status as an Owner hereunder with respect to such Parcel or portion thereof shall continue to remain solely those of such Owner so long as such Owner retains such possessory interest, and performance by such Owner of any act required to be performed under this Declaration by it or fulfillment of any condition of this Declaration by such Owner shall be deemed the performance of such act or the fulfillment of such condition and shall be acceptable to the Owners with the same force and effect as if performed or fulfilled by such assignee, lessor, subsequent Owner or Mortgagee or beneficiary.

Section 10.3 Rights of Parties. Notwithstanding anything to the contrary contained in this Declaration, each Owner may mortgage its Parcel or its interest therein and/or sell and leaseback or lease and sublease back its Parcel or its interest therein, and, in connection with any such transaction, assign its interest in this Declaration. If any such Mortgage is foreclosed or a deed delivered in lieu of foreclosure, or if any Owner shall have entered into a sale and leaseback or a lease and sublease back transaction involving its Parcel and any such Owner is the lessee or sublessee thereunder and such lessee or sublessee shall be deprived of possession of such Parcel by reason of its failure to comply with the terms of such leaseback or sublease back, any person or entity who has acquired, or shall thereafter acquire, title to such Parcel or a leasehold estate therein shall hold the same subject to all other terms, provisions, covenants, conditions and restrictions contained in this Declaration.

Section 10.4 Ground Leases. If any Owner of fee simple title to a Parcel has entered into, or shall enter into, a ground lease of its entire Parcel, then the lessee under such ground lease shall be deemed to be the Owner of such Parcel and to have assumed or be bound by any and all of such Owner's obligations (including, if applicable, the obligation to serve as the Parcel 1 Owner) hereunder for so long as such lessee shall be the lessee under such ground lease, and such obligations and the status as an Owner hereunder shall continue to remain solely those of such lessee so long as such lessee shall be the lessee under such ground lease. The lessor under any such ground lease shall not be the Owner of the Parcel, and shall not have any of the rights or obligations of an Owner hereunder until such time as the ground lease terminates or

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expires, provided, that such lessor shall, at no cost or expense to such lessor, cooperate in good faith with the lessee if the involvement of the lessor is reasonably necessary under the circumstances. Upon such termination or expiration of such ground lease, the lessor thereunder shall become the Owner of the Parcel subject to and bound by the terms of this Declaration.

Section 10.5 Limitation of Liability. No Owner or its partners, venturers, employees, shareholders, affiliates, officers, directors, agents, representatives, advisors, or consultants shall have any personal liability for its or their failure to perform any covenant, term or condition of this Declaration, it being expressly declared that any money judgment recovered against any Owner shall be satisfied only out of, and the sole and exclusive recourse of any Owner damaged as a result of such default shall be against, the right, title and interest of such Owner in the Parcel involved and the Improvements thereon, including the proceeds of sale received upon execution of such judgment thereon, against the right, title and interest of such Owner in the Parcel involved and the Improvements thereon and the rents or other income or revenue from such property receivable by such Owner or the consideration received by such Owner from the sale or other disposition (including a condemnation) of all or any part of such Owner's right, title and interest in the Parcel involved and Improvements thereon or the insurance proceeds received by such Owner respecting any casualty affecting the Improvements.

Section 10.6 Priority of Declaration. This Declaration and the rights, interests, liens (subject to the provisions of Section 8.4 above), and easements created hereunder shall be prior and superior to any Mortgage or other lien upon or against any Owner's Parcel other than such liens as by law have priority over the lien and operation of this Declaration.

ARTICLE XI

GENERAL INSURANCE AND CONDEMNATION PROVISION

Section 11.1 Waiver of Subrogation. EACH OWNER HEREBY WAIVES ANY AND ALL CLAIMS WHICH ARISE, OR MAY ARISE, IN ITS FAVOR AGAINST ANY OTHER OWNER, FOR ANY AND ALL LOSS OF, OR DAMAGE TO, ANY OF ITS PROPERTY, INSURABLE UNDER ALL RISK POLICIES OF INSURANCE CUSTOMARILY AVAILABLE AT THE APPLICABLE TIME.

Section 11.2 Insurance.

(a) Each Owner shall continuously maintain separate policies of commercial general liability insurance issued by and binding upon insurance companies authorized to transact business in Virginia and of good financial standing and has a Best's Rating of A or better and a Financial Size Category of X or larger, such insurance to afford minimum protection of not less than \$10,000,000 in respect of bodily injury or death and/or property damage in respect of any one occurrence.

(b) Each Owner shall, on the request of another Owner, promptly furnish the requesting Owner a certificate evidencing the former Owner's compliance with the insurance

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coverage requirements of this Article XI. No Owner shall be required during any given 365-day period to honor more than one such request from each other Owner, unless an Owner states its reason for believing that a policy may have been cancelled. Upon request, any Owner shall permit any other Owner or its representative at such requesting Owner's cost and expense to inspect and copy any insurance policy required under this Article XI. Such inspection shall be at the place of business of the Owner requested to produce such policy or policies during Normal Business Hours.

(c) The limits of coverage required hereunder shall be adjusted from time to time throughout the term of this Declaration by agreement of all Owners, each acting reasonably, to limits then applicable for comparable projects.

(d) Each Owner (but not the declarant or association, as applicable, under a condominium regime) shall have the right, at its option, to comply with and satisfy its obligations under this Article XI by means of any so-called blanket policy or policies of insurance covering this and other locations of such Owner, provided that such policy or policies by the terms thereof shall allocate to the liabilities to be insured hereunder an amount not less than the amount of insurance required to be carried pursuant to this Article XI and shall not diminish the obligations of the particular Owner to carry insurance, so that the proceeds from such insurance shall be an amount not less than the amount of proceeds that would be available if the Owner were insured under a policy applicable only to the applicable Parcel.

(e) If a condominium association, a homeowners' association or another similar association has been established with respect to a Parcel or Parcels, then for purposes of maintaining the insurance required under this Section 11.2, the term "Owner" shall mean the applicable association (or the declarant under the applicable operating documents if such association has not yet been established) instead of the individual members of the applicable association provided that the association has the right and authority pursuant to the association's governing documents to undertake such obligations and to assess its members therefor without the approval of the members.

Section 11.3 Indemnification by Owners. Subject to Section 11.1 hereof, each Owner shall defend, indemnify and save the other Owners harmless against and from all claims, loss, damages, costs and expenses (including, without limitation, reasonable attorney's fees) because of bodily injury or death of persons or destruction of property resulting from or arising out of such Owner's construction on and/or use, occupancy or possession of its Parcel, the Access Easement Area, the Access Easement, the Current Access Area, the Overflow Parking and/or any other Owner's Parcel, except to the extent caused by the acts or omissions of another Owner.

Section 11.4 Taking. If a Taking affecting any Parcel occurs, the following shall apply:

(a) any award of compensation or damages for a Taking of a Parcel, or any portion thereof, or the Improvements thereon, shall belong and be payable solely to the Owner

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that owns the Parcel taken and no other Owner shall share in such award, except as expressly provided below;

(b) any proceeds attributable to the Access Easement Area, any Access Improvement or any Access Monument Sign shall be paid to the Parcel 1 Owner and the Parcel 1 Owner shall use such proceeds to restore the Access Improvements or Access Monument Sign as nearly as possible to its condition immediately prior to such Taking to permit the continued use thereof. To the extent the cost of restoring such Access Improvements or Access Monument Sign exceeds the amount of proceeds available therefor, (i) as to the Access Improvements, each Owner shall be responsible for such excess in the same proportion as each such Owner is obligated to pay the Access Expenses pursuant to Section 3.5 and (ii) the Owner whose Access Monument Sign was taken as to any Access Monument Sign shall be responsible for such excess; and

(c) if, as a result of a Taking, the Access Easement is extinguished or materially impaired or the Access Monument Sign may no longer be maintained, then changes shall be made to provide an access easement and/or appropriate monument signage rights comparable to the extent commercially practicable under the circumstances to the Access Easement and monument signage rights created or reserved under this Declaration.

Section 11.5 Tax Payments and Contests. Each Owner shall pay all taxes, assessments, use and occupancy taxes, water and sewer charges, rates and rents, charges for public utilities, excess levies, license and sales and permit fees and taxes, and other charges by public authority, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which shall be assessed, levied, charged, confirmed, imposed or applicable to a Parcel owned by such Owner or Improvements thereon. Each of the Owners may, at its expense, by appropriate proceedings, and after thirty (30) days' written notice to the other Owners, contest the validity, applicability, or amount of any such taxes and assessments applicable to its Parcel or Improvements thereon. Such contest must be made in good faith and must not allow the affected Parcel to be forfeited or placed in jeopardy of being forfeited.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Covenants Run with the Land. All of the provisions, rights, powers, easements, covenants, conditions and obligations contained in this Declaration shall be binding upon and inure to the benefit of the Owners, their respective successors and assigns. Each covenant to do or refrain from doing some act on each Parcel hereunder (a) is for the benefit of the other Parcels, (b) runs with each Parcel, and (c) shall benefit or be binding upon each successive Owner during its period of ownership of each Parcel.

Section 12.2 Recordation. This Declaration shall become effective and binding upon the Owners and their respective successors in interest upon the Effective Date and shall be promptly recorded in the real property records of Fairfax County, Virginia.

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Section 12.3 Termination and Amendment.

(a) Except as otherwise specified in this Declaration (including, without limitation Section 12.17 which may be terminated by the Parcel 1 Owner alone), this Declaration may be canceled, changed, modified or amended in whole or in part only by written and recorded instrument executed by all Owners (and their respective Mortgagees); provided, however, that with respect to any Parcel for which a condominium association, a homeowners' association or another similar association has been established, the consent of a majority of the Unit Owners of each such association (and their respective Mortgagees) shall satisfy the requirements of this Section 12.3(a).

(b) The Owners shall use reasonable efforts to cooperate to consider reasonable modifications to this Declaration at the request of another Owner, and it shall not be reasonable for an Owner to withhold its cooperation or consent to any modification that neither adversely affects in a material manner such Owner's development or use of its respective Parcel as permitted in this Declaration nor increases such owner's obligations and/or liabilities hereunder.

Section 12.4 Approvals. Whenever approval or consent is required of any Owner, unless provision is made for a specific time period, approval or consent shall be required within twenty (20) Business Days after such Owner's receipt of the written request for approval or consent and such Owner shall be deemed to have consented if such Owner does not reply within said twenty (20)-Business Day period (provided such notice conspicuously states in bold letters that failure to respond within such twenty (20)-Business Day period shall be deemed consent). Whenever time periods are specified for approval herein (other than in the previous sentence) and the applicable Owner does not respond within the stated time period, the Owner requesting a response shall, at the end of the stated time period, deliver a second request for response in which event the responding Owner shall have ten (10) Business Days from receipt of the requesting Owner's second notice to respond. The responding Owner shall be deemed to have consented if such Owner does not reply within said ten (10)-Business Day period (provided such request or notice conspicuously states in bold letters that failure to respond within such ten (10)-Business Day period shall be deemed consent). If an Owner shall disapprove any matter as to which its consent is requested hereunder, the reasons therefor shall be stated in reasonable detail in writing. The consent or approval by an Owner to or of any act or request by any Owner shall not be deemed to waive or render unnecessary consent or approval to or of any similar or subsequent acts or requests. Except as otherwise expressly provided herein, any consent or approval rights granted to an Owner pursuant to this Declaration as it relates to another Owner shall be exercised in such Owner's reasonable discretion, without undue delay or conditions.

Section 12.5 Excusable Delays. Whenever performance is required of any Owner hereunder, that Owner shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, unavailability of labor or materials or damage to work in progress by reason of fire or other casualty or cause beyond the reasonable control of an Owner (financial inability,

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imprudent management or negligence excepted), the inability to obtain necessary governmental approvals, the discovery of hazardous materials or a failure of an Owner to timely act in a manner required herein, then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused. As used in this Declaration, an Owner's obligation to use or act with "due diligence," "diligent efforts" or words of similar meaning or import, or take any action required to "diligently complete," "diligently pursue" or words of similar meaning or import, shall be deemed satisfied if such Owner acts with or uses commercially reasonable efforts under the circumstances.

Section 12.6 Severability. Invalidation of any of the provisions contained in this Declaration, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect, unless enforcement of this Declaration as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Declaration.

Section 12.7 Notice. Any notice to any Owner shall be in writing and given by delivering the same to such Owner in person, by expedited, private carrier service (such as Federal Express), or by sending the same by registered or certified mail, return receipt requested, with postage prepaid to the Owner's mailing address. Copies of certain notices are required to be sent to Mortgagees pursuant to Article IX of this Declaration. Notices shall be sent to the Declarant and the Parcel 2 Owner as follows:

Declarant/Parcel 2 Owner: Campus Point Realty Corporation
10260 Campus Point Drive
San Diego, California 92121
Attn: SAIC Corporate Real Estate

and with a copy to: Gary E. Humes
Arnold & Porter
555 Twelfth Street, N.W.
Washington, DC 20004-1206

Any Owner may change its mailing address at any time by giving written notice of such change to the other Owners in the manner provided herein at least ten (10) days' prior to the date such change is to be effective. Additionally, each Owner may designate up to two (2) additional addresses to which copies of all notices shall be sent. All notices under this Declaration shall be deemed given, received, made or communicated on the date personal delivery is effected, or if mailed, on the delivery date or attempted delivery date shown on the return receipt, provided that any such notice set forth above is tendered prior to 6:00 P.M. in the time zone where the recipient of such notice is located on any Business Day (failing which such notice shall be deemed given, received, made or communicated on the next Business Day).

Section 12.8 Litigation Expenses. If any party shall bring a legal or equitable proceeding against any other party to this Declaration by reason of the breach or alleged violation of any covenant, condition, restriction, easement, term or obligation hereof, or for the

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enforcement of any provision hereof or otherwise arising out of this Declaration, the prevailing party in such proceeding shall be entitled to recover from the non-prevailing party the reasonable costs, fees and expenses (including, without limitation, reasonable attorneys' fees) incurred by such prevailing party in connection with such proceeding, which shall be payable whether or not such action is prosecuted to judgment.

Section 12.9 Governing Law; Place of Performance. This Declaration and all rights and obligations created hereby shall be governed by the laws of the Commonwealth of Virginia, without reference to the choice of laws principles thereof.

Section 12.10 Non-Merger. The ownership, at any time during the term of this Declaration, of more than one Parcel by the same Owner shall not create a merger of title or estate, or other merger, including any merger of the dominant and servient estate with respect to easements created in this Declaration, and shall therefore not terminate any of the easements, restrictive covenants, or other terms or provisions of this Declaration.

Section 12.11 Term; Termination. The terms, covenants, provisions and conditions of this Declaration shall be effective as of the Effective Date and shall continue to be binding upon and inure to the benefit of any Owner from time to time and all persons, parties and entities claiming by, through or under any of them in perpetuity unless all persons or entities having an interest therein shall agree to terminate or otherwise modify the same.

Section 12.12 Time. Time is of the essence of this Declaration and each and every provision hereof.

Section 12.13 Estoppel Certificate. Any Owner may, at any time and from time to time, deliver written notice to any other Owner requesting such other Owner to certify in writing (a) that to the best knowledge of the certifying Owner, the requesting Owner is not in default in the performance of its obligations under this Declaration, or, if in default, to describe therein the nature and amount of any and all defaults, and (b) to such other reasonable matters as the requesting Owner may request. Each Owner receiving such request shall execute and return such certificate within ten (10) Business Days following the receipt thereof. Such certificate may be relied upon by actual or prospective purchasers, investors, tenants, transferees, lenders, mortgagees, deed of trust beneficiaries and leaseback lessors.

Section 12.14 No Partnership, Joint Venture or Principal-Agent Relationship. Neither anything in this Declaration nor any acts of an Owner shall be deemed by the Owners, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between the Owners (except as expressly set forth herein), and no provisions of this Declaration are intended to create or constitute any person or entity a third party beneficiary hereof.

Section 12.15 Headings; Exhibits; Gender. Captions in this Declaration are for convenience of reference only, and shall not be considered in the interpretation of this Declaration. All exhibits referenced in this Declaration are incorporated in this Declaration by this reference as if fully set forth herein. Whenever required by the context, the singular shall

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include the plural, the neuter gender shall include the male gender and female gender, and vice versa.

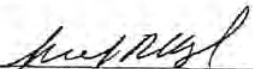
Section 12.16 Separate Parcel 1 Covenants. The initial owner of Parcel 1, after Declarant, shall have the right, from time to time and without the consent of the Parcel 2 Owner, to record separate covenants benefiting and/or burdening Parcel 1 and the owners thereof provided such covenants are and remain subordinate to this Declaration and do not impact the liabilities or obligations set forth herein.

Section 12.17 Overflow Parking Spaces. The Parcel 2 Owner shall provide to the Parcel 1 Owner, for the benefit of the residents of Parcel 1, the right to use a minimum of 150 parking spaces on Parcel 2 during non-business hours on weekdays (i.e. after 6:00 p.m.) and on weekends ("Overflow Parking"). Prior to the sale or rental of the first housing units on Parcel 1, the Parcel 1 Owner or the Master Association shall establish, subject to the reasonable approval of the Parcel 2 Owner, reasonable rules and regulations for the use of the Overflow Parking. The Master Association (or, before there is a Master Association, the Parcel 1 Owner) shall enforce such rules and regulations. If the Parcel 1 Owner or the Master Association, as applicable, fails to establish and/or enforce such rules and regulations, in addition to any other remedies that may be available to it, the Parcel 2 Owner shall have the right to terminate the Parcel 1 Owner's right to use the Overflow Parking by sending a notice to the Parcel 1 Owner and, if the Parcel 2 Owner so elects, recording the same in the land records.

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IN WITNESS WHEREOF, the undersigned has executed and acknowledged this Declaration to be effective as of the Effective Date.

CAMPUS POINT REALTY CORPORATION,
a California corporation

By: 
Name: FREDERICK HARMAN
Title: PRESIDENT

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ACKNOWLEDGMENT

State of California }

County of San Diego }

On January 25, 2005, before me, Mary E. Hyder, Notary Public, personally appeared Frederick R. Hazard, personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(~~ies~~), and that by his/her/their signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Mary E. Hyder
Signature of Notary



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EXHIBITS:

Exhibit A-1	Description of Parcel 1
Exhibit A-2	Description of Parcel 2
Exhibit B	Access Easement Area (and Access Monument Sign Area)
Exhibit C-1	Storm Water Easement Area
Exhibit C-2	Storm Water Detention Ponds
Exhibit D-1	Relocated Parking
Exhibit D-2	Temporary Parking
Exhibit E	Current Access Area
Exhibit F	Outlot Parcels
Exhibit G	Telephone and Data Cables

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REVISED JANUARY 25, 2005
JANUARY 20, 2005

EXHIBIT A-1A
DESCRIPTION OF
PARCEL 1A
THE RESERVE AT TYSONS CORNER
BEING
A PORTION OF
THE PROPERTY OF
CAMPUS POINT REALTY CORPORATION,
as successor in interest to
CAMPUS POINT REALTY CORPORATION, II
DEED BOOK 11073 PAGE 890
PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA

Being a portion of the property described in a conveyance to Campus Point Realty Corporation, successor in interest to Campus Point Realty Corp., II as recorded in Deed Book 11073 at Page 890 all among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning for the same at a point on the southwesterly corner of Tysons Executive Village as recorded in Deed Book 9777 at Page 1353 among the aforementioned Land Records, said point also being on the northerly line of Lot 9, Courthouse Station (Deed Book 7195 Page 438); thence running with a portion of Courthouse Station

1. North 79°10'45" West, 417.85 feet to a point being the southeasterly corner of Courts of Tyson (Deed Book 6020 Page 699); thence leaving Courthouse Station and running with Courts of Tyson and continuing so as to cross and include a portion of the aforesaid property of Campus Point Realty Corp II the following eleven (11) courses and distances:
2. North 10°50'42" East, 515.46 feet to a point; thence
3. North 11°48'13" West, 264.60 feet to a point; thence
4. North 79°09'07" West, 449.29 feet to a point; thence
5. 58.12 feet along the arc of the curve to the right having a radius of 37.00 feet and a chord bearing and distance of North 34°09'07" West, 52.33 feet to a point; thence

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McLean, VA Germantown, MD

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6. North 10°50'53" East, 128.62 feet to a point; thence
7. North 79°09'07" West, 192.48 feet to a point; thence
8. South 64°49'49" West, 21.66 feet to a point; thence
9. South 10°50'53" West, 57.89 feet to a point; thence
10. North 79°09'07" West, 58.98 feet to a point; thence
11. South 10°50'53" West, 102.68 feet to a point; thence
12. North 79°09'07" West, 27.40 feet to a point lying on the easterly right of way line of Gallows Road – Route 650 (width varies); thence running with a portion of said easterly right of way line
13. 52.71 feet along the arc of the curve to the left having a radius of 416.60 feet and a chord bearing and distance of North 06°56'31" West, 52.68 feet to a point; thence
14. 46.73 feet along the arc of a curve to the right having a radius of 35.54 feet and a chord bearing and distance of North 27°08'36" East, 43.43 feet to a point; thence departing Gallows Road and running so as to cross and include a portion of the subject property (Deed Book 11073 Page 890) the following nine (9) courses and distances
15. South 21°00'02" West, 19.05 feet to a point; thence
16. South 62°49'39" East, 13.72 feet to a point; thence
17. North 27°10'21" East, 46.73 feet to a point; thence
18. North 64°49'49" East, 240.41 feet to a point; thence
19. 125.73 feet along the arc of a curve to the right having a radius of 200.00 feet and a chord bearing and distance of North 82°50'21" East, 123.67 feet to a point; thence
20. South 79°09'07" East, 424.76 feet to a point; thence
14. 175.26 feet along the arc of a curve to the right having a radius of 168.00 feet and a chord bearing and distance of South 48°15'58" East, 167.42 feet to a point; thence
15. South 19°22'46" East, 121.31 feet to a point; thence
16. North 73°33'08" East, 169.34 feet to a point on the westerly right-of-way line of Interstate Route 495 (variable width right-of-way); thence running with Interstate Route 495 the following three (3) courses and distances

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17. South $16^{\circ}26'52''$ East, 64.26 feet to a point of curvature; thence
18. 423.65 feet along the arc of a curve to the right having a radius of 11,809.16 feet and a chord bearing and distance of South $11^{\circ}28'32''$ East, 423.63 feet to a point; thence leaving said Interstate Route 495 and running with the westerly line of the aforementioned Tysons Executive Village the following course and distance
19. South $10^{\circ}54'22''$ West, 485.88 to the point of beginning containing 540,309 square feet or 12.40379 acres of land.

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ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ GPS SERVICES



REVISED JANUARY 25, 2005
JANUARY 20, 2005

EXHIBIT A-1B
DESCRIPTION OF
PARCEL 1B
THE RESERVE AT TYSONS CORNER
BEING
A PORTION OF
THE PROPERTY OF
CAMPUS POINT REALTY CORPORATION,
as successor in interest to
CAMPUS POINT REALTY CORPORATION, II
DEED BOOK 11073 PAGE 890
PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA

Being a portion of the property described in a conveyance to Campus Point Realty Corporation, successor in interest to Campus Point Realty Corp., II as recorded in Deed Book 11073 at Page 890 all among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning for the same at a point lying on the easterly right of way line of Gallows Road - Route 850 (width varies), said point also marking the northwesterly corner of the Courts of Tysons (D.B. 6020, Pg. 699); thence leaving said northwesterly corner and running with said easterly right of way line of Gallows Road the following three (3) courses and distances

1. North $11^{\circ}10'53''$ East, 142.86 feet to a point of curvature (non-tangent); thence
2. 43.43 feet along the arc of a curve to the left having a radius of 209.00 feet and a chord bearing and distance of North $17^{\circ}08'03''$ East, 43.36 feet to a point of compound curvature; thence
3. 105.42 feet along the arc of a curve to the left having a radius of 416.60 feet and a chord bearing and distance of North $03^{\circ}55'54''$ East, 105.13 feet to a point; thence leaving the aforesaid right of way line of Gallows Road and running so as to cross and include a portion of the aforesaid property of Campus Point Realty Corp II, the following eleven (11) courses and distances;
4. South $79^{\circ}09'07''$ East, 27.40 feet to a point; thence

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5. North $10^{\circ}50'53''$ East, 102.68 feet to a point; thence
6. South $79^{\circ}09'07''$ East, 58.98 feet to a point; thence
7. North $10^{\circ}50'53''$ East, 57.89 feet to a point; thence
8. North $64^{\circ}49'49''$ East, 21.66 feet to a point; thence
9. South $79^{\circ}09'07''$ East, 192.48 feet to a point; thence
10. South $10^{\circ}50'53''$ West, 128.62 feet to a point; thence
11. 58.12 feet along the arc of the curve to the left having a radius of 37.00 feet and a chord bearing and distance of South $34^{\circ}09'07''$ East, 52.33 feet to a point; thence
12. South $79^{\circ}09'07''$ East, 449.29 feet to a point; thence
13. South $11^{\circ}48'13''$ East, 264.60 feet to a point; thence
14. South $10^{\circ}50'42''$ West, 53.81 feet to a point marking the northeasterly corner of the aforesaid Courts of Tysons (D.B. 6020, Pg. 699); thence running with the northerly line of said Courts of Tysons
15. North $79^{\circ}09'07''$ West, 877.50 feet to the point of beginning containing 289,077 square feet or 6.63629 acres of land.

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REVISED JANUARY 26, 2005
 REVISED JANUARY 25, 2005
 JANUARY 20, 2005

EXHIBIT A-2
 DESCRIPTION OF
 PARCEL 2
 RESERVE AT TYSONS CORNER
 BEING
 A PORTION OF
 THE PROPERTY OF
 CAMPUS POINT REALTY CORPORATION,
 as successor in interest to
 CAMPUS POINT REALTY CORPORATION, II
 DEED BOOK 11073 PAGE 890
 PROVIDENCE DISTRICT
 FAIRFAX COUNTY, VIRGINIA

Being a portion of the property described in a conveyance to Campus Point Realty Corporation, successor in interest to Campus Point Realty Corp., II as recorded in Deed Book 11073 at Page 890 all among in the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning for the same at a point on the southeasterly corner of 1951 Kidwell LP as recorded in Deed Book 9093 at Page 755 among the aforementioned Land Records, said point also being on the southerly right-of-way line of Interstate Route 495 (variable width right-of-way); thence running with Interstate Route 495 the following four (4) courses and distances

1. South 15°00'02" East, 152.09 feet to a point; thence
2. South 45°45'10" East, 458.38 feet to a point; thence
3. South 24°08'10" East, 256.84 feet to a point; thence
4. South 16°26'52" East, 344.89 feet to a point; thence leaving the aforementioned southerly right-of-way line of Interstate Route 495 and running so as to cross and include a portion of the aforementioned property of Campus Point Realty Corp. II the following nine (9) courses and distances
5. South 73°33'08" West, 169.34 feet to a point; thence
6. North 19°22'46" West, 121.31 feet to a point; thence

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VIKA Incorporated
 8180 Greensboro Drive, Suite 200 ■ McLean, VA 22102 ■ (703) 442-7800 ■ Fax (703) 761-2787
 McLean, VA ■ Germantown, MD ■ Leesburg, VA

BK 16927 2231

7. 175.26 feet along the arc of a curve to the left having a radius of 168.00 feet and a chord bearing and distance of North 49°15'58" West, 167.42 feet to a point; thence
8. North 79°09'07" West, 424.76 feet to a point; thence
9. 125.73 feet along the arc of a curve to the left having a radius of 200.00 feet and a chord bearing and distance of South 82°50'21" West, 123.67 feet to a point; thence
10. South 64°49'49" West, 240.41 feet to a point; thence
11. South 27°10'21" West, 46.73 feet to a point; thence
12. North 62°49'39" West, 13.72 feet to a point; thence
13. North 21°00'02" East, 19.05 feet to a point; thence running with Gallows Road, State Route 650 (width varies) and continuing with Kidwell Drive, State Route 736 (width varies) the following seven (7) courses and distances
14. North 51°51'56" East, 20.02 feet to a point; thence
15. South 64°51'20" West, 19.51 feet to a point; thence
16. North 32°24'41" West, 19.61 feet to a point; thence
17. North 11°10'32" East, 133.61 feet to a point of curvature (non-tangent); thence
18. 153.62 feet along the arc of a curve to the left having a radius of 50.00 feet and a chord bearing and distance of North 20°45'35" East, 99.94 feet to a point of reverse curvature; thence
19. 21.16 feet along the arc of a curve to the right having a radius of 25.00 feet and a chord bearing and distance of North 42°55'44" West, 20.54 feet to a point; thence
20. North 11°10'32" East, 636.22 feet to a point; thence leaving Kidwell Drive – Route 736 and running with southerly line of the aforementioned 1951 Kidwell LP the following three (3) courses and distances
21. South 78°19'06" East, 102.25 feet to a point; thence
22. North 73°31'20" East, 167.84 feet to a point; thence
23. South 89°58'51" East, 123.97 to the point of beginning containing 640,580 square feet or 14.70570 acres of land.

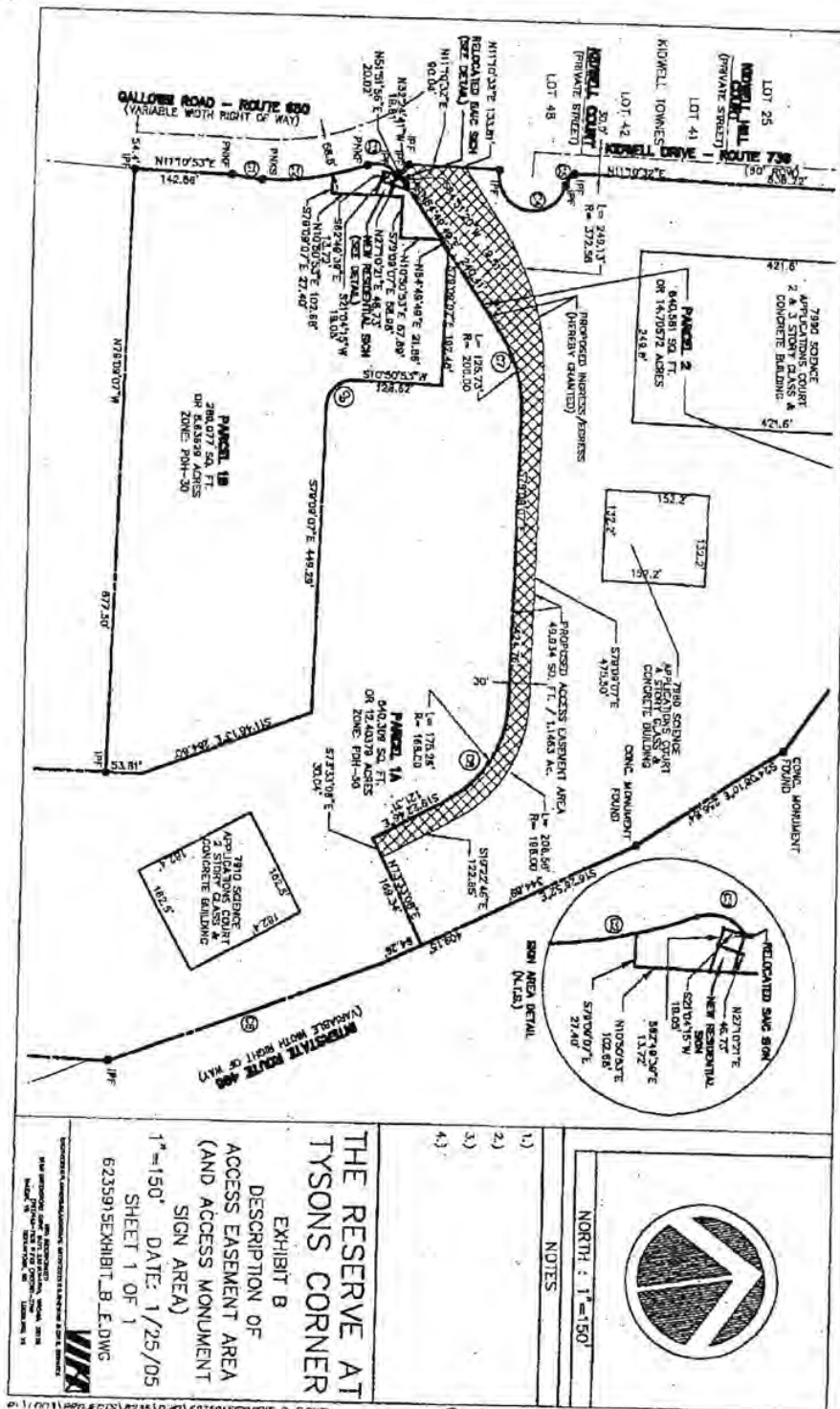
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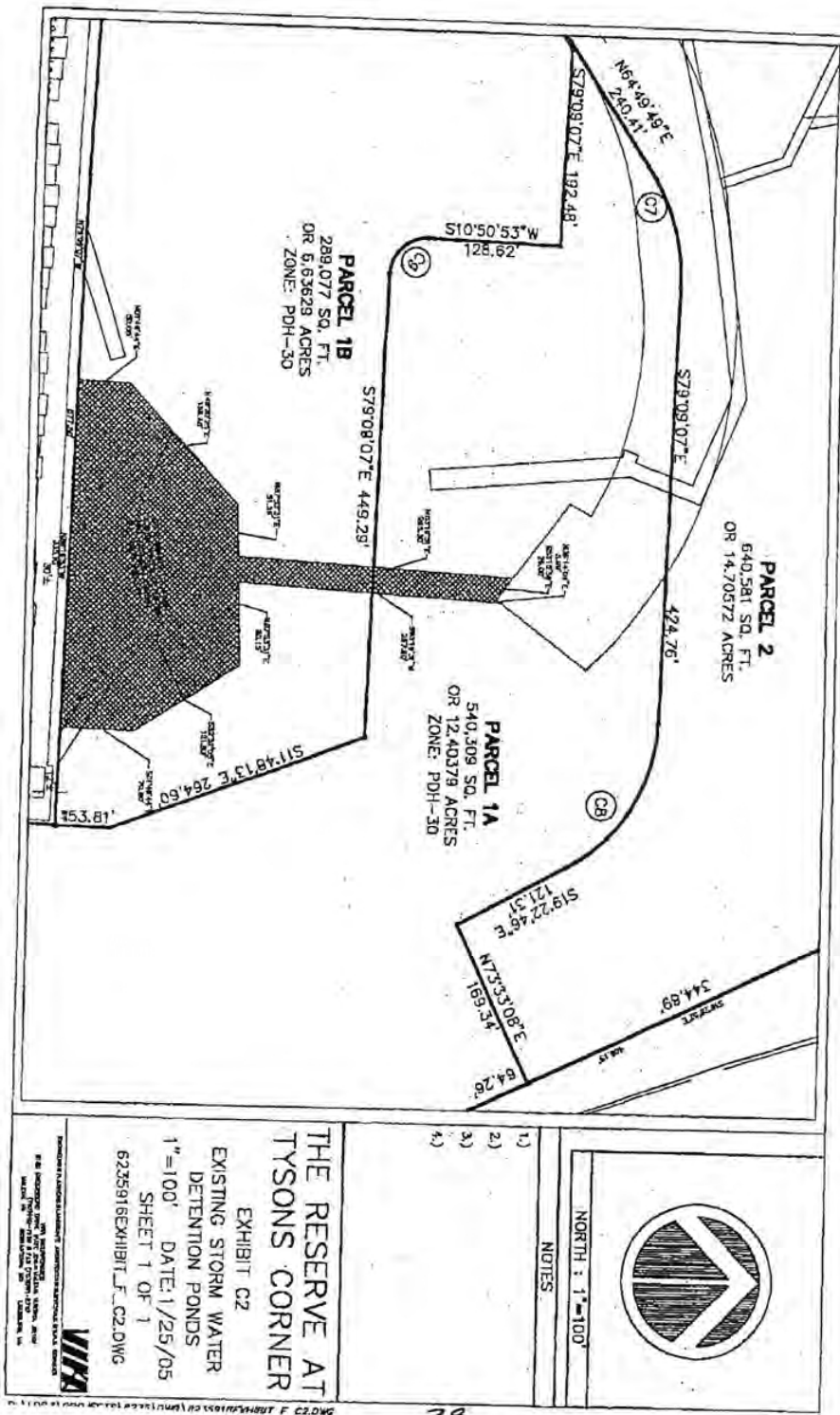
VIA

Plat Attached

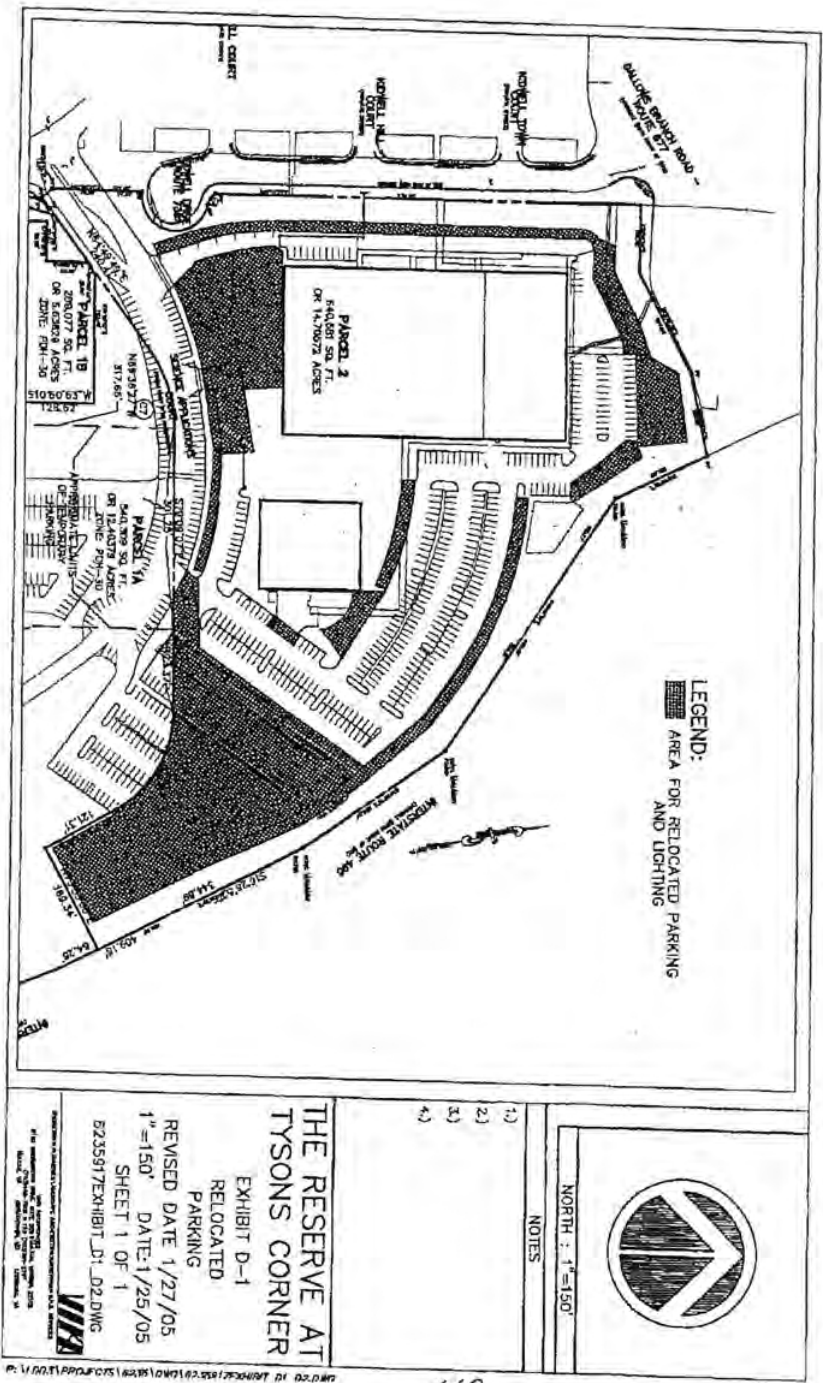
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 BOOK 1 PAGE 3
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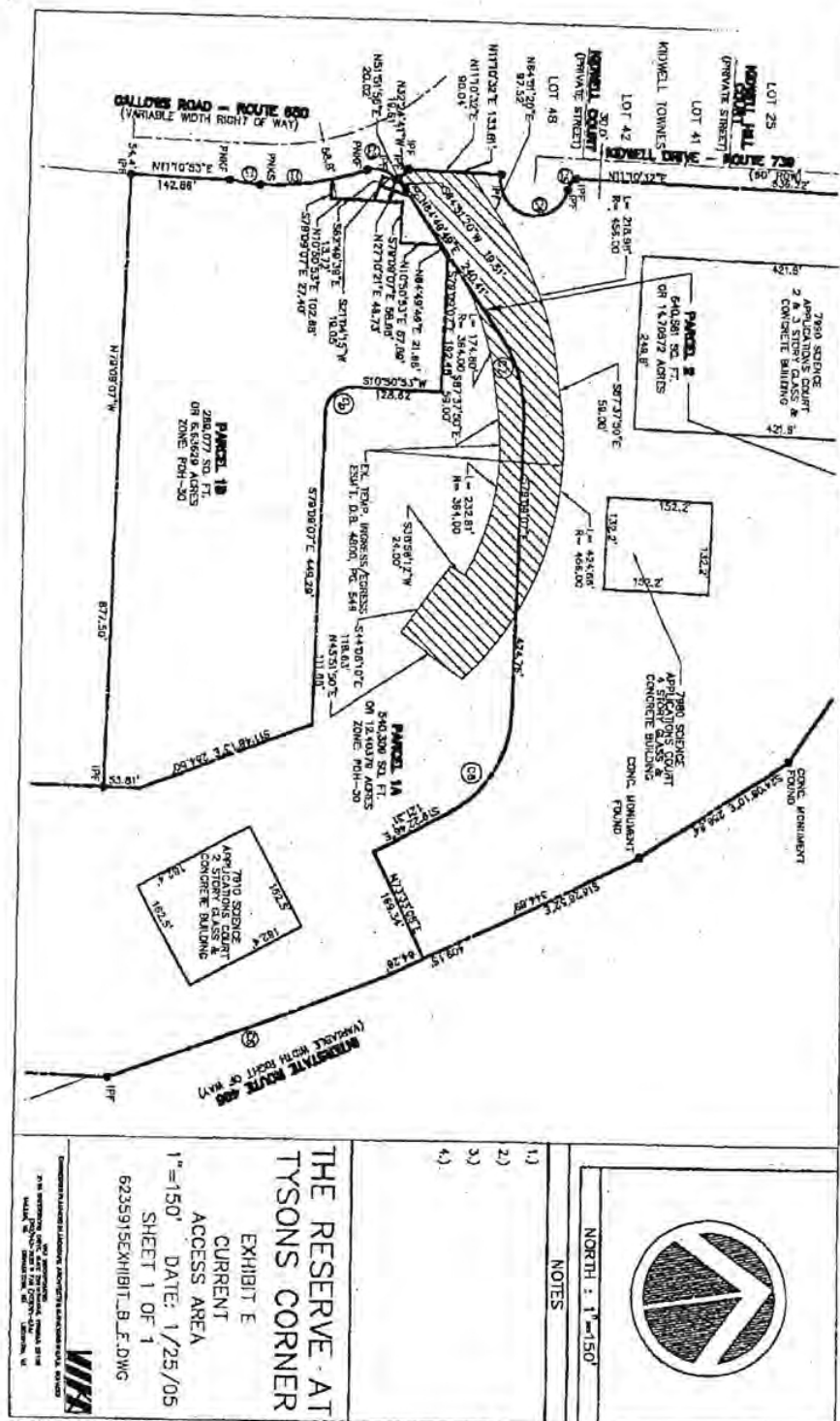




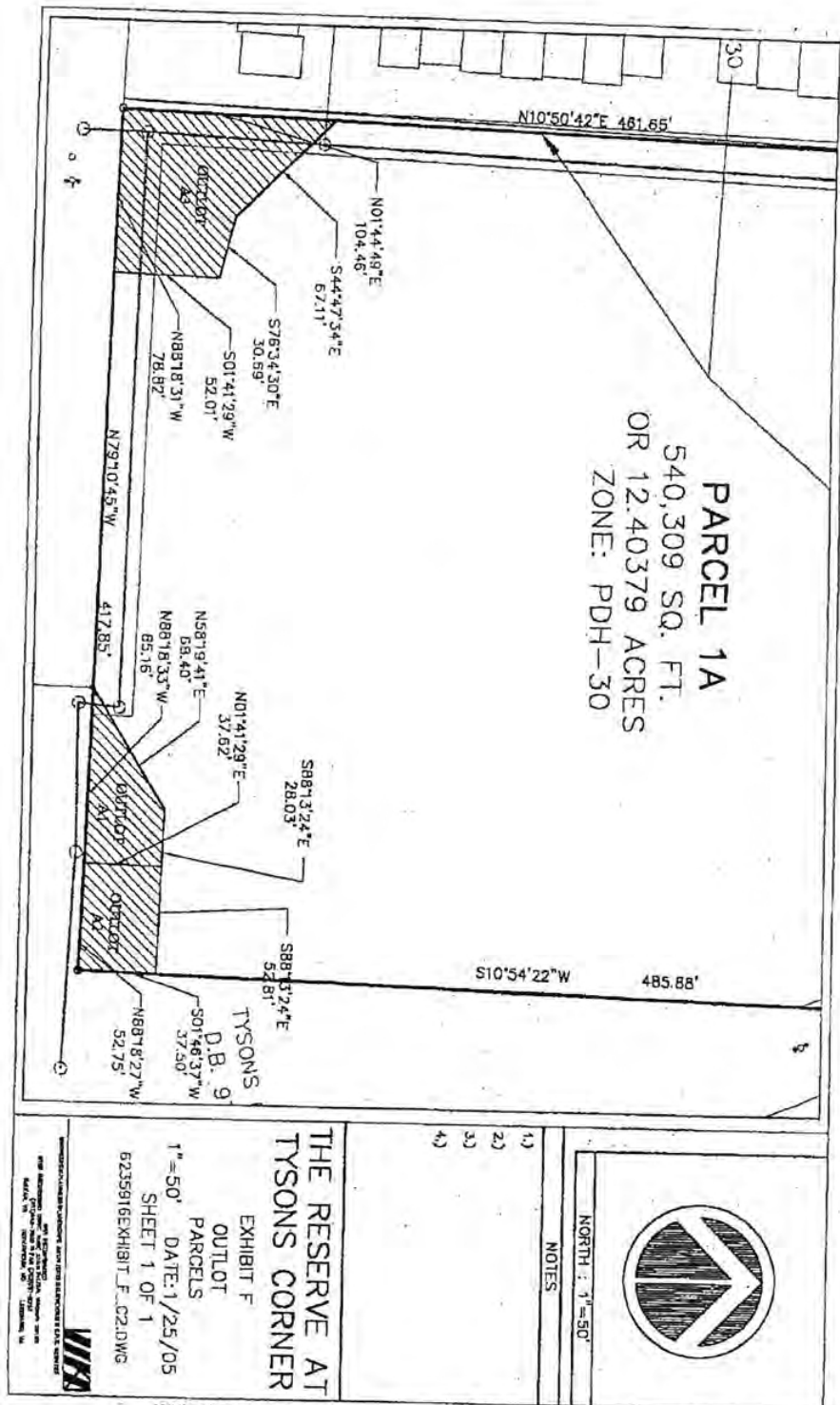
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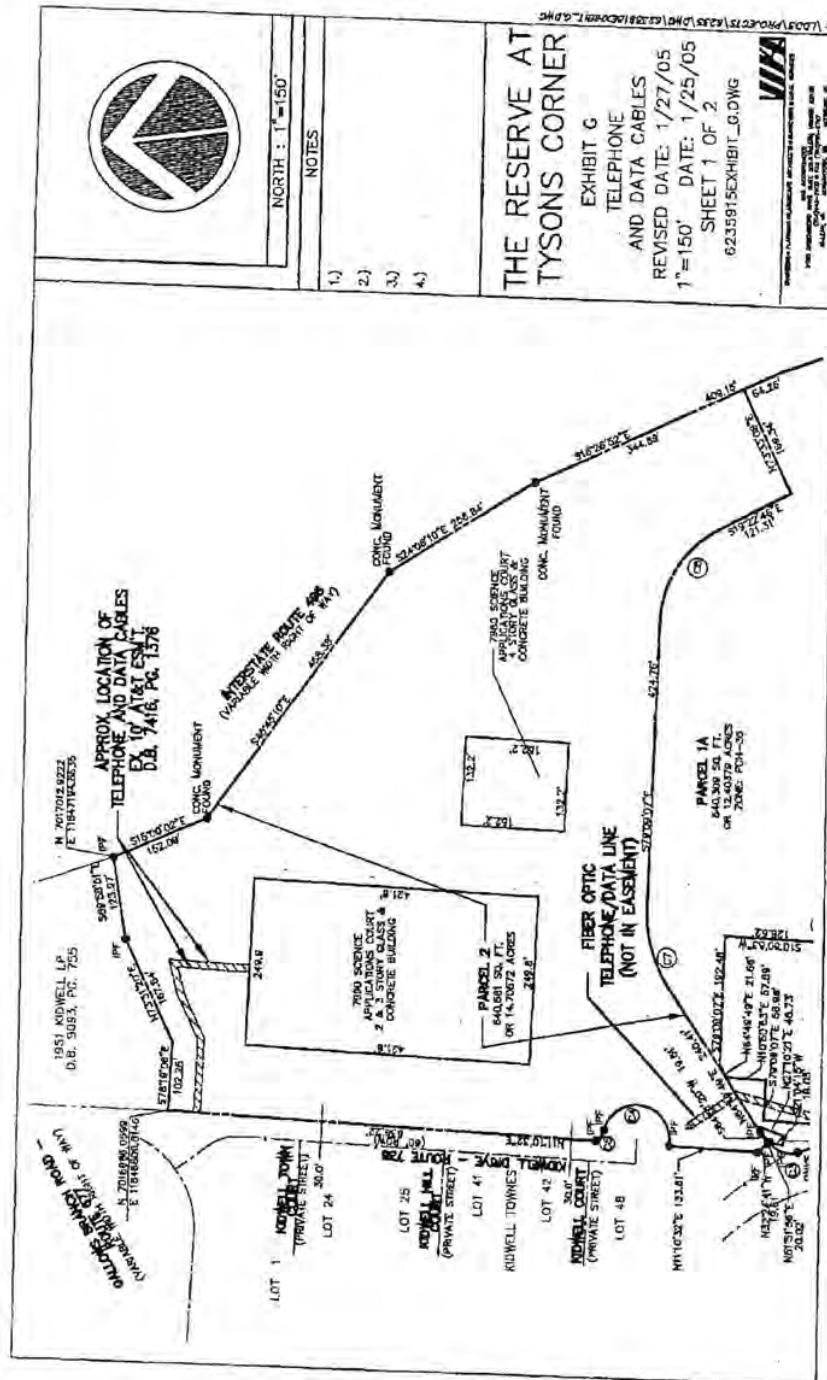


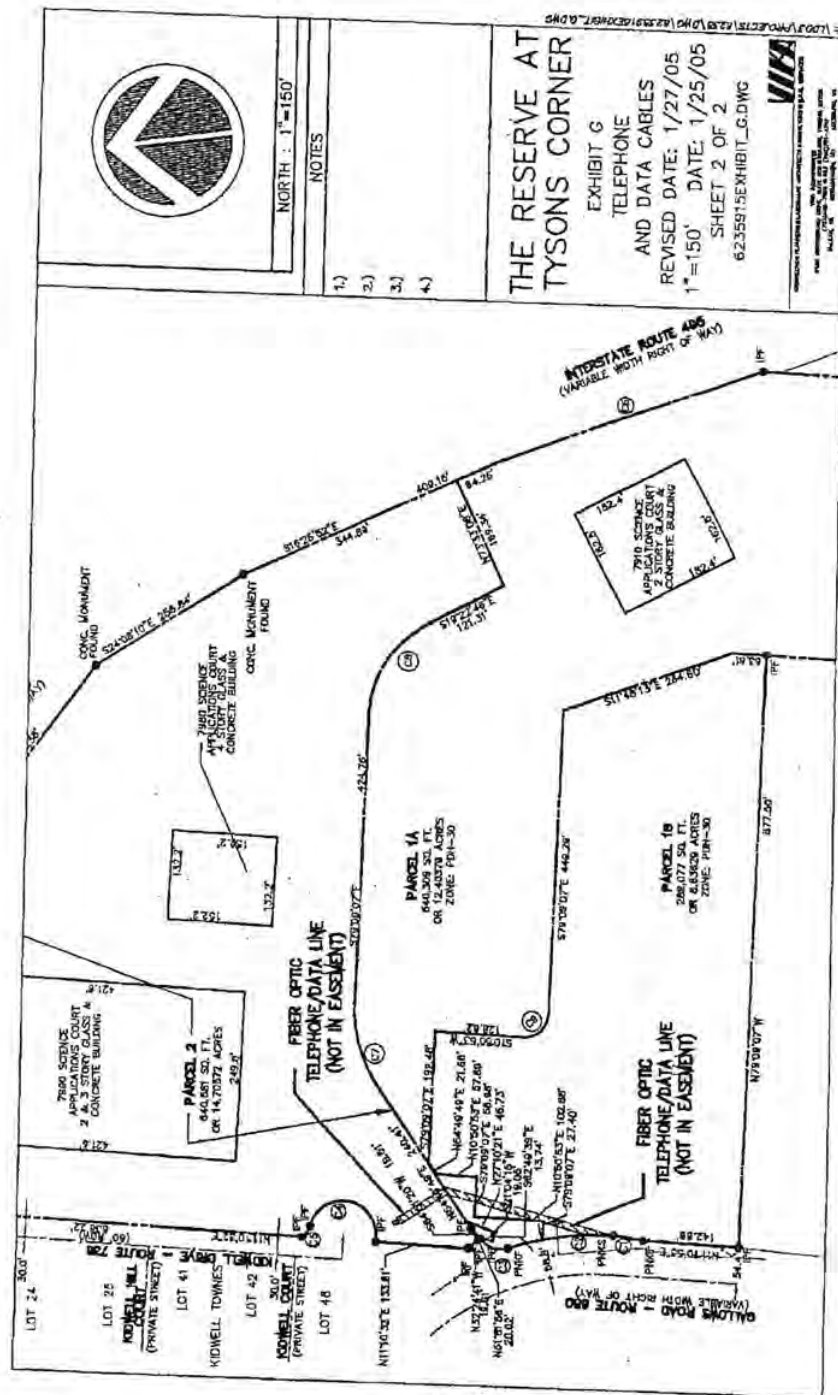




BK 16927 2238









Lucia Anna Trigiani, Esq.
MercerTrigiani
112 South Alfred Street
Alexandria, VA 22314



Re: Interpretation for RZ/FDP 2003-PR-008; The Reserve at Tysons Corner; Tax Map Numbers 39-2 ((56)) A1, B3, 1-92, 39-2 ((1)) 13A5 and A6: Parking Obligation

Dear Ms. Trigiani:

This determination is in response to your letter of December 22, 2016, requesting an interpretation of the proffers, as well as the approved development conditions and Conceptual/Final Development Plan (C/FDP), accepted and approved in conjunction with the above-referenced application. As I understand it, you are requesting an interpretation of proffer language relating to parking on an adjacent offsite parcel. Specifically, your request concerns whether the proffers accepted in RZ/FDP 2003-PR-008 create a continuing obligation to provide offsite parking on an adjacent property (aka the "Meridian Property"). This determination is based upon your letter dated December 22, 2016, and Exhibit 1, entitled "Proffers RZ 2003-PR-008" dated March 14, 2004. Copies of this letter and exhibits are attached.

The subject property is located on the east side of Kidwell Drive, south of Leesburg Pike, west of Interstate 495 and south of Science Applications Court. The property is zoned PDH-30 pursuant to the approval of RZ 2003-PR-008 by the Board of Supervisors on March 15, 2004, with the Planning Commission approving FDP 2003-PR-008 on April 7, 2004, subject to proffers and development conditions. These applications permitted development of the property with 92 single-family attached and 478 multi-family dwelling units.

Prior to the approval of RZ/FDP 2003-PR-008, the subject property was part of a larger 33.74-acre property identified as Tax Map Number 39-2 ((1)) Parcel 13. This larger property was originally zoned to the I-P District (now I-3) pursuant to the approval of RZ 75-7-004 by the Board of Supervisors on October 29, 1975, subject to proffers. In 2003, two concurrent applications were submitted by Lincoln Property Company Southwest, Inc., in order to develop a portion of this overall property with the residential development described above. PCA 75-7-004-02 was submitted and approved on the entire 33.74 acres in order to delete 19.04 acres from RZ 75-7-004. RZ/FDP 2003-PR-008 was then approved, subject to proffers, to rezone that same 19.04 acres of land to the PDH-30 District. As the property included in all these applications was under single ownership, the proffers for both applications were signed by the same owner, Campus Point Realty Corporation II. The proffer at issue, however, was approved only in connection with the rezoning

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035-5000



Lucia Anna Trigiani
Page 2

of the 19.04-acre parcel. Subsequent to the approval of RZ/FDP 2003-PR-008, the property subject to RZ/FDP 2003-PR-008 was subdivided from the larger property via approved site plans and record plats.

The proffer at issue with your current request is Proffer 49 of RZ 2003-PR-008, which envisioned the provision of 150 overflow parking spaces on the Meridian Property. Proffer 49 states:

Prior to the approval of the final site plan on the Application Property¹, the Applicant shall provide evidence that a parking agreement is in place with the owners of the adjacent I-3 parcel identified as Tax Map 39-2 ((1)) part 13, permitting overflow parking from the Application Property to utilize parking facilities on the I-3 parcel. A minimum of 150 overflow parking spaces shall be available to all residents of the Application Property during non-business hours on weekdays (after 6:00 pm) and on weekends. This parking agreement shall be recorded in the land records of Fairfax County.

It appears, through submitted plans for the subject property, that compliance with Proffer 49 was demonstrated to Fairfax County through the recordation of a parking agreement in the land records of Fairfax County. You state that you believe the Declaration of Covenants, Restrictions and Easements recorded on January 28, 2005 in Deed Book 16927 at Page 2195 in the Fairfax County land records is the document meant to satisfy Proffer 49—specifically, Section 12.17 of the Declaration of Covenants, Restrictions and Easements as it relates to Overflow Parking Spaces.

The 150 overflow parking spaces were to be located offsite from the 19.04 acres zoned PDH-30, on the portion which retained its I-3 zoning - the Meridian Property (Tax Map Numbers 39-2 ((1)) 13D and 13E), which is currently owned by Tysons Enterprise West LLC and Tyson Enterprise East LLC, and is developed with two existing office/data center buildings and surface parking. In accordance with PCA 75-7-003-3 and SE 2015-PR-021, the Meridian Property will be redeveloped, in part, with a full-size athletic field and parking garage. You now state that the Reserve at Tysons Corner Association Board has been notified that the prior owner of the Meridian Property seeks to terminate the parking agreement with the Association.

In accordance with Section 18-201 of the Zoning Ordinance (“Ordinance”), Board of Supervisors approval of a rezoning application constitutes a permanent (unless further amended) amendment to the Zoning Map. Further, per Section 18-204, any proffered conditions submitted as part of the rezoning application and accepted by the Board of Supervisors become “part of the zoning regulations applicable to the subject property in question, unless subsequently changed by an amendment to the Zoning Map.” Therefore, an approved rezoning and accepted proffers become a part of the Zoning map only for the subject property included in the application, in this case the 19.04 acres described in the application for RZ/FDP 2003-PR-008. Proffer 49 was a commitment

¹ Proffer #1 associated with RZ 2003-PR-008 states that “Development of the Application Property shall be in substantial conformance with the Conceptual/Final Development Plan (CDP/FDP) prepared by VIKI Incorporated, consisting of thirteen (13) sheets dated January 17, 2003 as revised through March 11, 2004...” As shown on Sheet 2 of the CDP/FDP, the portion of the property rezoned to the PDH-30 District per RZ 2003-PR-008 contains 19.04 acres, which is the Application Property referenced in Proffer 49. Please refer to Appendix 1 depicting the 19.04 acres subject to RZ 2003-PR-008, which is from the Staff Report published as part of this rezoning application.

Lucia Anna Trigliani
Page 3

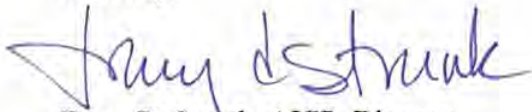
that required the demonstration of the provision of at least 150 overflow parking spaces on the offsite Meridian Property, which was to be secured via a parking agreement to be recorded in the land records. As noted above, this agreement was recorded in Deed Book 16927 at Page 2195 prior to the approval of the site plan, as required.

Proffer 49 specifically required that the overflow parking spaces on an offsite parcel were to be implemented by a private agreement. As noted above, accepted proffers become part of the Zoning map for the property subject to the rezoning only and are not enforceable against an offsite property. By referring to the Meridian Property as the "adjacent I-3 parcel," the proffer language makes clear that that property was not part of the Application property subject to the proffer.

Based on the foregoing, it is my determination that Proffer 49 remains in effect for the 19.04 acres included in RZ 2003-PR-008. Although Proffer 49 remains in effect, a proffer violation cannot be enforced on Meridian because the proffer does not apply to them. The proffer can be removed only through a Proffered Condition Amendment (PCA) application approved by the Board of Supervisors. Information on how to apply for a PCA can be found on our website at: <http://www.fairfaxcounty.gov/dpz/zoning/applications/>.

The determination has been made in my capacity as duly authorized agent of the Zoning Administrator and address only those issues discussed herein and not any separately recorded private agreements. If you have any questions regarding this interpretation, please feel free to contact Kelly M. Atkinson at (703) 324-1290.

Sincerely,



Tracy D. Strunk, AICP, Director
Zoning Evaluation Division, DPZ

N:\Interpretations\Reserve At Tysons Corner RZ 2003-PR-008\2017-02-22 Proffer Interpretation Response - Reserve At Tysons Corner RZ 2003-PR-008.Doc

Attachments: A/S

Cc: Linda Smyth, Supervisor, Providence District
Phillip Niedzielski-Eichner, Planning Commissioner, Providence District
Laura Gori, Esq., Assistant County Attorney, Office of the County Attorney
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Ellie Coddington, Acting Director, Code Development and Compliance Division, LDS
Ken Williams, Manager, Site and Technical Services, LDS
Michael Davis, Section Chief for Site Analysis, DOT
Suzanne Wright, Chief, Special Projects/Applications Management Branch, ZED, DPZ
Tysons Enterprise West, LLC, Owner, Tax Map 39-2 ((1)) 13D
Tyson Enterprise East, LLC, Owner, Tax Map 39-2 ((1)) 13E
File: RZ 2003-PR-008, PCA 75-7-004-03 and SE 2015-PR-021, PI 17 01 001, Imaging

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Attachment 1

Lucia Anna Trigiani
Pla.Trigiani@MercerTrigiani.com

Direct Dial: 703-837-5008
Direct Fax: 703-837-5018

February 17, 2017

VIA OVERNIGHT MAIL

Suzanne Wright, Branch Chief
Zoning Evaluation Division, Fairfax County
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-55055

Re: Proffer RZ 2003-PR-008 dated March 14, 2004--
Zoning Interpretation Request – Response Letter

Dear Ms. Wright:

This firm represents The Reserve at Tysons Corner Association, Inc. (“Association”), the entity responsible for the operation and administration of The Reserve at Tysons residential community located in Fairfax County, Virginia (“The Reserve Property”).

As you are aware, we submitted a Zoning Interpretation Request to Barbara Berlin on December 22, 2016 on behalf of the Association relating to overflow parking requirements contemplated in Proffer RZ 2003-PR-008 dated March 14, 2004 (“Conditions”). A copy of that letter is enclosed. *Capitalized terms in this letter which are not defined have the meanings contained in our December 22nd letter.*

Since that time, we understand that Brian Winterhalter at Cooley, counsel for Tysons Enterprise East, LLC and Tysons Enterprise West, LLC (“Tysons Enterprise”) – the owner of the adjacent Meridian Property, and David Gill at McGuire Woods, counsel for The Boro I Developer, L.P. and The Boro I-C Developer L.L.C. (“Boro Developer”) – the developer of the Meridian Property, have submitted letters to you addressing the Association’s request for a proffer interpretation.

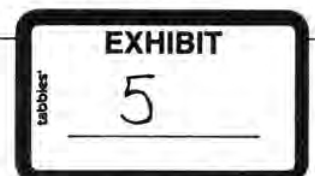
In their letters, Mr. Winterhalter and Mr. Gill assert, among other things, that Fairfax County lacks authority to issue a proffer interpretation binding the Meridian Property because the Conditions were associated with the redevelopment of The Reserve Property and only bind the property which is part of The Reserve. Messrs. Winterhalter and Gill also maintain that the Meridian Property is subject to its own set of proffers, which supersede any and all prior proffers to which the Meridian Property may have been previously subject.

In response to the arguments presented by Messrs. Winterhalter and Gill, we offer the following:

- **Authority.** The Director of the Zoning Evaluation (“Division”) has absolute statutory authority pursuant to the Zoning Ordinance to provide interpretations of the Zoning Ordinance, which includes Fairfax County accepted conditions for a property. In this instance, the

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Ms. Suzanne Wright, Branch Chief
February 17, 2017
Page 2

Association has the right to request an interpretation of the Conditions and the Division has authority to interpret the Conditions, *without reservation*.

- **Standard of Review.** In interpreting the Conditions, the Division must rely on the *precise* wording of the pertinent proffer – in this case, Proffer 49, and *must consider the record of the application*. In other words, the purpose of the proffer must be considered, taking into account *all relevant details related to the application* and the basis underlying the proffer with those details in mind.

- **Record of the Application.** Lincoln Property Company Southwest, Inc. (“Lincoln Property”) applied for rezoning of The Reserve Property – as contract purchaser of The Reserve Property, and in conjunction with the rezoning, the Conditions were established. **Both** Lincoln Property and Campus Point Realty Corporation II (“Campus Point”) - the owner of both the Reserve Property *and the Meridian Property* at that time, executed the Conditions.

Also, while the Conditions were established in conjunction with Lincoln Property’s application for the rezoning of The Reserve property – the contract purchaser at the time (“Applicant”), a concurrent application was submitted to amend the development plan which encompassed *both* The Reserve Property and the Meridian Property. As a result of that concurrent application, it appears that the Meridian Property acquired additional FAR to accommodate future expansion. In other words, the Meridian Property benefitted in the rezoning of The Reserve Property. The zoning and rezoning of the two properties was and continues to be intertwined.

- **SAIC Declaration.** Purportedly, to satisfy Proffer 49, the predecessor-in-title to *both The Reserve Property and Meridian Property* – Campus Point, recorded the SAIC Declaration among the Land Records encumbering The Reserve Property and the Meridian Property. Section 12.17 of the SAIC Declaration recites the language in Proffer 49, with one exception – Section 12.17 incorporates a right for the owner of the Meridian Property to terminate the overflow parking rights unilaterally.

While Mr. Gill maintains that the SAIC Declaration cannot be considered by the Division because it is a private contract between the parties, the SAIC Declaration is purportedly the *very instrument which was intended to satisfy the Proffer 49*, and is, consequently, pertinent to the proffer inquiry. The termination language is unquestionably in direct contravention to Proffer 49, and therefore, is null and void. The remainder of the SAIC Declaration – *including the remainder of Section 12.17 which requires overflow parking in accordance with Proffer 49*, survives pursuant to the severability clause in Section 12.6 of the SAIC Declaration, and encumbers both The Reserve Property and the Meridian Property.

- **Adverse Impact on Zoning Compliance.** The improper *unilateral* termination by Tysons Enterprise of the unqualified proffered right for The Reserve residents to utilize overflow parking on the Meridian Property would render the Meridian Property to be in noncompliance with Proffer 49, through no fault of, action by or omission of the Association or its members.

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Ms. Suzanne Wright, Branch Chief
February 17, 2017
Page 3

We believe it is worth noting the Association has consistently been told and has been receptive to working with all shareholders to address parking. Even after submitting the interpretation request, we sent a letter to William Rothschild, also counsel for Tysons Enterprise (perhaps in conjunction with the purchase of the Meridian Property), advising that our client is willing to engage in a dialogue regarding these matters and to accommodate Tysons Enterprise to the extent possible and permissible. While Mr. Rothschild did telephone us acknowledging receipt of our letter in mid-January, we have had no one representing Tysons Enterprise reach out to us since then in an effort to develop a working plan. We find this regrettable.

For the foregoing reasons, we respectfully request that the Division proceed with its determination, and interpret the matter in favor of the Association and the many individuals who reside in The Reserve Community, permitting them to continue to utilize at least 150 parking overflow spaces on the Meridian Property as Proffer 49 contemplates and the SAIC Declaration mandates.

To issue an unfavorable determination to our client - especially in light of the proposed construction of a ballfield, the operation of which will undoubtedly result in increased competition for street parking, will profoundly and negatively impact hundreds of residents in The Reserve, many of whom have been supportive of the ballfield, divesting them of their property rights and potentially impacting their property values.

If you have any questions, please contact Janie Rhoads or me directly. Your consideration of this matter is greatly appreciated.

Very truly yours,



Lucia Anna Trigiani

LAT/jlr
Enclosure

cc: Supervisor Linda Smyth
Barbara C. Berlin, Director Evaluation Division Department of Planning and Zoning
Members, Board of Directors, The Reserve at Tysons Corner Association, Inc.
Janie L. Rhoads, Attorney at Law

#133278

Attachment 2

Mr. Marshall had filed the necessary notices showing that at least 25 adjacent and/or interested parties had been notified of the date and hour of this public hearing and he proceeded to present his case.

Following the public hearing, Kristen Abrahamson, Branch Chief, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff and Planning Commission recommendations.

Chairman Connolly relinquished the Chair to Vice-Chairman Bulova and moved:

- Amendment of the Zoning Ordinance, as it applies to the property which is the subject of Rezoning Application RZ 2003-SP-044, from the R-1 District to the R-3 District, subject to the proffers dated February 10, 2004.
- Modification of the requirement for a sidewalk along Silverbrook Road to permit an eight-foot wide asphalt trail.

Vice-Chairman Bulova seconded the motion and it carried by a vote of seven, Supervisor DuBois, Supervisor Gross, Supervisor Hudgins, Supervisor Kauffman, Supervisor Smyth, Chairman Connolly, and Vice-Chairman Bulova voting "AYE," Supervisor Frey and Supervisor Hyland being out of the room, Supervisor McConnell being absent.

Vice-Chairman Bulova returned the gavel to Chairman Connolly.

ADDITIONAL BOARD MATTER

62. **DISCLOSURE BY CHAIRMAN CONNOLLY REGARDING REZONING APPLICATION RZ 2003-PR-008 AND PROFFERED CONDITION AMENDMENT APPLICATION PCA 75-7-004-2 (PROVIDENCE DISTRICT)** (4:33 p.m.)

Chairman Connolly relinquished the Chair to Vice-Chairman Bulova and said that the next two applications on the agenda involve property owned by Campus Point Realty Corporation II, a closely related business affiliate of his employer, Science Applications International Corporation. He said that because consideration of the applications will constitute a transaction having application solely to a property or business in which he has a personal interest, he will disqualify himself and shall not vote or in any manner act on behalf of the Board in this transaction, including participation in these hearings.

(NOTE: Later in the meeting, the Board held this public hearing. See Clerk's Summary Item CL#63.)

AGENDA ITEMS

63. **4 P.M. – PH ON REZONING APPLICATION RZ 2003-PR-008 AND PROFFERED CONDITION AMENDMENT APPLICATION PCA 75-7-004-2 (LINCOLN PROPERTY COMPANY, INCORPORATED) (PROVIDENCE DISTRICT)** (4:34 p.m.)

- (O) (NOTE: Earlier in the meeting, Chairman Connolly recused himself from this case. See Clerk's Summary Item CL#62.)

The applications are located on the east side of Gallows Road and on the north and south sides of Science Applications Court, Tax Map 39-2 ((1)) 13 pt.

Ms. Elizabeth Baker reaffirmed the validity of the affidavit for the record.

Attachment 2

Ms. Baker had filed the necessary notices showing that at least 25 adjacent and/or interested parties had been notified of the date and hour of this public hearing and she proceeded to present her case.

Following the public hearing, which included testimony by seven speakers, Cathy Belgin, Senior Staff Coordinator, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff and Planning Commission recommendations.

Discussion ensued with input from Barbara A. Byron, Director, Zoning Evaluation Division, Department of Planning and Zoning.

Supervisor Smyth moved approval of Proffered Condition Amendment Application PCA 75-7-004-2, subject to the proffers dated March 11, 2004. Supervisor Kauffman seconded the motion and it carried by a vote of seven, Supervisor Hyland and Chairman Connolly being out of the room, Supervisor McConnell being absent.

Supervisor Smyth further moved:

- Amendment of the Zoning Ordinance, as it applies to the property which is the subject of Rezoning Application RZ 2003-PR-008, from the I-3 and HC Districts to the PDH-30 and HC Districts, subject to the proffers dated March 14, 2004.
- Modification of the transitional screening requirement along the southeastern and southern boundaries where the multi-family units abuts the Courts of Tysons and Tysons Executive Village communities in favor of that shown on the CDP/FDP.
- Waiver of the barrier requirement along the southeastern and southern boundaries where the multi-family housing abuts the Courts of Tysons and Tysons Executive Village communities in favor of that shown on the CDP/FDP.
- Modification of the non-core streetscape design along Gallows Road for the Tysons Urban Center in favor of that shown on the CDP/FDP.
- Waiver of the 200 square foot privacy yard requirement for single family attached homes.
- Modification of the loading space requirement for multi-family dwellings in favor of one loading space provided for each of the buildings (two total spaces).
- Waiver of the 600-foot maximum private street length requirement.

Supervisor Kauffman seconded the motion and it carried by a vote of seven, Supervisor DuBois, Supervisor Frey, Supervisor Gross, Supervisor Hudgins, Supervisor Kauffman, Supervisor Smyth, and Vice-Chairman Bulova voting "AYE," Supervisor Hyland and Chairman Connolly being out of the room, Supervisor McConnell being absent.

ADDITIONAL BOARD MATTER

64. **AGENDA FOR BUDGET WORKSHOP** (5:42 p.m.)

Vice-Chairman Bulova distributed the agenda for the Budget Workshop scheduled for March 22, 2004.

Lucia Anna Trigiani
Pla.Trigiani@MercerTrigiani.com

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Direct Dial: (703) 837-5008
Direct Fax: (703) 837-5018

June 28, 2017

VIA HAND DELIVERY

Clerk, Board of Zoning Appeals
Zoning Evaluation Division
Department of Planning and Zoning
12055 Government Center Parkway, 801
Fairfax, Virginia 22035

Re: The Reserve at Tysons Corner Association, Inc. --
Notice of Appeal – Zoning Determination for RZ/FDP 2003-PR-008
The Reserve at Tysons Corner
Tax Map Numbers 39-2 ((56)) A1, B3, 1-92, 39-2 ((1)) 13A5 and A6

Dear Clerk of the Board of Zoning Appeals:

This firm represents The Reserve at Tysons Corner Association, Inc. (“Association”), the Virginia nonstock corporation entity which is responsible for the operation and administration of The Reserve at Tysons community in Fairfax, Virginia.

The Reserve at Tysons community consists of 570 homes – 478 apartments owned by Simpson Property Group, LP and 92 townhomes which are owned individually and are governed by the Townhouse at the Reserve Homeowners Association, Inc. (“Townhouse Association”).

Pursuant to Section 18-300 et seq. of the Fairfax County Zoning Ordinance (“Ordinance”), this letter serves as our Notice of Appeal to the Zoning Determination rendered in response to our Zoning Interpretation request submitted on December 22, 2016 (“Interpretation Request”). A copy of the Interpretation Request is enclosed as **Exhibit 1**. *Capitalized terms used in this letter have the meanings set forth in in the Interpretation Request.*

The Interpretation Request requested an interpretation of Proffer 49 of the Conditions. A copy of the Conditions is enclosed as **Exhibit 2**. A copy of the SAIC Declaration is enclosed as **Exhibit 3**. In summary, on behalf of the Association, we requested whether the owner of the Meridian Property is entitled to *unilaterally* terminate the rights of individuals residing on the Reserve Property to the minimum of 150 overflow parking spaces required to be located on the Meridian Property for the use of Reserve Property residents pursuant to Proffer 49 of the Conditions, which is *unqualified* in light of its permanency.

On May 30, 2017 – *six months after the Zoning Interpretation was submitted*, Tracy D. Strunk, AICP, Director of the Zoning Evaluation Division of the Department of Planning and Zoning for Fairfax County, Virginia issued a Zoning Determination on behalf of the Zoning Administrator and in response to our Interpretation Request. A copy of the Zoning Determination is enclosed as **Exhibit 4**. In short, the Zoning Determination holds that Proffer 49 remains in effect for the 19.04 acres included in RZ 2003-PR-008 – which comprises The Reserve Property, but is not enforceable against Meridian.

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Clerk, Board of Zoning Appeals

June 28, 2017

Page 2

Pursuant to Section 18-301 of the Ordinance, any person aggrieved by any decision of the Zoning Administrator relating to a proffered condition may appeal to the Board of Supervisors as provided in Paragraph 10 of Section 18-204 of the Ordinance. Paragraph 10 of Section 18-204 of the Ordinance provides that such appeal shall specify the grounds on which the party is aggrieved and the basis for the appeal.

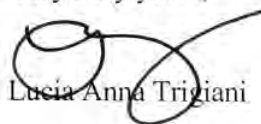
The Association is aggrieved by the Zoning Determination because, *among other things*:

- The Zoning Determination renders the Reserve Property in non-compliance with Proffer 49 of the Conditions – through no fault of the Association or any of the members or residents who reside at the Reserve Property, *and with no means of recourse or redress*.
- Members of the Association and residents in the community bear significant hardship without access to the overflow parking spaces which are clearly contemplated in and unequivocally required by the Conditions to be located on the Meridian Property.
- The resulting zoning non-compliance and lack of adequate parking have a negative impact on property values and the ability to sell property located in the Reserve at Tysons community.

This forced non-compliance and the significant hardships imposed on Association members and Reserve Property residents are the direct result of the Zoning Determination which holds that the proffers remain in effect, but are unenforceable. ***This determination is irreconcilable and inconsistent.*** The Zoning Interpretation has a negative impact on property values and the sale of property in The Reserve at Tysons community. The foregoing matters serve as the primary basis of this Notice of Appeal, as do the arguments raised in our Interpretation Request and letter to Suzanne Wright dated February 17, 2017 (“Response Letter”), a copy of which is enclosed as **Exhibit 5**.

Pursuant to Section 18-106 of the Ordinance, we have provided a copy of this Notice of Appeal and enclosures and a check in the amount of \$600.00 to the Zoning Administrator. Please contact my colleague, Janie Rhoads, or me with questions or if additional information is needed. We look forward to hearing from you.

Very truly yours,



Lucia Anna Trigiani

LAT/mch

cc: Zoning Administrator
Members, Board of Directors
Janie L. Rhoads, Attorney at Law

Enclosures: Interpretation Request (**Exhibit 1**); Conditions (**Exhibit 2**); SAIC Declaration (**Exhibit 3**);
Zoning Determination (**Exhibit 4**); Response Letter (**Exhibit 5**)

#138498

INFORMATION – 1

Contract Award – Market & Needs Analysis Performing & Visual Arts

The Department of Cable and Consumer Services is working on a three-phase study as part of the effort to create the County's Master Arts Plan. This effort is coordinated with the Arts Council of Fairfax County's Master Arts Plan Task Force. The "Market and Needs Analysis for Performing and Visual Arts Venues in Fairfax County, Virginia" is the first phase.

On May 15, 2017, the Department of Procurement and Material Management (DPMM) issued a Request for Proposal (RFP2000002285) for Market & Needs Analysis Performing & Visual Arts venues in Fairfax County. The RFP was publicly advertised in accordance with the Fairfax County Purchasing Resolution and two firms responded with proposals by the closing date of June 12, 2017. The Selection Advisory Committee (SAC), appointed by the County Purchasing Agent, evaluated the proposals in accordance with the award criteria established in the RFP. Upon completion of the final evaluation of the proposals, the SAC conducted oral interviews with the top two offerors. At this time, one of the firms withdrew their proposal from consideration because of concerns regarding their capacity to fulfill the requirements. The SAC conducted interviews with the other firm, AMS Planning and Research Corp (AMS), and concluded the evaluation process. AMS was determined to be well-qualified and the DPMM contract specialist successfully negotiated fair and reasonable pricing with the offeror. The SAC was satisfied with the final contract terms and recommended contract award to AMS Planning and Research Corp., located in Southport, Connecticut.

The Department of Tax Administration has verified that AMS Planning and Research Corp. is not required to have a Fairfax County Business, Professional and Occupational License (BPOL).

Unless otherwise directed by the Board of Supervisors, the Purchasing Agent will proceed to award the contract to AMS Planning and Research Corp. The contract will begin on the date of award and terminate upon completion of the project. Funding for this project is budgeted; expenditures under the contract are estimated to be not more than \$150,000.

FISCAL IMPACT:

The phase one cost (not to exceed \$150,000) associated with this survey will be offset by proffer revenue to be collected from the developer. Funds are currently available in the FY 2018 Revised Budget Plan to cover this cost.

Board Agenda Item
November 21, 2017

ENCLOSED DOCUMENTS:

Attachment 1 - List of Offerors for RFP 2000002285

STAFF:

Joseph M. Mondoro, Chief Financial Officer

Cathy A. Muse, Director, Department of Procurement and Material Management

Michael S. Liberman, Director, Department of Cable and Consumer Services

List of Offerors

Name	SWAM Status
AMS Planning & Research Corp.	Small
Lord Cultural Resources	N/A

INFORMATION – 2

Contract Award – Telecommunications Consulting Services

The Department of Procurement and Material Management (DPMM) issued a Request for Proposals (RFP2000002331) on behalf of the Department of Information Technology (DIT) and the Department of Cable and Consumer Services (DCCS). The Request for Proposals (RFP) solicited proposals from qualified sources to provide Telecommunications Consulting Services. The scope of work includes Cable and Telecommunication Policy and Advisory Consulting, Communications Systems Technical Support, Cable System Construction Inspection and Performance Monitoring.

The RFP was publicly advertised pursuant to the requirements of the Fairfax County Purchasing Resolution. The County received a single responsive proposal to its RFP solicitation and the Selection Advisory Committee (SAC), appointed by the County Purchasing Agent, evaluated the proposal in accordance with the award criteria established in the RFP. The SAC successfully negotiated fair and reasonable contract rates and recommended a contract award to the sole offeror, Columbia Telecommunications Corporation (CTC, d/b/a CTC Technology & Energy), a woman-owned consulting firm headquartered in the Washington, D.C. metropolitan area.

The County has previously engaged CTC for similar services and deems that CTC possesses the technical expertise and resources to provide the required services. Contract pricing is commensurate with prior County engagements and proportional to contracts between CTC and other local public bodies.

The Department of Tax Administration verified that the selected firm is not required to have a Fairfax County Business, Professional, and Occupational License (BPOL).

Unless otherwise directed by the Board of Supervisors, the Purchasing Agent will proceed to award a contract to Columbia Telecommunications Corporation. This contract will commence on November 22, 2017 and terminate on October 31, 2022. The County shall have the option to renew the contract for five (5) additional one (1) year periods.

FISCAL IMPACT:

The total estimated amount of the contract for the first year is \$500,000 and is funded through the Urban Areas Security Initiative (UASI), Interoperable Communications Infrastructure (ICI) grant in the Federal-State Grant Fund.

Board Agenda Item
November 21, 2017

ENCLOSED DOCUMENTS:

None

STAFF:

Joseph Mondoro, Chief Financial Officer

Cathy A. Muse, Purchasing Agent/Director, Department of Procurement and Material Management

Wanda Gibson, Director and CTO, Department of Information Technology

Michael S. Liberman, Director, Cable and Consumer Services

INFORMATION - 3

Establishing Central Business Areas for the General Services Administration

In July 2016, the General Services Administration (GSA) began working with the Planning Directors Technical Advisory Committee of the Metropolitan Washington Council of Governments (MWCOC) to define Central Business Areas (CBAs) per a GSA Administrative Order. Identifying these areas in the region will help the GSA procure and acquire space for federal users more efficiently. The MWCOC Board of Directors passed a resolution supporting this project (Attachment 1), along with a draft map of CBAs.

This project supports *The Board of Supervisors' Strategic Plan to Facilitate the Economic Success of Fairfax County*. Each jurisdiction that participated in this technical planning exercise will submit their CBAs to the GSA. In Fairfax County, Department of Planning and Zoning staff has proposed thirty, mixed-use and industrial areas as CBAs in a report that provides planning and zoning information for each area (Attachment 2). These CBAs are based on the adopted Comprehensive Plan's Concept for Future Development. It is staff's understanding that any changes to CBA boundaries can be made at any time, if necessary. All county planning policies and zoning regulations still apply for parcels not federally-owned.

Fairfax County Economic Development Authority staff has been briefed and will be available to help the GSA find sites that will meet the mission-specific needs of its clients, either inside or outside a CBA. Planning Division staff also contacted the towns of Herndon and Vienna to invite their participation in the project; their CBAs are included in the attached report. GSA should work with the towns separately for site selection assistance.

Unless otherwise directed by the Board of Supervisors, staff has prepared a letter (Attachment 3) to the GSA for the Chairman's signature that will establish Central Business Areas for Fairfax County, Virginia, as described and shown in the Central Business Areas Report (Attachment 2). As discussed at the Board's Revitalization Committee work session on this topic in October, the letter conveys the Board's request that existing leases located outside of the proposed Central Business Areas be eligible for renewal and considered on par with locations inside the CBAs.

FISCAL IMPACT:
None

Board Agenda Item
November 21, 2017

ENCLOSED DOCUMENTS:

Attachment 1 – MWCOG Resolution Endorsing Proposed Central Business Areas

Attachment 2 – Central Business Areas Report at:

<https://www.fairfaxcounty.gov/dpz/central-business-areas.pdf>

Attachment 3 – Draft Letter to GSA from Chairman

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Marianne R. Gardner, Director, Planning Division (PD), DPZ

Kristen Hushour, Senior Planner, PD, DPZ

Resolution R38-2017
June 14, 2017

**METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
777 NORTH CAPITOL STREET, NE
WASHINGTON, DC 20002**

**RESOLUTION ENDORSING THE PROPOSED CENTRAL BUSINESS AREAS (CBAs)
FOR LOCATING FEDERAL FACILITIES IN METROPOLITAN WASHINGTON**

WHEREAS, the Metropolitan Washington Council of Governments (COG) is comprised of the 24 jurisdictions of the National Capital Region's local governments and their governing officials, plus area members of the Maryland and Virginia legislatures and the U.S. Senate and House of Representatives, and COG provides a focus for action on issues of regional concern; and

WHEREAS, for several years COG has worked closely with the U.S. General Services Administration (GSA) to strengthen the relationship between the federal government and the local governments of metropolitan Washington; and

WHEREAS, in 2015 GSA adopted ADM 1097.1, "Incorporating Principles of Sustainability, Economic Development, and Efficiency into GSA Business Practices and Location Decision-making," including working with local governments across the country to identify "Central Business Areas" or "CBAs" as priority places for locating federal facilities; and

WHEREAS, to complete designation of locally-proposed CBAs, in September 2016, the COG Board approved Resolution R54-2016 calling for continued collaboration with the GSA and encouraging the COG Planning Directors Technical Advisory Committee to support individual jurisdictions in their efforts to independently establish CBAs for their cities and counties; and

WHEREAS, at their May 19 meeting, the Planning Directors Technical Advisory Committee approved the map which depicts the proposed CBAs and recommended that it be forwarded to the COG Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS THAT:

The board endorses the map which depicts the first draft of locally-defined Central Business Areas (CBAs) and supports the continued collaboration among the COG member governments as CBAs are finalized as a tool to assist GSA with locating future federal facilities in metropolitan Washington.

The board requests that GSA staff begin to schedule one-on-one conversations with COG member governments based on the initial work on draft CBAs to assist in formalizing the processes by which each jurisdiction will finalize proposed local CBA boundary maps for use by GSA, and to aid in establishing procedures with respect to how CBA boundary maps may be amended in the future.

The board commends the Planning Directors Technical Advisory Committee and the General Services Administration for their work to date. The board recommends that the Planning Directors Technical Advisory Committee continue to work with COG member governments to monitor changes to local land use plans to enable local jurisdictions to efficiently and cooperatively determine the need for updates to local CBAs.

I HEREBY CERTIFY THAT the foregoing resolution was adopted by the COG Board of Directors on June 14, 2017.

**Laura Ambrosio
COG Communications Specialist**



SHARON BULOVA
CHAIRMAN

COMMONWEALTH OF VIRGINIA
County of Fairfax
BOARD OF SUPERVISORS

12000 GOVERNMENT CENTER PKWY
SUITE 530
FAIRFAX, VIRGINIA 22035-0071

TELEPHONE: 703/324-2321
FAX: 703/324-3955
TTY: 711

chairman@fairfaxcounty.gov

November 22, 2017

Ms. Mary Gibert
PBS NCR Regional Commissioner
U.S. General Services Administration
301 7th Streets SW, Suite 1065
Washington, D.C. 20407

Mr. Chris Wisner
PBS NCR Director, Office of Portfolio Management & Real Estate
U.S. General Services Administration
301 7th Streets SW, Suite 1065
Washington, D.C. 20407

Reference: Central Business Areas

Dear Ms. Gibert and Mr. Wisner:

On behalf of the Fairfax County Board of Supervisors, I am pleased to provide to you Fairfax County's designated Central Business Areas. We believe that these areas fit the criteria outlined in the General Services Administration (GSA) Order "Incorporating Principles of Sustainability, Economic Development and Efficiency into GSA Business Practices and Location Decision-making" and will be excellent places for the GSA to lease office or industrial spaces for your federal workforce needs. The attached report provides planning and zoning information on the designated Central Business Areas for Fairfax County, including the towns of Vienna and Herndon. It is our understanding that we may amend, add, or remove Central Business Area boundaries as needed. We will be sure to notify you and provide updated maps if this occurs.

At our November 21, 2017 meeting, the Board endorsed this letter and wanted me to convey its unanimous approval of these Central Business Areas, with the request that the GSA allow flexibility with regard to existing leases located outside these Central Business Areas. While most GSA leases appear to be located within these areas, there are some that fall outside. For this reason, we would very much appreciate it if the GSA could consider these leases "grandfathered" from this new GSA policy and be eligible for renewal should they continue to meet the business needs of GSA tenants.

We view coordination between the federal government and County vital during any potential relocation or development of federal facilities and we stand ready and willing to continue working with you as this policy is implemented. Furthermore, Fairfax County Economic Development Authority staff is available to assist the GSA or its clients in site selection requirements, either inside or outside a Central Business Area and we encourage you to contact Gerry L. Gordon, Ph.D., President and CEO, Fairfax County

U.S. General Services Administration
Public Building Service
Office of Portfolio Management & Real Estate
Attention: Ms. Mary Gibert & Mr. Chris Wisner
Page 2 of 2

Economic Development Authority at (703) 790-0600 or Fred R. Selden, Director of the Department of Planning and Zoning, at (703) 324-1262 to identify any such needs.

We are excited by the opportunity to attract and retain a strong federal workforce here in Fairfax County. Thank you for working with the Metropolitan Washington Council of Governments to coordinate this regional effort and for providing us with the opportunity to provide Central Business Areas for the General Services Administration.

Sincerely,

Sharon Bulova.
Chairman, Fairfax County Board of Supervisors

Attachment: Central Business Areas Report

cc: Fairfax County Board of Supervisors
Kirk W. Kincannon, Acting County Executive
Robert A. Stalzer, Deputy County Executive
Gerry L. Gordon, Ph.D., President and CEO, Fairfax County Economic Development Authority
Catherine A. Chianese, Assistant County Executive
Fred R. Selden, Director, Department of Planning and Zoning
Barbara Byron, Director, Office of Community Revitalization
Marianne R. Gardner, Director, DPZ, Planning Division
Kristen Hushour, Senior Planner, DPZ, Planning Division

Board Agenda Item
November 21, 2017

10:30 a.m.

Matters Presented by Board Members

11:20 a.m.

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
 - 1. *Nancy Schoenig v. Fairfax County Police Department and Fairfax County Park Authority*, Case No. CL-2017-0014553 (Fx. Co. Cir. Ct.)
 - 2. *Robin McGreer v. Julie Parker, Colonel Edwin C. Roessler Jr., John Doe #1, John Doe #2, and Fairfax County Police Department*, Case No. CL-2017-0012065 (Fx. Co. Cir. Ct.)
 - 3. *Elton Cansler v. Alan A. Hanks, Edwin C. Roessler Jr., and Fairfax County*, Case No. 1:16-cv-1589 (E.D. Va.)
 - 4. *Glen M. Sylvester v. Brian C. Geschke*, Case No. CL-2017-0006382 (Fx. Co. Cir. Ct.)
 - 5. *David Park and Susan Park v. Constance Morris*, Case No. CL-2017-0011280 (Fx. Co. Cir. Ct.)
 - 6. *Michael A. Norton v. J.M. Boyd and R.C. Shelnett*, Case No. GV17-021964 (Fx. Co. Gen. Dist. Ct.)
 - 7. *Robert Lee v. Captain John S. Trace*, Case No. GV17-016812 (Fx. Co. Gen. Dist. Ct.)
 - 8. *Robert Lee v. PFC C.M. Lincoln*, Case No. GV17-015635 (Fx. Co. Gen. Dist. Ct.)
 - 9. *Homer McAbee v. Alicia McAbee and Sergeant Frederick Chambers*, Case No. GV17-021009 (Fx. Co. Gen. Dist. Ct.)
 - 10. *Dwain Foltz v. Office of the County Attorney*, Case No. 1:17cv939 (E.D. Va.)
 - 11. *The Unit Owners Association of Fair Lakes Condominium v. Laleh Zohori, Shahrouz Sharifaie-Arabi, CitiFinancial Mortgage Company, Inc., Equity Trustees*,

LLC and Fairfax County Housing and Redevelopment Authority, Case No. CL-2017-0013569 (Fx. Co. Cir. Ct.) (Springfield District)

12. *William N. Holland v. Board of Supervisors of Fairfax County, Case No. CL-2017-0009115 (Fx. Co. Cir. Ct.)*
13. *Linda Owens v. Jennifer Svites, Fire Chief Richard Bowers, and the County of Fairfax, Case No. CL-2017-0015086 (Fx. Co. Cir. Ct.)*
14. *Mirsada Karalic-Loncarevic, by GEICO, Subrogee v. Jeffrey Dion Cox, and Fairfax County, Case No. GV17-011867 (Fx. Co. Gen. Dist. Ct.)*
15. *Armando Iraheta-Ortiz, by Allstate Insurance Company, Subrogee v. John Doe, Case No. GV12-010235 (Fx. Co. Gen. Dist. Ct.)*
16. *Debra T. Chubb v. Fairfax County, Virginia, Case No. CL-2017-0014194 (Fx. Co. Cir. Ct.)*
17. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Yung C. Yung, Case No. CL-2016-0017111 (Fx. Co. Cir. Ct.) (Braddock District)*
18. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia, and Leslie B. Johnson, Fairfax County Zoning Administrator v. John Jongki Lee and Eun Hee Lee, Case No. CL-2017-0015187 (Fx. Co. Cir. Ct.) (Braddock District)*
19. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Patricia A. Springer, Case No. GV17-021747 (Fx. Co. Gen. Dist. Ct.) (Braddock District)*
20. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Rangineer Junloy, Case No. GV17-015455 (Fx. Co. Gen. Dist. Ct.) (Braddock District)*
21. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Cindy Reed Paska, Case No. GV17-023049 (Fx. Co. Gen. Dist. Ct.) (Braddock District)*
22. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Eugene B. Meyer, Case No. CL-2017-0014842 (Fx. Co. Cir. Ct.) (Dranesville District)*
23. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jamshid Khosravi and Farnaz Lohrasebi, Case No. CL-2017-0014917 (Fx. Co. Cir. Ct.) (Dranesville District)*
24. *Board of Supervisors of Fairfax County and James W. Patteson, Director of the Fairfax County Department of Public Works and Environmental Services v. Nirmaladevi Jayanthan and Jayanthan Balasubram, a/k/a Balasubram Jayanthan, Jayanthan Bala, Bala Jayanthan, and Jay Bala, Case No. CL-2015-0008179 (Fx. Co. Cir. Ct.) (Dranesville District)*

25. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Arthur B. Hough and Anita S. Hough*, Case No. GV17-021746 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Hipolito Recinos and Rosa A. Recinos*, Case No. GV17-016432 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
27. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. George O. Gilpin and Carmella Gilpin*, Case No. GV17-023119 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
28. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Warren K. Montouri, Trustee*, Case No. GV17-071486 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
29. *Eileen M. McLane, Fairfax County Zoning Administrator v. Robert Lord*, Case No. CL-2009-0006752 (Fx. Co. Cir. Ct.) (Lee District)
30. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Edualter Carhuancho and Gloria C. McGee*, Case No. GV17-021745 (Fx. Co. Gen. Dist. Ct.) (Lee District)
31. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Maria Lenz and Marniee Sjolander*, Case No. GV17-013703 (Fx. Co. Gen. Dist. Ct.) (Lee District)
32. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Bobby H. Dunn, Sr., and Wanda B. Dunn*, Case No. GV17-007123 (Fx. Co. Gen. Dist. Ct.) (Lee District)
33. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Rockley L. Miller and Susan B. Miller*, Case No. CL-2017-0010524 (Fx. Co. Cir. Ct.) (Mason District)
34. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Kyin Sein*, Case No. GV17-023488 (Fx. Co. Gen. Dist. Ct.) (Mason District)
35. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Balbir K. Bhuller*, Case No. CL-2017-0014359 (Fx. Co. Cir. Ct.) (Mount Vernon District)
36. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Isobel Arthur-Ackumey and Nelson Y. Acmanuel*, Case No. GV17-023489 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
37. In Re: September 14, 2016, Decision of the Fairfax County Board of Zoning Appeals; Case No. CL-2016-0014111 (Fx. Co. Cir. Ct.) (Providence District)
38. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Otis Perry and Elcetia L. Perry*, Case No. CL-2008-0005923 (Fx. Co. Cir. Ct.) (Providence District)

39. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Rex Coker Winter*, Case No. CL-2017-0014915 (Fx. Co. Cir. Ct.) (Providence District)
40. *Leslie B. Johnson, Fairfax County Zoning Administrator v. John D. Moses and Katrina M. H. Waljeski-Moses*, Case No. GV17-013663 (Fx. Co. Gen. Dist. Ct.) (Providence District)
41. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. John D. Moses and Katrina M. H. Waljeski-Moses*, Case No. GV17-013664 (Fx. Co. Gen. Dist. Ct.) (Providence District)
42. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Murari Lal Dadoo, Co-Trustee of the Dadoo Family Trust, and Anjana Dadoo, Co-Trustee of the Dadoo Family Trust*, Case No. CL-2017-0012304 (Fx. Co. Cir. Ct.) (Springfield District)
43. In re: September 27, 2017, Decision of the Board of Zoning Appeals of Fairfax County, Virginia, CL 2017-0015193 (Fx. Co. Cir. Ct.) (Springfield District)
44. *Board of Supervisors of Fairfax County, Virginia and Leslie B. Johnson, Fairfax County Zoning Administrator v. Board of Zoning Appeals of Fairfax County, Virginia*, Case No. CL-2017-0015190 (Fx. Co. Cir. Ct.) (Springfield District)
45. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Lee Business Center, LLC, and Focus Fairfax, Inc., d/b/a IMP Fitness*, Case No. CL-2017-0014650 (Fx. Co. Cir. Ct.) (Sully District)
46. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. K. Dian Green*, Case No. GV17-023490-00 (Fx. Co. Gen. Dist. Ct.) (Sully District)
47. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Nicholas A. Nikzad and Pamela L. Nikzad*, Case No. GV17-023487 (Fx. Co. Gen. Dist. Ct.) (Sully District)
48. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Nicholas A. Nikzad and Pamela L. Nikzad*, Case No. GV17-023486 (Fx. Co. Gen. Dist. Ct.) (Sully District)

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Board Agenda Item
November 21, 2017

3:00 p.m.

Public Hearing to Receive Comment from Citizens on the Proposed Legislative Program to be Presented to the 2018 Virginia General Assembly

ENCLOSED DOCUMENTS:

Attachment I – Draft Fairfax County Legislative Program for the 2018 Virginia General Assembly

Attachment II – Draft Human Services Issue Paper

The proposed Legislative Program and Human Services Issue Paper will be made available by close of business November 16, 2017 at: www.fairfaxcounty.gov/government/board

STAFF:

Kirk W. Kincannon, Acting County Executive
Claudia Arko, Legislative Director

DRAFT as of November 9, 2017

Preliminary DRAFT 2018 Fairfax County Legislative Program**INDEX****PRIORITIES**

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(Note: Language added after October 31, 2017, is **highlighted**.)

Preliminary Draft 2018 Fairfax County Legislative Program

Fairfax County and the Commonwealth have long maintained a strong partnership in promoting economic development. The County has created a strong business climate, with a fair and competitive tax structure, excellent schools, an educated workforce, and services and amenities that attract new businesses every year. Both the Commonwealth and the County have benefited from this partnership.

Unfortunately, it has been the practice of the Commonwealth to significantly underfund core services, leaving localities to fill funding gaps with local revenues in order to maintain essential services. This poses a particular threat to economic development efforts, as state funding cuts in recent years, coupled with the impact the recession has had on local revenues, threaten to destroy the very attributes that draw and retain businesses. Without solutions that provide funding to keep pace with the growth of Virginia's economy, the state is at risk of slipping further in economic competitiveness.

The Commonwealth's partnership with localities is a key factor in maintaining that competitiveness. As state revenues continue to improve, it is critically important that Virginia continue to invest the resources necessary to educate its citizens at all levels, ensure the rule of law, protect its natural resources, provide for the basic needs of the less fortunate, and build a sound infrastructure, in order to remain a competitive state and an attractive place for economic development. The critical state-local funding partnership must continue to be restored so that the Commonwealth can emerge from the recent fiscal crisis even stronger, as an investment in Virginia will pay dividends for years to come.

Priorities

Funding Core Services

1.) K-12 Funding – Joint Position with the Fairfax County School Board

Public education funding in the Commonwealth is enshrined in the Virginia Constitution as a joint responsibility of both state and local governments, so it is essential that the state fully meet its Constitutional responsibility to adequately fund K-12 education. Unfortunately, the Commonwealth continues to allow critical gaps to persist between state funding and the actual costs of providing a high-quality education, placing more of the fiscal burden on localities while substantially limiting local revenue sources, creating a discrepancy that has become increasingly untenable. *(Position on full funding for K-12 costs and restoration of Cost of Competing Adjustment (COCA) funding shared by region.)*

Though there have been some recent helpful infusions of state funding, the current funding formulas do not adequately address the challenges facing high cost of living localities like Fairfax County. Those challenges are exacerbated by structural features in the formulas that leave statewide funding far behind the inflation-adjusted FY 2009 level. As the Joint Legislative Audit and Review Commission (JLARC) noted in its recent review of K-12 spending, localities provided a majority of total funding for school divisions in FY 2014, contributing an additional \$3.6 billion beyond the minimum funding required. JLARC also noted that in FY 2013, Virginia ranked 23rd nationwide in total per-student spending, but 11th in the local share of this spending, reflecting Virginia's reliance on local effort and a growing imbalance in this partnership.

Virginia businesses emphatically assert that strong public schools and an educated workforce are essential elements in their decision to locate and remain in Virginia. Investments in early childhood and K-12 education provide a foundation for learning and achievement, often reducing or eliminating the need for more costly interventions and spurring economic development. Failure to adequately meet the needs of the youngest Virginians can create repercussions for individual families, the larger community, and the Commonwealth. Moving Virginia's economy forward requires substantially increasing state investments in K-12 education.

The Boards strongly support:

- Fully funding the biennial re-benchmark of Direct Aid to Public Education;
- Restoration of full funding for a Cost of Competing Adjustment (COCA) for support personnel, a factor used in the state K-12 funding formula recognizing the competitive salaries required in high cost of living regions to attract and retain high-quality personnel;
- Increased state funding support for school divisions with high numbers or concentrations of English language learners (costs are approximately 30 percent more than general education), students living in economically disadvantaged households (costs are approximately 10 percent more than general education), and students receiving special education and mental health services (costs are approximately 100 percent more than general education);
- Elimination of the support positions ratio cap, which has artificially lowered the state's funding contributions for critical educational support positions by hundreds of millions of dollars since its adoption in 2009;
- Realistic and appropriately funded Standards of Quality consistent with actual local staffing needs and costs;
- Use of true weighted averages (which account for actual numbers of students/personnel) when calculating average teacher salaries and other education costs, instead of linear weighted estimators which significantly understate the true local costs of teacher salaries and other costs throughout the Commonwealth;
- Recognition of cost of living variations throughout the Commonwealth in state funding formulas, in order to more accurately determine a locality's true ability to pay; and,

- Increased state resources for early childhood education programs which help young children enter kindergarten prepared to succeed.

The Boards strongly oppose:

- State budget cuts that disproportionately target or affect Northern Virginia;
- State policies which divert K-12 education funding away from local public schools and toward non-public options; and,
- Structural cuts or formula/policy changes which impose unfunded mandates on localities, further weakening the partnership between the state and localities.

(Updates and reaffirms previous position.)

2.) Washington Metropolitan Area Transit Authority (WMATA)

Support dedicated funding and governance reforms for Washington Metrorail, in order to ensure the success of this critical transit system.

Metrorail is vital to the transportation networks and economic growth of Northern Virginia and the Commonwealth, and the County supports WMATA's efforts to enhance the safety and security of the system and its riders through adequate funding and oversight to ensure the viability of this essential transit system. Sufficient state support is needed to address state of good repair and to help accommodate additional growth in Fairfax County and Northern Virginia, which is important for the entire Commonwealth (according to an analysis by the Northern Virginia Transportation Commission (NVTC), the 85,000 households and 130,000 jobs supported by Metro and the Virginia Railway Express (VRE) generate over \$600 million in state General Fund revenues). Because Metro is the product of a unique partnership, Virginia, Maryland, and the District of Columbia are engaged in crafting a plan to address WMATA's critical funding needs, which will require additional state and federal support. Addressing the existing funding gap for state of good repair and capital needs requires a dedicated funding source or sources. While a long-term solution is being negotiated by regional partners, financially prudent short-term strategies may be appropriate to ensure that WMATA's capital needs do not become compounded. In addition to addressing WMATA capital needs, **the County supports NVTC's Principles for WMATA Reform, pertaining to WMATA's governance and operations, adopted in September 2017.**

In Virginia, local jurisdictions are responsible for providing substantial funding for WMATA. In 2011, the Commonwealth established a precedent for linking WMATA Board representation and financial investments in the system (following the example set by the federal government in 2009), and upholding that precedent requires local jurisdictions to remain active participants on the WMATA Board as long as current funding patterns are maintained. *(Updates and reaffirms previous position. This position may need to be updated as negotiations among Virginia, Maryland, and the District of Columbia continue throughout the fall.)*

3.) Transportation Funding

The Commonwealth should continue and build upon the successful enactment of significant, new transportation revenues by the 2013 General Assembly (GA).

Statewide and regional funding generated by HB 2313 provides substantial new resources needed to begin addressing the transportation needs of Northern Virginia and the Commonwealth. While HB 2313 moves the Commonwealth in the right direction, transportation funding challenges remain.

- **Transit Capital Funding Bond Expiration** – During the 2015 session, the GA began to address the significant reduction in state transit capital funding expected to occur in FY 2019, due to the depletion of transportation bonds. The Transit Capital Project Revenue Advisory Board, created through HB 1359 (2016), identified an average revenue gap of \$130 million annually over the next ten years (not including the updated capital plan for WMATA, which was released after the study's analysis was conducted). The report concluded that sustainable and dedicated bond replacement funding must be enacted, and that failure to do so would leave the transit capital program unable to maintain a state of good repair for existing assets. The County supports efforts to fully address

this impending deficit in transit funding at the statewide level, to ensure that transit systems throughout the Commonwealth continue to receive the state resources needed to provide critical services. *(Regional position.)*

- **Allocation of Statewide Revenues –**

- HB 1359 (2016) also required the Transit Capital **Project** Revenue Advisory Board to develop a prioritization proposal for transit capital funding, making funding for new or expanded transit service subject to the same factors as Smart Scale (the prioritization process for statewide road funding), including ranking methods within already-established tiers for transit capital needs (vehicles receive priority, followed by infrastructure and facilities, followed by other items). Since the current funding approach has only been utilized for three years and was enacted after years of discussion and negotiation among localities and transit operators throughout the state, the County remains concerned that changing the transit capital formula again, after such a short time period, only makes it more difficult for systems to adequately plan and provide transit service. The framework recommended by the Advisory Board makes clear that new revenues are needed before the implementation of a new prioritization process, and the County agrees with that conclusion.
- It is critical that Northern Virginia continue to receive its fair share of statewide revenues, as required by HB 2313, particularly in light of the Smart Scale process for prioritizing projects. If any changes to the HB 2313 revenues are considered, alternative revenues must generate funds at least equal to those previously approved. Further, the new transportation funding created by HB 2313 should only be used for transportation purposes.
- Significant changes were made to the transportation funding formulas and processes during the 2014 and 2015 GA sessions. It is important that the implementation of Smart Scale (2014) and HB 1887 (2015) be closely monitored, especially during the initial years, to determine whether changes and improvements are necessary. Simplifying the implementation of Smart Scale, in particular, would ensure greater transparency and understanding of the processes while improving efficiency.
- The Virginia Department of Transportation's (VDOT) Northern Virginia District is only expected to receive 10.6 percent of the State of Good Repair funds created through HB 1887, raising significant concerns for the County. While 88 percent of all roads in Northern Virginia are in Fair or Better Condition, only 38 percent of secondary roads in Northern Virginia are in Fair or Better Condition, far less than the Commonwealth's average of 60 percent. Millions of people drive these roads every day, and the deteriorated pavements will only get worse unless additional funding is identified, or a greater portion of the current funding is allocated to Northern Virginia.
- The County is concerned about efforts to decrease funding for the Revenue Sharing program over the next several years, as well as recent regulatory changes reducing the maximum amount of funding localities can receive annually and limiting the amount of funding that projects can receive in perpetuity. This program significantly leverages state transportation funds by encouraging local governments to spend their own money on transportation projects, and has been essential in helping fund some of Fairfax County's major road and transit projects – the recent changes discourage local governments from seeking non-VDOT sources of revenue to meet transportation needs. Sufficient funding should be provided to the Revenue Sharing program, and the new locality and project limits should be reversed.
- The County remains opposed to the Department of Rail and Public Transportation's (DRPT) decision to allocate state funds for capital costs based on the total cost of a project, rather than the non-federal share. As the Fairfax Connector and several other Northern Virginia systems do not receive federal funds, this change only increased the local share that Northern Virginia systems must pay, while reducing the share other local governments in the Commonwealth provide for their systems because they receive federal funding for up to 80 percent of capital costs.

- **Fuels Tax Floor** – A 2.1 percent motor vehicle fuels tax is currently levied on fuels sold/delivered in bulk in the Northern Virginia area. These revenues, which the County uses to support Metro service, have been adversely affected by reductions in the price and use of gas; while the County received \$28.7 million from this revenue source in FY 2013, that amount decreased to \$15.3 million in FY 2017. Had the floor been in place, the County would have received an additional \$10.2 million in FY 2017. This issue is not only affecting Fairfax County, but also other localities within the Northern Virginia Transportation District (NVTC), the Potomac and Rappahannock Transportation District (PRTC), and Hampton Roads. The County supports establishing a floor on the regional gas tax similar to the floor that already exists on the statewide gas tax established in HB 2313, ensuring consistency for this critical funding source. *(Regional position.)*
- **Transportation and Economic Success** – The Commonwealth should provide funding assistance for the transportation needs of major employment centers to lay the groundwork for continued economic success. Fairfax County contains several major employment centers that generate public benefit for the County and the Commonwealth. For these centers, such as Springfield, Seven Corners, and Reston, to remain successful and accommodate predicted growth, they must transform into sustainable, transit-oriented, and walkable communities. This transformation has already begun in Tysons, where significant improvements in transit access have been made, but additional resources are needed to ensure that pedestrian, bicycle, and transit modes thrive and roadway congestion is addressed. The County's Six-Year Transportation Project Priorities (TPP) assumes significant local funding, as well as funding from regional and statewide sources. The projects in the TPP focus on making investments to strengthen the County's major employment activity centers, and it is important that the state and federal governments similarly recognize their importance by providing the funding needed to complete the transportation projects that have been identified in these areas. It is also vital that the capacity needs across the Potomac River be addressed, including at the American Legion Bridge and Rosslyn Tunnel, to alleviate the existing congestion and ensure the movement of people and goods throughout this economically vibrant region. Such action is essential to the economic success of Fairfax County and the Commonwealth.
- **VRE** – As VRE executes its 2040 system plan, it has developed an accompanying financial plan identifying capital and operating requirements totaling \$45 million annually (on average) to sustain VRE's current service levels. Without additional funding for operating costs, service levels will be reduced, potentially leading to the cessation of VRE service by 2033. Fairfax County supports VRE's efforts to explore long-term, dependable funding sources for both existing and future operations and capital costs, to ensure that VRE remains a safe and reliable commuting option in Northern Virginia.

A modern, efficient, multimodal transportation system is essential to the Commonwealth, and is intrinsically tied to continued economic development and the ability to compete in a global economy. Fairfax County, along with localities throughout the state, continues to provide millions of dollars in local funds for transportation each year, and the County and the Commonwealth must continue to work together to ensure that infrastructure needs are met, maximizing the benefits to the transportation system. *(Updates and reaffirms previous position.)*

4.) State Budget

The Commonwealth should rebalance its resources and responsibilities so that the funding partnership with localities is restored, ensuring the delivery of critically needed services in communities throughout Virginia. State established standards for locally delivered services must be accompanied by state funding that is adequate to successfully provide those services, and accountability for successes and failures should be reciprocal, ensuring both the state and localities accept responsibility commensurate with their respective roles.

The depth and breadth of state cuts to localities in recent years has severely stressed the state-local funding partnership. State aid to localities decreased by approximately \$1 billion between FY 2009 and FY 2016, including a five-year period in which the Commonwealth required localities to return funds to the state in order to help balance the state's budget – essentially creating a new reverse concept of "local aid to the

Commonwealth,” which translated into more than \$20 million in state funding cuts to Fairfax County. During that time period, Virginia also implemented sizable structural budget cuts to K-12, costing localities more than \$1.7 billion per biennium statewide by reducing the state’s required contribution to fund public education (including a cap on funding for support positions, the elimination of an inflation factor used for non-personnel support items, and formula changes that artificially reduce the state’s contribution to K-12). The Governor and the 2016 GA made significant progress in improving the state’s commitment to K-12, including substantially increasing funding in the 2016-2018 biennium budget; however, funding provided in the budget for a salary increase for teachers and other state-supported local employees was contingent on FY 2016 revenue projections, and when those projections were missed, a state revenue shortfall was created. The 2017 GA did not restore the promised funding for the salary increase in FY 2017, but did provide some funding towards a pay raise in FY 2018 (it is important to note that in Fairfax County, state funding for the partial year FY 2018 salary increase totals \$2.8 million, representing only a small fraction of the \$44 million required to fund a full year two percent salary increase for all instructional and support employees).

The allocation of resources is, in fact, a way of prioritizing areas of critical importance for the state. If core services and shared state-local programs are not at the top of that list, the pro-business environment Virginia has become known for will be jeopardized. Regrettably, a national report indicates that, during the recent national recession, only a handful of state governments cut more funds to local governments and school districts than did Virginia. Though the Commonwealth’s budget shortfall was the 20th largest in the nation, the state funding cut to localities was third highest among states. Essentially, Virginia relied on cuts to localities and school divisions to a greater extent than most other states.

While direct aid to localities was 52 percent of the General Fund (GF) in FY 2009, it only accounted for 42 percent of the GF in FY 2017. And K-12, the most critical core service shared by the state and localities, dropped from 35 percent of the GF in FY 2009 to less than 28 percent in FY 2017.

In addition to the County priorities of K-12 and Transportation, action should be taken at the 2018 GA on the following budget items:

- Full restoration of Cost of Competing Adjustment (COCA) funding for K-12 support positions in the 2018-2020 biennium budget (*see also page 2*).
- Ensure WMATA’s capital funding gap for state of good repair and critical capital needs is appropriately addressed (*see also page 3*).
- Restoration, or at a minimum, level funding, for HB 599 law enforcement funding (*see also pages 11-12*).
- Provide additional state funding to increase Medicaid waiver rates and slots for individuals with developmental disabilities, to provide appropriate community services and ensure the Commonwealth fulfills its responsibility to implement the federal settlement agreement (*see also page 15*).
- Expansion of Medicaid and restoration of funding for human services programs, which serve the most vulnerable Virginians (*see also the Human Services Issue Paper*).

State revenues have continued to fluctuate considerably in recent years, with another large revenue shortfall announced in FY 2016 – the third dramatic downturn this decade, which has also seen years of sizable surplus funding. However, the state completed FY 2017 with a revenue surplus of \$137 million. It is important that the state work to protect the additional funding provided in the 2016-2018 biennium budget for K-12 after years of underfunding, as well as work to preserve funding for critical local programs and services. In addition, expansion of Medicaid as envisioned in the Patient Protection and Affordable Care Act presents a significant opportunity for the state to take advantage of enhanced federal revenues, thus freeing up state dollars to be redirected to other critical needs (Medicaid expansion is discussed in more

detail in the Human Services Issue Paper). Now is the time for the state to focus on investments in critical core services that will continue to move Virginia forward. *(Updates and reaffirms previous position.)*

Governance

A strong state and local partnership is essential to Virginia's success and the ability of both levels of government to respond to the needs of their residents. As the form of government closest to the people, local government must be provided the flexibility to serve the needs of residents, which can vary greatly from one part of the Commonwealth to another.

5.) Local Authority

Existing local government authority should be preserved, particularly in such key areas as taxation and land use, and the protection of public health, safety, and welfare, where local governments must have sufficient authority to govern effectively. Further, local authority should be enhanced to provide localities more flexibility in the administration of local government, as appropriate community solutions differ significantly from one area of the state to another. Finally, local government representatives should be included on all commissions or other bodies established by the state for the purpose of changing or reviewing local revenue authority or governance.

The local tax structure, which has become outdated and over-reliant on property taxes, must be modernized. Local government revenues must be diversified, including the provision of equal taxing authority for counties and cities, without state mandated restrictions on use, or caps on capacity. Where possible, the state should consider updating state and local taxes to reflect changes in the economy or technology; avoid any expansion of revenue-sharing mechanisms controlled by the state; avoid any new state mandates while fully funding and/or reducing current requirements; avoid any diminution of current local taxing authority (including BPOL and machinery and tools taxes) and lessen restrictions currently imposed on local revenues; or lessen current restrictions on the use of state funds now provided to localities for shared responsibilities. The Special Joint Subcommittee on Local Government Fiscal Stress, created by the 2017 GA, has begun examining issues of local government fiscal stress, including issues related to local taxing authority, which could provide a helpful first step.

Local land use authority must also be preserved. Historically, local governments have served as the level of government best suited to equitably and effectively deal with local land use issues. However, recent actions by the GA have significantly eroded local land use authority, which has the effect of distancing communities and neighborhoods from decisions about development in their area. Legislation enacted by the 2016 GA to severely limit proffer authority, which has long been used to ensure that new development or redevelopment is able to mitigate its impacts and address community concerns about such impacts, has posed challenges in its implementation and will likely lead to serious repercussions in years to come.

Instead of statewide land use decisions that do not reflect differences in localities throughout the Commonwealth, communities should be empowered to act through their locally elected governments to ensure orderly and balanced growth and development, allowing direct public participation and accountability in this critical process. Additionally, further restrictions on, and additional procedural hurdles for, local use of eminent domain are unnecessary; Fairfax County has been extremely judicious and wholly appropriate in its very selective use of condemnation. Moreover, additional legislation in this area should be avoided while courts adjudicate the 2013 amendment to the Virginia constitution, which changed what was a long-settled area of law.

Each level of government has unique strengths. However, as a Dillon Rule state, local governments in Virginia are significantly restricted in their authority, which impedes the ability of localities to react quickly and efficiently to emerging problems. In many instances, an overemphasis on statewide uniformity does not adequately consider the particular issues experienced in growing and urbanizing localities in Northern Virginia, limiting the ability of local governments to respond to community standards and priorities. Consumer protection is an example of an area in which local government is often better equipped to address local concerns. At a minimum, the state should empower localities to solve their own problems, by providing increased authority or discretion for services that have no compelling priority or impact for the

Commonwealth, thus eliminating the need to seek permission for ministerial matters from the GA each year. Moreover, efforts to encourage the new “sharing economy” must balance such interests with those of the community, safeguarding local revenue sources and land use authority (which the GA successfully achieved in providing new local authority for governing short-term rentals in residential areas). Additionally, requiring that all bills with a local fiscal impact be filed by the first day of the GA session would allow localities the maximum time possible to highlight potential impacts as new legislation is considered. Furthermore, local governments must be included as full participants on any state commissions and study committees examining local issues, allowing for a more complete assessment of such issues and reflecting the governing partnership that must exist between the state and localities to ensure the effective administration of government. *(Updates and reaffirms previous position.)*

Initiatives/Action Statements

Human Services – Parental Notification of Involuntary Commitment for Minors Experiencing Mental Health Crises (pending final decision on November 28, 2017)

Initiate legislation to amend Virginia Code § 16.1-341(B) to require that a “reasonable effort” be made to serve the non-petitioning parent(s) when a minor is being involuntarily committed for mental health reasons, instead of requiring completed service of process on both parents, so that the inability to serve the non-petitioning parent(s) would not result in dismissal of the petition. Currently, Virginia Code requires that both parents be served within 96 hours from the time the petition is filed or a temporary detention order is issued (whichever is later) when a minor is in need of emergency in-patient mental health services (due to being a danger to themselves or others). Serving both parents within that time frame is sometimes impossible (when a parent is out of the state or country or cannot be located), and may preclude the minor from receiving critically-needed emergency mental health treatment, to the potential detriment of the minor, his/her family, and the community.

Position Statements

Environment

Global Climate Change/Environmental Sustainability Initiatives

Support efforts to reduce the County's greenhouse gas emissions and operational demand for energy through efficiency, conservation, and education.

The basis for these efforts is Fairfax County's strategic direction and commitment to achieve environmental and energy goals, including those set forth in the County's 2017 Environmental Vision, the 2009 Energy Policy, and the County's Comprehensive Plan.

Support incentives and opportunities for the expansion of renewable energy and energy efficiency initiatives, such as:

- Funding of renewable energy grant programs and incentives to assist the development and growth of energy businesses and technologies, such as renewable distributed energy generation.
- Opportunities for consumers to purchase or generate renewable energy, including expanding the availability of net metering programs, which allow eligible customers to offset their power consumption by selling self-generated power back to the energy grid. Legislation in 2015 raised the cap on the amount of energy that may be net metered by eligible customers, but more flexibility is needed to maximize the cost-effectiveness of larger projects.
- State income tax incentives for businesses or residents to defray a portion of the cost of new construction or improvements which save energy and mitigate adverse environmental impacts.
- Increased flexibility in the restrictions governing third-party power purchase agreements (PPAs) for renewable energy. PPAs can facilitate the adoption of renewable energy by reducing the up-front costs, thus assisting in reducing greenhouse gas emissions and other forms of pollution. Legislation was passed in 2013 to authorize a limited pilot program for such arrangements, subject to certain system-size requirements and an overall cap of 50 MW on generation. *(Updates and reaffirms previous position.)*

Land Conservation

Support the conservation of open space, which protects vital ecological resources and the environment, provides recreational opportunities, and improves the quality of life.

Fairfax County has long supported the goals set by recent Virginia Governors to preserve open space and protect "Virginia Treasures" (properties with particular conservation value, such as wetlands or riparian buffers). The County also supports state incentives that promote donations to park authorities or associated foundations, the prioritization of the Virginia Land Preservation Tax Credit to encourage the preservation of land for public use, and increased funding for the development and rehabilitation of park infrastructure, including trails, shelters, and fields. In addition to other benefits, the preservation of open space contributes to watershed protection, an important issue as the state works to reduce nutrient pollution in the Chesapeake Bay. *(Updates and reaffirms previous position.)*

Reducing Environmental Contamination from Plastic and Paper Bags

Support legislation or other efforts which would encourage the use of reusable shopping bags, consistent with the County's waste reduction goals and environmental stewardship efforts.

As in previous sessions, it is anticipated that legislation to ban plastic bags or impose a fee for their use may be introduced again in 2018. Such legislation would need to be examined by the County for efficacy, cost, and ease of administration. *(Updates and reaffirms previous position.)*

Funding

Economic Success

Support a strong partnership between the Commonwealth and the County as Virginia's economy adapts to a changing fiscal landscape.

Virginia has historically been among the top states in the nation in per capita federal spending, and both the state and the County have benefited from significant federal investments in military and civilian employment, along with associated contracting industries. However, the effects of federal budget cuts and sequestration have had a negative impact on County and state revenues, as high-paying professional and contracting jobs have been replaced by lower-paying jobs in the service sector. Support full funding of the Commonwealth's Development Opportunity Fund and one-time investments in unique opportunities, which pay significant dividends for the County and the Commonwealth; for example, the state has been a critical partner in special events hosted by the County, such as the World Police and Fire Games.

In the long term, support a multi-faceted approach to position the County for future growth, including state investments to:

- Further strengthen the County's dynamic business climate through innovation, by facilitating the co-location of universities, research institutions, businesses, and incubators, while encouraging commercialization of the resulting research and spin-off ventures;
- Ensure a workforce equipped for emerging, high-growth industries (such as information technology and cyber) by providing coordinated career and technical education training opportunities, including multiple pathways to earn a diploma, work-based learning experiences, and career clusters (groupings of occupations/industries which help students investigate careers and design their courses of study) in K-12, noncredit workforce training programs, higher education, and community college settings;
- Diversify the local economy by attracting new industries to Fairfax County, while continuing to support businesses already located in the County;
- Protect existing federal facilities within the County, while encouraging additional federal expansions;
- Maintain an environment conducive to recruiting additional federal installations;
- Encourage regional collaboration on initiatives with an economic benefit to the County; and,
- Preserve and strengthen community assets (such as schools, transit, transportation, health care systems, vibrant public spaces, and workforce housing, among others) to encourage organizations to locate and expand operations in the County and to attract private investments. *(Updates and reaffirms previous position.)*

Libraries

Support increased state aid to public libraries, which provide communities with critical services such as student homework support, research assistance, and public internet access.

Nearly 5 million visits were made to Fairfax County public libraries in FY 2017, with approximately 11.5 million items borrowed. Since FY 2001, annual state aid to libraries has declined by nearly \$5 million, or 25 percent; at a minimum, the state should avoid further reductions in aid. *(Updates and reaffirms previous position.)*

Public Safety/Courts Funding

Public safety is a core service for the Commonwealth, as it is for localities. Protecting the Commonwealth's residents and ensuring the successful operation of all aspects of the justice system requires appropriate state funding for this state-local partnership, including law enforcement, the courts, and jails/corrections. Continued and substantial state cuts in recent years, in addition to the underfunding that already exists, have placed an increased burden on localities to fund these state responsibilities. To that end, Fairfax County supports reversing this trend through adequate state funding for the following:

- **HB 599 – The Commonwealth should restore, or at a minimum maintain, HB 599 law enforcement funding.** This critical funding, provided to localities with police departments, is a

priority for localities throughout the Commonwealth. Approximately 65 percent of all Virginians currently depend on local police departments for public safety services. This program strives to equalize state funding between cities, counties, and towns with police departments and localities in which the sheriff provides law enforcement. Though state funding did increase in the 2016-2018 biennium budget, if state funding had consistently increased with state revenues, as is required, Fairfax County would have received approximately \$43.3 million in additional funding over the past eight years. *(Updates and reaffirms previous position.)*

- **Jails – The Commonwealth should adequately compensate localities at a level which is commensurate with the state’s responsibility for local jail operations.** Local governments in Virginia have historically borne a disproportionate burden of supporting jail confinement costs, as a result of significant underfunding by the Commonwealth. *(Reaffirms previous position.)*
- **Courts – The Commonwealth should adequately fund Virginia’s courts, to ensure a well-functioning judicial branch.** The overall underfunding of Virginia’s court system continues to place additional burdens on localities and the judicial system. Providing sufficient funding for the salaries of court personnel, including clerks, magistrates, Commonwealth’s Attorneys, public defenders, district court employees, and probation office employees, among others, is a critical state responsibility. The criminal justice system is also increasingly dealing with individuals with mental health and substance use disorder issues, which places tremendous stress on the system. In accordance with best practices, Fairfax County has increased focus on diversion programs; however, such efforts require significant time and resources from court employees. **Specialty** courts and dockets would enhance diversion efforts by ensuring appropriate treatment for individuals with **substance abuse issues**, mental illness, or developmental disabilities who come into contact with the criminal justice system for low-level offenses. Additionally, budget-related actions in recent years to limit the filling of judicial vacancies have strained the ability of the courts to administer justice efficiently while managing a large volume of cases. Though the GA has taken action in recent sessions to address this challenge, funding still needs to be allocated to fill judicial vacancies on the Fairfax General District Court and the Juvenile and Domestic Relations Court. When reevaluating the need for judgeships and state funding for each court, the quantity of filed cases and qualitative factors (including interpreters, increases in population and commercial development, and cost of living) should be considered. *(Updates and reaffirms previous position. See also the Mental Health, Public Safety, and the Criminal Justice System position on page 16. The updated weighted caseload study will be released by November 15, 2017.)*

Water Quality Funding

Support budget action at the 2018 GA providing adequate state appropriations to the Water Quality Improvement Fund (WQIF) in order to ensure full and timely payments under point source upgrade contracts with local governments; also support the restoration of funding to the Stormwater Local Assistance Fund (SLAF).

Fairfax County and local governments throughout Virginia face mounting costs for water quality improvements for sewage treatment plants, urban stormwater, combined sewer overflows (CSOs), and sanitary sewer overflows (SSOs). The state has made significant progress in providing funding in recent years, including deposits to the WQIF of surplus funds and the establishment and funding of the SLAF (the GA appropriated \$80 million for SLAF from FY 2014 to FY 2017), and the County recently received \$5 million in SLAF funds for stream restoration projects at Lake Fairfax Park, Greentree Village Park, and Flatlick Branch Phase II. However, no funding has been appropriated for SLAF for FY 2018. In order to meet federal Chesapeake Bay requirements, additional state assistance for urban stormwater needs will be required (in 2011, the Senate Finance Committee estimated these costs to be between \$9.4 billion and \$11.5 billion by 2025), while additional funding will likely also be needed for wastewater treatment plant upgrades in the Chesapeake Bay watershed. The state must partner with localities in order to meet these federal mandates to ensure the success of this effort, and such funding must continue to increase if Virginia is to meet its commitments for the Chesapeake Bay. *(Updates and reaffirms previous position.)*

General Laws

Elections

Support legislation to promote participation in elections, enabling citizens to exercise their right to vote in an efficient and equitable manner. Adequate state funding for election administration, voting equipment, and systems modernization is essential to this effort.

Also, support legislation allowing any registered voter to vote absentee without requiring that the voter state a reason (“no-excuse” absentee voting), and providing for extended polling hours statewide to allow voters additional time to reach polling places. Legislation intended to enhance security regarding elections must be carefully analyzed to ensure that it strikes a balance between maintaining the integrity of elections while not discouraging the exercise of the franchise. The effects of the 2013 voter ID legislation should be examined for potentially harmful consequences before further legislation in this area is considered. Similarly, following the 2013 Supreme Court decision striking down Section IV of the Voting Rights Act, which eliminated the requirement that changes to Virginia’s election laws be “pre-cleared,” state and federal actions that may impact elections should be closely monitored. Additionally, support greater state financial support for voting equipment, systems modernization, and election administration, including training for the local electoral board members, registrars, and elections officials. Such assistance will be increasingly necessary as federal Help America Vote Act (HAVA) funds will be exhausted in FY 2018; these funds have comprised a significant portion of annual spending by the Virginia Department of Elections. *(Updates and reaffirms previous position.)*

Sexual Orientation

Support legislation to permit the County, as an urban county executive form of government, to prohibit discrimination in the areas of housing, real estate transactions, employment, public accommodations, credit, and education on the basis of sexual orientation and gender identity.

Fairfax County has already taken actions pursuant to existing state enabling legislation in the preceding areas on the basis of race, color, religion, sex, pregnancy, childbirth, and disability. *(Updates and reaffirms previous position.)*

Health

Alternative On-Site Sewage Systems (AOSS)

Support legislation that provides tools to ensure AOSS are appropriately installed, serviced, inspected, monitored, and maintained.

Support legislation that would require sellers of residential property to directly disclose to prospective purchasers that an AOSS is on the property and that the system will have to be operated and maintained in accordance with applicable standards and requirements. Support legislation that would provide localities with additional tools to ensure adequate reporting of periodic private-sector inspections and that would allow localities to abate or remedy violations of laws regarding the operation and/or maintenance of such systems. Oppose legislation that would further restrict local government authority to regulate the installation of such systems within the locality, including but not limited to authority to ensure installation according to approved designs and development plans, establish minimum setback distances and installation depths, and prohibit such systems within or near wetlands and other environmentally sensitive areas, unless such systems are approved by the Virginia Department of Health for use in the particular circumstances and conditions in which the proposed system is to be operating. *(Updates and reaffirms previous position.)*

Lyme Disease

Support funding initiatives that will advance research, surveillance, reporting, diagnostics, and treatment for Lyme disease, as recommended by the Lyme Disease Task Force convened in 2011 by the Governor and the Secretary of Health and Human Resources.

Cases of Lyme disease have been on the rise in Virginia, with 1,102 confirmed and 437 probable cases reported to the Centers for Disease Control and Prevention in 2015. *(Updates and reaffirms previous position.)*

Substance Use Disorder

Support increased capacity to address the Commonwealth's growing epidemic of heroin and opioid addiction through community-based treatment (including detoxification and medication-assisted treatment), enhanced prevention programs, and innovative efforts to limit the supply of opioids. Also, support coordinated strategies to meet the growing need for substance use disorder services for older adults.

Across Virginia, law enforcement and health care professionals report a dramatically increasing number of deaths due to heroin and opioid overdoses. The statistics from 2016 are startling:

- More than 1,100 Virginians (including over 100 Fairfax County residents) died from an opioid overdose;
- Virginia emergency departments reported more than 10,000 visits for opioid and heroin overdose treatment;
- Approximately 4.6% of Fairfax County students in the 8th, 10th, and 12th grades reported taking painkillers without a doctor's order, and 4.0% reported taking other prescription drugs without a doctor's order, within a month of the survey date in November 2016;
- Opioid overdose continues to be the leading cause of death for individuals under the age of 50; and,
- The statewide rate of drug-caused deaths exceeded the number of deaths due to motor vehicle accidents.

Substance use disorder affects people at all ages and stages of life, including older adults, and the need for substance use disorder services is growing. The work of the state's Task Force on Prescription Drug and Heroin Abuse and the Heroin and Prescription Drug Abuse Strategy are significant steps toward developing a comprehensive statewide approach to tackling substance use disorder. The 2017 GA approved legislation to help reduce the available supply of opioids by increasing awareness among doctors and patients, strengthening prescription monitoring, and limiting prescriptions to what is medically necessary. However, more is required to confront this public health emergency. It is essential that the Commonwealth provide additional funding for detoxification, medication-assisted treatment, and other substance use disorder services that are cost-efficient, accessible, and outcome driven. *(Updates and reaffirms previous position.)*

Human Services

Children's Services Act (CSA)

Support continued state responsibility for funding mandated Children's Services Act (CSA) services on a sum-sufficient basis. Oppose changes to CSA that shift costs to local governments, or disrupt the responsibilities and authorities assigned to the County by the CSA. Also support the current structure, which requires that service decisions are made at the local level and are provided based on the needs of each child, ensuring that service expenditures are approved through local processes.

The Children's Services Act (formerly known as the Comprehensive Services Act) is a 1993 Virginia law that provided for the pooling of eight funding streams used to plan and provide services to children who: have serious emotional or behavioral problems; need residential care; need special education through a private school program; or, receive foster care services. It is a state-local partnership requiring an aggregate local match of approximately 46 percent. Children receiving certain special education and foster care services are the only groups considered mandated for service, and "sum sufficient" language ensures state and local governments provide funding necessary for such youth. Fairfax County strongly opposes any efforts to cap state funding or eliminate the sum sufficient requirement, as the Commonwealth must not renege on its funding commitment to CSA. Additionally, changes to CSA law, policy, or implementation guidelines should focus on solutions that acknowledge the critical roles played by both levels of government, and should not favor one side of the partnership over the other.

Several years ago the state changed the local match rate structure, in order to incentivize the provision of community-based services, which are less expensive and more beneficial to the children and families participating in CSA. As a result, CSA residential placements decreased, as did overall costs for CSA, illustrating the success the state can achieve by working cooperatively with local governments; however, in

recent years CSA costs have begun to rise, likely due to increases in special education services and the number of children served. The 2016 GA made some helpful changes, slightly increasing CSA local government funding, as well as providing CSA funding for extended foster care services and support for youth 18-21 who entered foster care prior to their 18th birthday.

Fairfax County also supports:

- Increased state funding for local government CSA administrative functions;
- Recommendations of the State and Local Advisory Team (SLAT) that the match rate for wrap-around services be lowered to the rate used for other community-based services;
- Elimination of the local Medicaid match requirements for students placed in residential treatment facilities for non-educational reasons, and revisions in policy ensuring that state and localities share the costs of educational services equitably;
- Maintaining expenditures for private day services at the current state level, as any effort to redirect those funds would essentially eliminate the sum-sufficiency requirement that ensures the state pays its appropriate share of these critical service costs; and,
- Close monitoring of the State Executive Council's practices when policies are created or amended to ensure broad collaboration with local governments, especially recognizing potential impacts on local financial and implementation responsibilities. *(Reaffirms previous position.)*

Restructuring Services for Individuals with Developmental Disabilities

Support additional state funding to increase Medicaid waiver rates and slots, to provide appropriate community services and ensure the Commonwealth fulfills its responsibility to implement the federal settlement agreement. Also support budget language that requires the proceeds of the sale of the Northern Virginia Training Center (NVTC) property to be used solely to develop new community-based services and housing opportunities for persons with developmental disabilities in Northern Virginia.

As a result of a state decision following a settlement agreement negotiated with the U. S. Department of Justice (DOJ), the Commonwealth adopted a plan to close four of the state's five training centers (which provide residential treatment for individuals with intellectual and developmental disabilities) by 2020. This shift, from an institution-based system with bifurcated Intellectual Disability (ID) and Developmental Disability (DD) services to a community-based system with one integrated service for both ID and DD, is a challenging process that must be carefully implemented to ensure that affected individuals receive the services they need.

As time elapses after the closure and imminent property settlement on the sale of NVTC, it is imperative that the proceeds of the sale remain protected for development of new community-based services and housing opportunities for persons with developmental disabilities in Northern Virginia. Although there has been some limited expansion of residential supports, the Commonwealth has so far failed to create sufficient and appropriate housing and employment/day supports in Northern Virginia. While the Commonwealth has completed its redesign of Medicaid waivers, rates remain well below the cost of providing services in Northern Virginia and do not adequately support individuals with intensive needs or allow for the necessary expansion of capacity. Further, the settlement agreement requires the state to reduce its waiver waiting list, which will be a tremendous challenge as the rapidly growing list already consists of more than 12,000 individuals statewide (as of October 2017), including over 2,000 individuals in Fairfax County. The Commonwealth must develop a clear plan with sufficient funding to address these critical issues.

Successfully implementing the DOJ settlement is the Commonwealth's responsibility and obligation. An essential component of this effort is sufficient and timely state funding for individuals receiving or waiting to receive local, community-based services close to home. *(Updates and reaffirms previous position. See also the Medicaid Waivers position in the Human Services Issue Paper.)*

Mental Health, Public Safety, and the Criminal Justice System

Support sustainable funding, allocated based on localities' needs and population size, for public safety and mental health services that connect non-violent offenders experiencing mental health crises to treatment instead of the criminal justice system.

Police officers are often the first responders when an individual is in a mental health crisis; the Fairfax County Police Department received more than 6,000 calls in 2016 that were mental health related. Sometimes these calls lead to incarceration for low-level offenses (trespassing, disorderly conduct), precluding the individual from appropriate treatment in the community for underlying mental health issues. In fact, more than three in ten inmates who remain at the Fairfax County Adult Detention Center (ADC) for more than four days have been identified as needing mental health care, and inmates with mental health and substance abuse issues remain at the ADC on average 20 days longer than inmates without these issues. It is significantly more expensive to deliver mental health services in a detention facility than to provide the same service in community-based residential or community-based care.

To address these critical issues, in 2016 Fairfax County utilized local revenues to launch "Diversion First," which offers alternatives to incarceration for people with mental illness or developmental disabilities who come into contact with the criminal justice system for low-level offenses. The program has already had a significant impact, as about 600 people have been diverted from potential arrest. Successful expansion of this program will depend on adequate state investments in mental health services (and accompanying court and public safety resources) to:

- Increase the availability of secure 24/7 crisis assessment centers, crisis stabilization units, mobile crisis units, local psychiatric beds for forensic patients, affordable housing options, behavioral health counselors and therapists, peer support, reintegration services for youth and adults at high-risk of rapid re-hospitalization or re-offending, psychiatry, and forensic discharge planning (*See also the Human Services Issue Paper*);
- Strengthen responses to individuals in mental health crises by funding Crisis Intervention Team (CIT) and additional de-escalation training for law enforcement officers, Fire and Rescue and jail personnel, and Mental Health First Aid Training for social service organizations staff;
- Improve the screening, assessment and treatment of incarcerated individuals' mental health by gathering uniform system level data (including prevalence rates and demand for services);
- Support the development of specialty courts and dockets;
- Facilitate the exchange of health information of individuals believed to meet the criteria for temporary detention orders among law enforcement, the Court system, Community Services Boards, health care providers, and families and guardians;
- Expedite the process of placing individuals in psychiatric hospitals;
- Reduce justice system involvement by providing evidence-based, culturally competent, and trauma-informed behavioral health services for all ages, including integrated mental health and addiction care, case management, and housing and employment assistance for individuals with mental illness and substance use disorders;
- Increase funding of mental health services and substance abuse treatment for individuals who are incarcerated for offenses that make them unsuitable candidates for a diversion program; and,
- Remove barriers to reentry by providing adequately funded forensic discharge planning services to connect former inmates with mental health and substance abuse treatment in the community. (*Updates and reaffirms previous position. See also the Public Safety/Courts Funding position on pages 11-12.*)

Land Use

Limited Residential Lodging

Preserve local authority over short-term rentals in residential areas, allowing localities to balance the interests of entrepreneurs in the new "sharing economy" with those of the community, safeguarding local revenue sources and land use authority.

As a result of significant discussion about short-term rentals over two GA sessions, the 2017 GA enacted helpful legislation maintaining local authority over limited residential lodging, which is essential as local

governments and communities are best able to consider the benefits and consequences of such rules in widely differing local contexts. Residential areas across the Commonwealth, and even within a particular locality, can differ in terms of population density, public utilities and resources, traffic patterns, and other relevant considerations like the availability of parking and transit options. Business enterprises emerging from the new “sharing economy” can bring positive innovation to Virginia’s economy, spurring a new kind of economic development activity; however, it is essential that such economic development be well-integrated into the existing character of the community, in order to avoid inadvertently providing protections to illegal boarding houses or making code enforcement efforts more difficult. The 2017 legislation also preserves related local taxing authority, and provides localities with authority to require registration of limited residential lodging operators, to ensure that relevant health and safety codes are met along with the payment of relevant taxes and fees. Efforts to reduce local government authority over limited residential lodging should be avoided. *(Updates and reaffirms previous position.)*

Proffers

Local authority to accept cash and in-kind proffers from developers must be restored without restrictions. Such proffers assist with providing necessary capital facilities and infrastructure to serve new development and maintain local community standards, in order to keep and improve quality of life and encourage and spur economic development.

The 2016 GA enacted legislation sharply limiting local proffer authority, reducing the County’s ability to work with developers and local communities to ensure that new development or redevelopment mitigates its impacts and addresses community concerns about such impacts. Though the legislation was primarily intended to narrow localities’ proffer authority, it also restricts developers’ options to proffer an array of items to satisfy community concerns about a particular development. This new law prohibits localities from accepting proffers that fall outside the bounds of these new requirements, even if developers offer them voluntarily. Another challenge created by this new law is that it hinders a locality’s ability to work cooperatively with a developer because the law includes enhanced damages for a developer if a locality “suggests” a proffer that could not be accepted, running counter to the collaborative environment that has been created in the County over many years. Though certain areas of Fairfax County were exempted from such requirements, challenges in navigating these new restrictions have arisen, as evidenced by the substantial decline in residential applications in non-exempt areas since the bill went into effect. The 2017 GA considered a few bills that would have changed aspects of the new law, but all such efforts were rejected. The County continues to support full restoration of its proffer authority; no further restrictions on local land use authority should be considered, and any proposal for replacing proffer commitments with development impact fees must be at the option of each locality. *(Updates and reaffirms previous position.)*

Wireless Telecommunications Facilities

The siting of telecommunications facilities is an important component of local land use authority, ensuring community involvement, and should be retained.

Federal law currently preserves local land use authority to determine the location, construction, and modification of wireless telecommunications facilities, subject to certain restrictions. These federal restrictions on local land use decisions have been extensively litigated. Overlaying additional state restrictions on these local land use decisions may remove all community involvement in decisions about where very large facilities will be located, among other negative consequences.

Unfortunately, the 2016 GA eliminated some local flexibility by deeming telecommunications towers located in zoning districts where they are permitted by right to be in conformance with a locality’s comprehensive plan, removing the requirement for a public hearing before the local planning commission (the 2017 GA rejected efforts to restore such authority). During the 2017 GA, wireless telecommunications facilities were discussed extensively, resulting in a compromise bill that imposed state restrictions on local approval of the siting of small cell wireless facilities that attach to existing structures and set mandatory standards for access to public rights-of-way, while removing many of the most egregious limitations on local government authority included in the introduced legislation (relating to approvals for the siting of new telecommunications towers and facilities that are not attached to existing structures, use of public facilities, and relocation in the right-of-way, among other things). Part of the compromise was an agreement that local government groups would work with industry stakeholders to streamline the processes for approval

of free-standing new towers and facilities in unserved or underserved rural areas in advance of the 2018 GA; however, a GA workgroup **formed after the 2017 session** seems to be considering legislation related to free-standing new facilities in all areas of the Commonwealth, in contravention of the compromise.

No additional new legislation should be enacted to upset the balance that already exists under current federal regulation and the compromise reached in 2017, which ensures that wireless services are provided without completely preempting already limited local authority to determine the appropriate location of such facilities. *(Updates and reaffirms previous position.)*

Public Safety

Accessibility

Support ensuring the inclusion of people with disabilities throughout the Commonwealth by increasing accessibility to public places, housing, and transportation services (including transportation network companies).

Over 75,000 working-age Fairfax County residents have a disability, which includes people with hearing, vision, cognitive, ambulatory, self-care, and/or independent living disabilities. While significant progress has been made toward ensuring the equality and inclusion of people with disabilities since the passage of the Americans with Disabilities Act (ADA) more than 27 years ago, continued advancement is needed. Fairfax County supports access for people with disabilities and older adults in public and private facilities; in particular, by increasing accessibility through incentives, voluntary standards for accessible housing, and educational outreach to businesses, building officials, medical providers, advocacy groups, and state and local governments.

The lack of affordable, accessible, integrated housing is a major barrier facing older adults and people with disabilities. Innovative options include increasing the accessible housing stock in newly constructed multi-family housing (encompassing apartment buildings, condos, and assisted living housing among others); encouraging builders to offer “visitable” or Universally Designed options for new single family homes as an alternative to conventional design; raising the maximum annual allotment of the Livable Homes Tax Credit; and, establishing a comparable grant to help pay for much-needed home modifications. Incentives and initiatives for accessible housing and home modifications should benefit both homeowners and renters. Additionally, transportation network companies have the potential to reduce transportation barriers for individuals with disabilities and older adults, and innovative approaches should be considered for the provision of wheelchair-accessible services. Improved accessibility in public buildings, housing, transportation, medical facilities and employment benefits all Virginians, by allowing people with disabilities to remain active, contributing members of their communities, while retaining their independence and proximity to family and friends. *(Updates and reaffirms previous position.)*

Dangerous Weapons in Public Facilities

Support legislation to allow local governments to prohibit the possession of dangerous weapons in or on any facility or property owned or leased by the locality, with certain exceptions, including any person who has been issued a permit to carry a concealed handgun.

Violation of such an ordinance would be punishable as a misdemeanor. It is particularly important that the County have such authority for any facility or property owned or leased by the County serving large populations of youth under the age of 18. Current law permits private property owners to decide whether or not to permit dangerous weapons on their property. *(Reaffirms previous position.)*

Pneumatic Guns

Support legislation that would authorize a locality to adopt an ordinance that would ban the possession of pneumatic guns on school grounds, with an exemption for persons participating in school-sponsored activities.

Pneumatic guns, particularly those fired by pump action or carbon dioxide gas cartridges, are capable of muzzle velocities that can result in skin or ocular penetration. A particular concern of County law enforcement is that modern pneumatic guns often strongly resemble firearms. Given the potential for injury

caused by these guns, legislation which would allow localities to ban their possession on school property would provide important protection. The GA has already banned the possession of a long list of weapons on school grounds, thus recognizing that schools should be a “safe zone.” *(Reaffirms previous position.)*

Taxation

Communications Sales and Use Tax

Support legislation to protect the financial interests of local governments based upon declining revenues in the communications sales and use tax.

After lengthy negotiations, the 2007 GA repealed many local telecommunications taxes and replaced them with a statewide communications tax. The expectation at that time was that the new communications tax would grow and localities would, at a minimum, receive the same amount of funding as they received in FY 2006 (\$85.5 million for Fairfax County). However, this tax has eroded and in FY 2017, the County only received approximately \$75.2 million. Consequently, any consideration of formula changes must be avoided until and unless communications tax revenues increase sufficiently to ensure revenue neutrality for localities, as agreed upon when this compromise was reached. A 2015 report by the Virginia Department of Taxation found several reasons for the decline in Communications Sales and Use Tax revenue, including a decline in telephone landlines (down 21 percent between 2007 and 2014), a decline in gross receipts from satellite radio services (down 91 percent between 2007 and 2014), and exemptions in the current law for streaming audio and video services and prepaid calling services, which have become increasingly popular in recent years. These changes in market area, customers served, new technologies, and perhaps the rate itself must be examined to ensure a modern communications tax system for localities, which reflects and reacts to an ever-changing landscape. *(Updates and reaffirms previous position.)*

Transportation

Secondary Road Devolution

Oppose any legislation that would require the transfer of secondary road construction and maintenance responsibilities to counties, especially if these efforts are not accompanied with corresponding revenue enhancements.

While there are insufficient resources to adequately meet the maintenance and improvement needs of secondary roads within the Commonwealth, the solution to this problem is not to transfer these responsibilities to counties that have neither the resources nor the expertise to fulfill them. Further, oppose any legislative or regulatory moratorium on the transfer of newly constructed secondary roads to VDOT for the purposes of ongoing maintenance. *(Reaffirms previous position.)*

Pedestrian Safety and Access to Transit

Support revisions to Virginia’s existing pedestrian law that clarify the responsibilities of both drivers and pedestrians, to reduce the number of pedestrian injuries and fatalities that occur each year. In particular, support legislation that would require motorists to stop for pedestrians in crosswalks at unsignalized intersections on roads where the speed is 35 mph or less, and at unsignalized crosswalks in front of schools.

Safe access to transit facilities can be improved through infrastructure investments, better traffic safety laws, and adequate sidewalk maintenance, including snow removal following inclement weather. With the opening of the Silver Line, along with significantly increased Fairfax Connector service and more concentrated growth, more residents and workers in the County are choosing to walk and use transit. *(Updates and reaffirms previous position.)*

FAIRFAX COUNTY

2018 Transportation Fact Sheet

Transportation Conditions

- Only 37% of secondary roads in Fairfax County have pavement in Fair or Better Condition. This is 23% lower than the statewide average of 60%, and significantly below VDOT's target of 63%. While the County's interstates and primary roads have improved from previous years, there are still significant unmet roadway maintenance needs in Fairfax County.
- According to Texas Transportation Institute's (TTI) most recent analysis, delays endured by the average commuter in the Northern Virginia and the Washington Metropolitan Region were 82 hours. This is nearly double the national average, and worst among the nation's 471 urban areas. The average commuter wastes about 35 gallons of fuel annually due to congestion, also ranking the region as the worst in the nation.
- According to Northern Virginia Transportation Authority's (NVTA) regional plan, the TransAction Update, Northern Virginia commuters took 8.74 million vehicular trips and faced 1.01 million person-hours of delay in 2016.
- Transit agencies provide about 158 million passenger trips in Northern Virginia on bus and rail annually and approximately three-quarters of transit trips in the Commonwealth are in Northern Virginia. The Fairfax Connector operates more than 80 routes across the County and provides approximately 9 million passenger trips each year to enable residents to access jobs, schools, grocery stores, and other destinations across the County and region.

The Current Situation

- HB 2313 (2013) provides approximately \$300 million in annual regional transportation revenues, which is a significant step in addressing the \$44 billion in improvements identified by NVTA needed to address congestion and mobility in Northern Virginia, including projects connecting to Maryland, DC, and other parts of Virginia.
- The Board of Supervisors has adopted a list of transportation priorities which is based on a cost/benefit analysis process, community input, the availability of funds, and other considerations. The County is using multiple revenue sources, including HB 2313 state and regional revenues and local funds, to address these priorities.
- In 2012, Fairfax County reported \$3 billion in unmet transportation needs over the next 10 years; due to the passage of HB 2313 and the County's Tysons and Reston Funding Plans, that deficit has been reduced significantly, but needs still remain.
- The County continues to work with regional and state partners to improve and streamline project delivery, eliminating or reducing steps in the process. It is essential that Fairfax County, the Commonwealth, and other regional entities continue to work closely together to implement projects with the new funds to ensure the County is addressing residents' needs as quickly as possible.

Sample Project Costs*			
Traffic Signal	\$350,000	Road Widening Project	\$50-150 million
Major Interchange	\$100-300 million	Multi-modal Transit Center	\$60 million
Intersection Improvement	\$3 million	Metrorail Car	\$2.5 million
Roadway Extension	\$60-120 million	Transit Bus	\$500,000
Pedestrian Project	\$1 million	Metrorail Parking Garage	\$60-70 million

*Project costs depend on the complexity and size of the project, and vary significantly across projects. The cost ranges provided above are based on recent and current projects; some projects may fall below or above the ranges provided.

HB 2313 has provided significant resources to improve the County's transportation system. Efficient project implementation is important to ensure these revenues are used wisely. In the future, additional investments will be necessary to ensure a modern, efficient, multimodal transportation system. This is essential to the Commonwealth and is intrinsically tied to continued economic success and the ability to compete in a global economy. Fairfax County, along with localities throughout the state, continues to provide millions in local funds for transportation each year, and the County and the Commonwealth must continue to work together to ensure that infrastructure needs are met.

DRAFT 2018 Fairfax County Human Services Issue Paper

This human services issue paper is a supplement to the 2018 Fairfax County Legislative Program as the County's Board of Supervisors has long recognized that investments in critical human services programs save public funds by minimizing the need for more costly public services.

Though the Great Recession ended in 2009, its impact continues to take a toll on the County's most vulnerable residents, as evidenced by the continued growth in Medicaid and Supplemental Nutrition Assistance Program (SNAP) caseloads. In 2016, 66,681 Fairfax County residents (5.9%, including 18,857 children) were living below the poverty rate, compared to 47,832 people (including 15,467 children) in 2008. Furthermore, the number of people living in deep poverty (income less than about \$12,125 for a family of four) was 31,722 in 2016.

The County's economy also suffered from federal sequestration, and accompanying federal funding cuts, which further adversely affected those already struggling. As state revenues continue to improve, it is critically important that Virginia continue to invest in local programs that ensure short- and long-term uncertainties do not threaten the safety net provided by local governments. Even as local government fiscal health has not been fully restored, maintaining a strong safety net for our most vulnerable populations remains an essential public service, valued by most of the electorate.

State and local governments must partner to:

- Protect the vulnerable;
- Help people and communities realize and strengthen the capacity for self-sufficiency;
- Link people to health services, prevention and early intervention care, adequate and affordable housing, and employment opportunities;
- Ensure that children thrive and youth successfully transition to adulthood; and,
- Build a high-performing and diverse workforce that does not need this help.

Most people want the same opportunities to survive and thrive. Meeting these personal goals sometimes requires assistance that results from a strong partnership between the Commonwealth and local government. Unfortunately, the state commonly underfunds core human services or neglects newer best practice approaches, leaving localities to fill gaps in the necessary services through local revenues to meet critical needs. Fundamentally reorganizing and restructuring programs and outdated service delivery systems can best achieve positive outcomes when such changes are developed in partnership with the local governments providing services.

Priorities

Children's Services Act (CSA)

Support continued state responsibility for funding mandated Children's Services Act (CSA) services on a sum sufficient basis. Oppose changes to CSA that shift costs to local governments, or disrupt the responsibilities and authorities assigned to the County by the CSA. Also support the current structure, which requires that service decisions are made at the local level and are provided based on the needs of each child, ensuring that service expenditures are approved through local processes.

The Children's Services Act (formerly known as the Comprehensive Services Act) is a 1993 Virginia law that provided for the pooling of eight funding streams used to plan and provide services to children who: have serious emotional or behavioral problems; need residential care; need special education through a private school program; or, receive foster care services. It is a state-local partnership requiring an aggregate local match of approximately 46 percent. Children receiving certain special education and foster care services are the only groups considered mandated for service, and sum sufficient language ensures state and local governments provide funding necessary for such youth. Fairfax County strongly opposes any efforts to cap state funding or eliminate the sum sufficient requirement, as the Commonwealth must not renege on its funding commitment to CSA. Additionally, changes to CSA law, policy, or implementation guidelines should focus on solutions that acknowledge the critical roles played by both levels of government, and should not favor one side of the partnership over the other.

Several years ago the state changed the local match rate structure, in order to incentivize the provision of community-based services, which are less expensive and more beneficial to the children and families participating in CSA. As a result, CSA residential placements decreased, as did overall costs for CSA, illustrating the success the state can achieve by working cooperatively with local governments; however, in recent years CSA costs have begun to rise, likely due to increases in special education services and the number of children served. The 2016 General Assembly (GA) made some helpful changes, slightly increasing CSA local government funding, as well as providing CSA funding for extended foster care services and support for youth 18-21 who entered foster care prior to their 18th birthday.

Fairfax County also supports:

- Increased state funding for local government CSA administrative functions;
- Recommendations of the State and Local Advisory Team (SLAT) that the match rate for wrap-around services be lowered to the rate used for other community-based services;
- Elimination of the local Medicaid match requirements for students placed in residential treatment facilities for non-educational reasons, and revisions in policy ensuring that state and localities share the costs of educational services equitably;
- Maintaining expenditures for private day services at the current state level, as any effort to redirect those funds would essentially eliminate the sum sufficiency requirement that ensures the state pays its appropriate share of these critical service costs; and,
- Close monitoring of the State Executive Council's practices when policies are created or amended to ensure broad collaboration with local governments, especially recognizing potential impacts on local financial and implementation responsibilities. *(Reaffirms previous position.)*

Restructuring Services for Individuals with Developmental Disabilities

Support additional state funding to increase Medicaid waiver rates and slots, to provide appropriate community services and ensure the Commonwealth fulfills its responsibility to implement the federal settlement agreement. Also support budget language that requires the proceeds of the sale of the Northern Virginia Training Center (NVTC) property to be used solely to develop new community-based services and housing opportunities for persons with developmental disabilities in Northern Virginia.

As a result of a state decision following a settlement agreement negotiated with the U.S. Department of Justice (DOJ), the Commonwealth adopted a plan to close four of the state's five training centers (which provide residential treatment for individuals with intellectual and developmental disabilities) by 2020. This shift, from an institution-based system with bifurcated Intellectual Disability (ID) and Developmental Disability (DD) services to a community-based system with one integrated service for both ID and DD, is a challenging process that must be carefully implemented to ensure that affected individuals receive the services they need.

As time elapses after the closure and imminent property settlement on the sale of NVTC, it is imperative that the proceeds of the sale remain protected for development of new community-based services and housing opportunities for persons with developmental disabilities in Northern Virginia. Although there has been some limited expansion of residential supports, the Commonwealth has so far failed to create sufficient and appropriate housing and employment/day supports in Northern Virginia. While the Commonwealth has completed its redesign of Medicaid waivers, rates remain well below the cost of providing services in Northern Virginia and do not adequately support individuals with intensive needs or allow for the necessary expansion of capacity. Further, the settlement agreement requires the state to reduce its waiver waiting list, which will be a tremendous challenge as the rapidly growing list already consists of more than 12,000 individuals statewide (as of October 2017), including over 2,000 individuals in Fairfax County. The Commonwealth must develop a clear plan with sufficient funding to address these critical issues.

Successfully implementing the DOJ settlement is the Commonwealth's responsibility and obligation. An essential component of this effort is sufficient and timely state funding for individuals receiving or waiting to receive local, community-based services close to home. *(Updates and reaffirms previous position. See also the Medicaid Waivers position on pages 5-7.)*

Mental Health, Public Safety, and the Criminal Justice System

Support sustainable funding, allocated based on localities' needs and population size, for public safety and mental health services that connect non-violent offenders experiencing mental health crises to treatment instead of the criminal justice system.

Police officers are often the first responders when an individual is in a mental health crisis; the Fairfax County Police Department received more than 6,000 calls in 2016 that were mental health related. Sometimes these calls lead to incarceration for low-level offenses (trespassing, disorderly conduct), precluding the individual from appropriate treatment in the community for underlying mental health issues. In fact, more than three in ten inmates who remain at the Fairfax County Adult Detention Center (ADC) for more than four days have been identified as needing mental health care, and inmates with mental health and substance abuse issues remain at the ADC on average 20 days longer than inmates without these issues. It is significantly more expensive to deliver mental health services in a detention facility than **to provide** the same service in community-based residential or community-based care.

To address these critical issues, in 2016 Fairfax County utilized local revenues to launch "Diversion First," which offers alternatives to incarceration for people with mental illness or developmental disabilities who come into contact with the criminal justice system for low-level

offenses. The program has already had a significant impact, as about 600 people have been diverted from potential arrest. Successful expansion of this program will depend on adequate state investments in mental health services (and accompanying court and public safety resources) to:

- Increase the availability of secure 24/7 crisis assessment centers, crisis stabilization units, mobile crisis units, local psychiatric beds for forensic patients, affordable housing options, behavioral health counselors and therapists, peer support, reintegration services for youth and adults at high-risk of rapid re-hospitalization or re-offending, psychiatry, and forensic discharge planning (*See also page 14*);
- Strengthen responses to individuals in mental health crises by funding Crisis Intervention Team (CIT) and additional de-escalation training for law enforcement officers, Fire and Rescue and jail personnel, and Mental Health First Aid Training for social service organizations staff;
- Improve the screening, assessment and treatment of incarcerated individuals' mental health by gathering uniform system level data (including prevalence rates and demand for services);
- Support the development of specialty courts and dockets;
- Facilitate the exchange of health information of individuals believed to meet the criteria for temporary detention orders among law enforcement, the Court system, Community Services Boards, health care providers, and families and guardians;
- Expedite the process of placing individuals in psychiatric hospitals;
- Reduce justice system involvement by providing evidence-based, culturally competent, and trauma-informed behavioral health services for all ages, including integrated mental health and addiction care, case management, and housing and employment assistance for individuals with mental illness and substance use disorders;
- Increase funding of mental health services and substance abuse treatment for individuals who are incarcerated for offenses that make them unsuitable candidates for a diversion program; and,
- Remove barriers to reentry by providing adequately funded forensic discharge planning services to connect former inmates with mental health and substance abuse treatment in the community. (*Updates and reaffirms previous position. See also the Public Safety/Courts Funding position in the 2018 Legislative Program.*)

Position Statements

Medicaid Eligibility and Access to Care

Support increasing Medicaid eligibility in Virginia to 138 percent of the federal poverty level, as envisioned by the federal health care reform law, ensuring critical health coverage for some of the most vulnerable Virginians. Oppose actions that shift Medicaid costs to localities, such as Medicaid service funding reductions, changes to eligibility that shrink access, or other rule changes that erode the social safety net.

Virginia's Medicaid program provides access to health care services for people in particular categories (low-income children and parents, pregnant women, older adults, and persons with disabilities). Costs are shared between the federal government and the states, and states are

permitted to set their own income and asset eligibility criteria within federal guidelines. Virginia's current eligibility requirements are so strict that although it is the 12th largest state in terms of population and 10th in per capita personal income, Virginia ranked 48th in Medicaid enrollment as a proportion of the state's population and 47th in per capita Medicaid spending.

The Commonwealth faces a critical decision, as it considers again whether or not to pursue the Medicaid expansion included in the federal health care reform law, along with the sizable federal funding provided for those newly eligible enrollees. The failure of previous efforts leaves the question of Medicaid expansion in doubt in Virginia; however, it is important to note that expansion would provide coverage to as many as 248,000 Virginians, including 27,000 individuals in Fairfax County. Newly eligible individuals would include low-income adults (individuals earning less than \$16,104 per year or families earning less than \$32,913 per year), low-income children who lose Medicaid when they turn 19, and adults with disabilities not eligible for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

Irrespective of Virginia's decision on Medicaid expansion, or of any other federal funding cuts or reductions in federal requirements which may be considered by Congress, it is essential that the Commonwealth avoid taking actions that effectively shift costs to localities. Due to the increasingly critical shortage of private providers, poor reimbursement rates, and other factors that play a role in an overall increase in Medicaid program costs, ensuring success with any cost containment strategies will require close cooperation between the Commonwealth and local governments, as localities are frequently the service providers for the Medicaid population. In particular, information technology initiatives to improve program administration should be coordinated with local program administrators. Fairfax County supports cost containment measures that utilize innovation, increase efficiency and targeted service delivery, and use of technology to reduce Medicaid fraud, in order to ensure the best allocation of resources without reducing services or access to care. Decisions made regarding other aspects of the Affordable Care Act should be carefully considered to avoid unintentionally increasing the number of uninsured Virginians by limiting the types of acceptable private plans, potentially increasing pressure on the social safety net. *(Reaffirms previous position.)*

Medicaid Waivers

Support state funding and expansion for Virginia's Medicaid waivers that provide critical home and community-based services for qualified individuals.

Medicaid funds both physical and mental health services for people in particular categories (low-income children and parents, pregnant women, older adults, and persons with disabilities). It is financed by the federal and state governments and administered by the states. Federal funding is provided based on a state's per capita income – the federal government shares 50 percent of the cost of Virginia's Medicaid program. However, states set their own income and asset eligibility criteria within federal guidelines.

Each state also has the discretion to design its own Medicaid service program. Virginia offers fewer optional Medicaid services than many other states (in addition to federally mandated services), though Medicaid recipients in Virginia may also receive coverage through home and community-based “waiver” programs. Such programs allow states to “waive” the requirement that an individual must live in an institution, or that a service must be offered to the entire Medicaid population, to receive funding. Waiver services are especially important for low-income families,

older adults, people with disabilities, and individuals with chronic diseases in Virginia, where Medicaid eligibility is highly restrictive, and they help ensure community-based options are available, in keeping with best practices.

The number and types of waivers are set by the GA. Long, growing waiting lists demonstrate the barriers that exist in the Commonwealth. Current Virginia waivers include: Commonwealth Coordinated Care Plus, Community Living, Family and Individual Supports, Building Independence, and Alzheimer's Assisted Living. Waivers fund services such as personal assistance to live independently in a home, residential and employment services, environmental modifications, assistive technology, nursing services, and other therapeutic services which support individuals with severe disabilities to live as independently as possible in their community.

Fairfax County supports the following adjustments in Medicaid waivers:

- **Automatic rate increases, including an increase in the Northern Virginia rate, to reflect actual costs.** While nursing facilities receive annual cost of living adjustments, this is not true for providers of Medicaid waiver services. A rebalancing of reimbursements is necessary to reduce reliance on institutional care, increase less costly community-based services, and ensure the availability and quality of Medicaid providers. In Northern Virginia, waiver rates should be increased to reflect the higher cost of living and services; the rate formulas for the newly redesigned waivers utilize worker salaries at the 50th percentile of Bureau of Labor Statistics (BLS) average wages for the region, which is unrealistically low, and should instead utilize BLS rates at the 90th percentile. More competitive Medicaid reimbursements will increase the local supply of community-based services in Northern Virginia. *(Updates and reaffirms previous position.)*
- **Support Expansion of Home and Community-Based Services.** The Commonwealth should implement innovative new initiatives to serve older adults and people with disabilities in their own homes and communities by incorporating the Community First Choice (CFC) option into its 2018 Medicaid state plan. Virginia's existing service delivery infrastructure does not have sufficient funding for community-based services for people who acquire physical or sensory disabilities, like brain or spinal cord injuries, or those who become blind or deaf as adults. Participation in CFC will provide Virginia with increased federal reimbursements for eligible services that serve older adults and people with disabilities in the community, rather than in a nursing facility or institution. *(Updates and reaffirms previous position.)*
- **Enhance and Preserve the Commonwealth Coordinated Care (CCC) Plus Waiver, and Eliminate the weekly 56-Hour Cap on Personal Attendant Care Hours.** The new CCC Plus waiver combines the Elderly or Disabled with Consumer Direction waiver and the Assisted Technology waiver, and implements a new managed care model that unfortunately eliminates the option for consumer direction, but is the only option for many Virginians to stay in their own homes and avoid unnecessary placement in a nursing facility (serving those who are 65 years or older, or who have disabilities or brain injuries, including approximately 3,400 children under the age of 18). The Commonwealth should also retain the Long Term Care Medicaid eligibility threshold at 300% of SSI; preserve

consumer direction; restore reductions to home and community-based Medicaid providers; restore respite care service hours to a maximum of 720 hours a year; and, increase the maximum of 56 personal attendant hours per week. *(Updates and reaffirms previous position.)*

- **Support other changes to waivers and services that would:**

- Identify and provide affordable, accessible, and integrated housing resources to adults with disabilities, such as the previously provided Housing Choice Vouchers and State Rental Assistance Program funds set aside for the DOJ settlement population that have been successful in creating affordable housing opportunities for people with developmental disabilities;
- Fully fund reimbursements for nursing and behavioral consultation, training, monitoring, and supports;
- Increase reimbursement rates to enable the hiring of professional nurses;
- Provide sufficient state funding to support a sustainable, well-trained workforce and a service support model that integrates nursing care, behavioral mental health supports and other clinically therapeutic services, and eldercare across residential and day settings;
- Provide an appropriate system of support for crisis services for individuals with disabilities that includes adequate community level resources; and,
- Expand capacity of REACH (Regional Education Assessment Crisis Services and Habilitation) in-home crisis supports, as well as access to appropriate intensive residential support options. *(Updates and reaffirms previous position.)*

Children and Families

Early Childhood Services

Support additional state resources to ensure the health, safety, and school readiness of children through adequate and appropriate programs and services.

The health, safety, and school readiness of children is a fundamental priority. There is increasing recognition that the first few years of a child's life are a particularly sensitive period in the process of development, laying a foundation for cognitive functioning; behavioral, social, and self-regulatory capacities; and, physical health. The Commonwealth should provide additional resources for services and supports necessary for all children to arrive at school ready to learn and succeed, including:

- Child Care Services *(see also page 8)*;
- Community-Based Services for Children and Youth *(see also Mental Health position on page 14)*;
- Early Intervention Services for Infants and Toddlers with Disabilities/Part C *(see also pages 8-9)*; and,
- School Readiness *(see also page 9)*.

Investing additional resources for appropriate services, and working with children and their families to create safe and secure environments where children can thrive, will ultimately yield benefits for the entire Commonwealth. *(Reaffirms previous position.)*

Child Care Services

Support state child care funding for economically disadvantaged families not participating in TANF/VIEW, and support an increase in child care service rates. Also, support maintaining Fairfax County's local permitting process for family child care providers serving four or fewer non-resident children.

A secure source of General Fund dollars is needed statewide to defray the cost of child care, protecting state and local investments in helping families move off of welfare and into long-term financial stability. Research shows that the financial independence of parents is jeopardized when affordable child care is out of reach, and without subsidies, low-income working families may not access the quality child care and early childhood education that helps young children prepare for kindergarten (families in Fairfax County receiving subsidies have an annual median income of \$29,000, while the cost of full-time care for a preschooler at a child care center ranges from \$13,000 to over \$18,000 per year). Many of these families are “the working poor” who require assistance with child care costs to achieve self-sufficiency.

Child care provided in residential settings is also critical to ensuring sufficient high-quality and affordable care in Fairfax County. The Virginia Department of Social Services, as of July 1, 2016, now regulates family child care providers who care for five or more non-resident children (prior to that legislative change, Fairfax County regulated family child care providers serving five children or fewer, but now only regulates providers who care for four or fewer non-resident children). The County's permit requirements are comparable to those used by the state, but also reflect vital community standards which should be preserved. Local regulation of family child care providers has worked well for Fairfax County families, and the County's authority to regulate smaller providers should be maintained. Additionally, new federal requirements (such as national background checks for vendors) improve quality and safety; however, as Virginia implements these requirements, consideration should be given to associated costs and impacts on both child care programs and families who use child care subsidies to ensure successful implementation. *(Updates and reaffirms previous position.)*

Early Intervention Services for Infants and Toddlers with Disabilities/Part C

Support increased and sustainable funding and infrastructure for Part C Early Intervention, which is a state/federal entitlement program that provides services for Virginia's infants and toddlers with developmental delays.

The Commonwealth has long contracted with the Fairfax-Falls Church CSB to provide Early Intervention therapeutic services for infants and toddlers with developmental delays in areas such as speech, eating, learning, and movement (as part of the state's compliance with the federal Individuals with Disabilities Education Act (IDEA) Part C grant). As the benefits of early intervention have become more widely known, the demand for services continues to grow at a rapid pace. Locally, the average monthly number of children seeking and/or receiving services has grown by more than 20% in the last three years – from 1,380 per month in FY 2014 to 1,612 per month in FY 2017. The GA provided a one-time appropriation of \$900,000 for FY 2016, an additional \$1.7 million in FY 2017, and \$2.5 million in FY 2018. Increased funding will be necessary to keep pace with the demand for this critical program.

In addition, reimbursement rates must be increased to providers who serve Medicaid-eligible children. Rates have remained at \$132 per month since 2008, which is far below providers' actual

cost to deliver services, and should be increased to \$242. Furthermore, the inclusion of early intervention services in Medicaid managed care beginning in FY 2018 will have important financial implications – although contractually rates will be maintained, additional authorization and inconsistent requirements across the six managed care organizations will increase the administrative burden for local systems to effectively bill Medicaid for services provided. *(Updates and reaffirms previous position.)*

School Readiness

Support increased state resources for early childhood education programs.

Research has increasingly shown the importance of high-quality early childhood education programs to children's cognitive and social emotional development and their school success. Business and military groups, including the U.S. Chamber of Commerce and Mission: Readiness, have cited potentially positive impacts on national economic security, linking early childhood education and the creation of a qualified workforce. Failure to adequately meet the needs of the youngest Virginians can create repercussions for families, communities, and the Commonwealth, but investments in early childhood education can provide a critical foundation for learning and achievement. Eligibility criteria and requirements for such programs, particularly the Virginia Preschool Initiative (VPI), should include flexibility to account for regional variations in cost of living and encourage the participation of public and private programs in a mixed-delivery system. *(Updates and reaffirms previous position.)*

Foster Care/Kinship Care

Support legislation and resources to encourage the increased use of kinship care, including the development of a legal framework, such as guardianship, to allow kinship caregivers to make decisions for children in their care.

In 2008, Virginia embarked on a Children's Services Transformation effort to identify and develop ways to find and strengthen permanent families for older children in foster care, and for those at risk of entering foster care. Through kinship care (that is, when a child lives with a suitable relative), children remain connected to family and loved ones, providing improved outcomes. These kinship care arrangements are typically informal, with no legal agreements in place between the parents and the kin caregiver (in many cases, legal custody is not an option due to cost or an interest in avoiding a potentially adversarial legal process). Guardianship is a formal legal process allowing courts to grant legal authority to kinship caregivers to act on behalf of a child, and is an alternative allowed in many states. The legal authority granted through guardianship would provide kinship caregivers the ability to make medical or educational decisions for the children in their care, authority they do not have under current, informal kinship care arrangements. *(Reaffirms previous position.)*

Youth Safety

Support additional state funding to prevent and reduce risk factors that lead to youth violence, gang participation, alcohol/drug use, and mental health problems, while increasing protective factors, including mental wellness, healthy coping strategies, and resilience.

Research has identified a set of risk factors that predict an increased likelihood of drug use, delinquency, mental health problems, and violent behavior among youth, which include experiencing trauma and early aggressive behavior; lack of nurturing by caregivers; and, availability of alcohol and drugs. Conversely, research has identified strong parenting and positive

involvement from caring adults, developed social skills, and involvement in community activities as protective factors; funding is needed to implement evidence-based, effective strategies to strengthen such protective factors and resilience, and to prevent and reduce risk factors that lead to youth violence, gang participation, alcohol/drug use, and mental health problems.

The urgency of this funding need is reflected in results from the Virginia 2015 Youth Survey (which shows results similar to those in Fairfax County's Youth Survey), which indicate that 19.5% of high school students in the Commonwealth reported being bullied on school property; 6.4% were threatened or injured with a weapon on school property; 6.1% missed one or more of the past 30 days of school because they felt unsafe; 26.9% felt sad or hopeless daily for two or more weeks to a degree that impaired their daily activities; and, 14.0% seriously considered suicide (alarmingly, suicide is the third leading cause of death among 10-24 year olds in Virginia). Another disturbing trend seen locally and statewide is that fewer youth are getting the recommended amount of physical activity they need, which can impact both physical and mental health. Preserving local flexibility to address these issues through school wellness policies, and funding programs that improve the health and safety of young people throughout the state, while seeking to reduce dangerous and risky behaviors, is essential to all Virginians. *(Updates and reaffirms previous position. The 2017 GA directed the Department of Behavioral Health and Developmental Services to report on its activities related to suicide prevention for Virginians of all ages by December 1, 2017.)*

Older Adults and People with Disabilities

Disability Services Board (DSB)

Support reinstatement of state funding sufficient to enable every locality, either singly or regionally, to have a Disability Services Board (DSB), so that the key provisions of §51.5-48 can be implemented.

DSBs enable localities to assess local service needs and advise state and local agencies of their findings; serve as a catalyst for the development of public and private funding sources; and, exchange information with other local boards regarding services to persons with physical and sensory disabilities and best practices in the delivery of those services. Without such a network of local representatives with expertise in these issues, the opportunity for valuable statewide collaboration will be lost. *(Reaffirms previous position.)*

Independence and Self-Sufficiency for Older Adults and People with Disabilities

Support funding for programs that promote the independence, self-sufficiency, and community engagement of older adults and people with disabilities.

Services to keep older adults and adults with disabilities in their own homes (such as personal assistance, nutrition and home-delivered meals, transportation, service coordination, and adult day/respite supports) provided by the twenty-five Area Agencies on Aging (AAAs) save Virginia taxpayers money while helping older Virginians function independently, decreasing the risk of inappropriate institutionalization and improving overall life satisfaction. Additionally, critical Chore and Companion Services assist eligible older adults and people with disabilities with activities of daily living (such as getting dressed, bathing, housekeeping, and laundry). Such services must be enhanced to meet the demand among those ineligible for comparable services elsewhere, and supplemented by accessible transportation options and facilities, to ensure that

individuals can be active and self-sufficient participants in the community. Further, programs that assist older adults and people with disabilities **to** transition from nursing facilities into the community (including Money Follows the Person initiatives) should be maintained. These programs should be accompanied by mental health services when needed, to help manage the distress that can result from limitations in daily activities, grief following the loss of loved ones, caregiving or challenging living situations, and untreated mental illness, including depression. *(Updates and reaffirms previous position.)*

Accessibility

Support ensuring the inclusion of people with disabilities throughout the Commonwealth by increasing accessibility to public places, housing, and transportation services (including transportation network companies).

Over 75,000 working-age Fairfax County residents have a disability, which includes people with hearing, vision, cognitive, ambulatory, self-care, and/or independent living disabilities. While significant progress has been made toward ensuring the equality and inclusion of people with disabilities since the passage of the Americans with Disabilities Act (ADA) more than 27 years ago, continued advancement is needed. Fairfax County supports access for people with disabilities and older adults in public and private facilities; in particular, by increasing accessibility through incentives, voluntary standards for accessible housing, and educational outreach to businesses, building officials, medical providers, advocacy groups, and state and local governments.

The lack of affordable, accessible, integrated housing is a major barrier facing older adults and people with disabilities. Innovative options include increasing the accessible housing stock in newly constructed multi-family housing (encompassing apartment buildings, condos, and assisted living housing among others); encouraging builders to offer “visitable” or Universally Designed options for new single family homes as an alternative to conventional design; raising the maximum annual allotment of the Livable Homes Tax Credit; and, establishing a comparable grant to help pay for much-needed home modifications. Incentives and initiatives for accessible housing and home modifications should benefit both homeowners and renters. Additionally, transportation network companies have the potential to reduce transportation barriers for individuals with disabilities and older adults, and innovative approaches should be considered for the provision of wheelchair-accessible services. Improved accessibility in public buildings, housing, transportation, medical facilities and employment benefits all Virginians, by allowing people with disabilities to remain active, contributing members of their communities, while retaining their independence and proximity to family and friends. *(Updates and reaffirms previous position.)*

Adult Protective Services (APS)

Support state funding for additional Adult Protective Services (APS) social workers.

Adult Protective Services (APS) conducts investigations and protects older adults and incapacitated adults from abuse, neglect, or exploitation through the provision of casework services, home-based care assessments and coordination, and Medicaid and Auxiliary Grant pre-admission screenings. As the older adult population has increased in Virginia, along with a corresponding demand for APS services, state funding for APS positions has remained stagnant over the past five years, as noted in a December 2014 report from the Virginia Department for Aging and Rehabilitative Services. In Fairfax County, there has been a steady increase in APS

cases since FY 2010. Continued state investment in these critical services is essential to ensuring the safety of this vulnerable population. *(Reaffirms previous position.)*

Brain Injury

Support expansion of psychiatric and behavioral services for individuals with brain injuries.

A brain injury can be a life-altering event, but with appropriate treatment and services individuals can improve their independence and quality of life. Approximately 1,000 people with brain injury resided in Virginia nursing facilities in FY 2013, an increase of nearly 400% since FY 2011. Unfortunately, there is a significant, unmet need for specialized assessment/treatment programs, often requiring Virginians with brain injury to go out of state to receive treatment. While there are a small percentage of severe, complicated situations, most people can be more effectively treated through community-integrated programs and services. It is important that the Commonwealth expand the continuum of services to enhance community re-integration and community-based supports (including life skills and supported living and employment coaches, positive behavior supports, specialized mental health therapy, and access to assistive technology). *(Updates and reaffirms previous position.)*

Health, Well Being, and Safety

Affordable Housing and Homelessness Prevention

Support state funding to increase the availability of affordable housing options and prevent homelessness, including additional appropriations to the Virginia Housing Trust Fund.

Affordable housing is a particular need for low- and moderate-income earners, persons with disabilities, and victims of domestic violence, and is especially critical in the expensive housing market of Northern Virginia, where the average one-bedroom apartment rented for \$1,511 per month in 2016. The Virginia Housing Trust Fund provides both loans to reduce the cost of homeownership and rental housing, and grants for homelessness prevention projects. Since FY 2014, appropriations of \$27 million have been made to the Trust Fund; however, despite this infusion of funding, demand for both the loan and grant programs has outstripped available funding. *(Reaffirms previous position.)*

Temporary Assistance for Needy Families (TANF)

Support an increase in the Temporary Assistance for Needy Families (TANF) reimbursement rates in Virginia.

Following more than a decade of flat TANF reimbursement rates, increases of 2.5% were provided in the 2015, 2016, and 2017 GA sessions (resulting in a \$30 per month cumulative increase for a family of three). In addition, the 2016 GA authorized \$4.8 million in FY 2018 to provide TANF recipients with two or more children a monthly supplemental payment equal to any child support payments (collected from absent parents) on their behalf, up to \$200. While these actions are a welcome step in the right direction, TANF payments remain very low. Currently, a family of three in Northern Virginia receives about \$5,000 per year, less than a quarter of the federal poverty level. Indexing rates to inflation would prevent further erosion of recipients' ability to meet basic family needs. *(Updates and reaffirms previous position.)*

Domestic and Sexual Violence**Support additional state funding to increase the capacity for communities to implement prevention and intervention services to eliminate domestic and sexual violence.**

Research shows that domestic and sexual violence are major public health problems with serious long-term physical and mental health consequences, as well as significant social and public health costs. Witnessing domestic violence can be extremely problematic for children, leading to depression, anxiety, nightmares, and academic disruptions; both female and male adults with lifetime victimization experience are significantly more likely to report chronic issues (including headaches, pain, and sleep problems) as well as long-term health problems (including asthma, diabetes, anxiety, depression, and alcohol/drug abuse). The cost of intimate partner violence exceeds \$8.3 billion per year, including \$5.8 billion spent on medical services and \$2.5 billion attributed to lost productivity. In FY 2016, Fairfax County's Domestic Violence Action Center served 1,138 victims (1,479 children were affected, the majority under 8 years old). Unfortunately, the demand for services exceeds available resources, and nearly 170 households in need of emergency shelter as a result of domestic violence were turned away in FY 2016.

Intervention services help families rebuild their lives, and prevention services help break the intergenerational cycle of violence in families. Although the state has increased funding for such services in recent years, additional funding is necessary to meet the need for services including:

- Therapeutic and psycho-educational interventions for children, and parenting classes for both victim and offender parents;
- Community-based advocacy and counseling services for victims of sexual and domestic violence; and,
- Sexual violence prevention programs, especially those targeted to K-12 students to educate youth on consent and healthy relationships.

(Reaffirms previous position.)

Substance Use Disorder**Support increased capacity to address the Commonwealth's growing epidemic of heroin and opioid addiction through community-based treatment (including detoxification and medication-assisted treatment), enhanced prevention programs, and innovative efforts to limit the supply of opioids. Also, support coordinated strategies to meet the growing need for substance use disorder services for older adults.**

Across Virginia, law enforcement and health care professionals report a dramatically increasing number of deaths due to heroin and opioid overdoses. The statistics from 2016 are startling:

- More than 1,100 Virginians (including over 100 Fairfax County residents) died from an opioid overdose;
- Virginia emergency departments reported more than 10,000 visits for opioid and heroin overdose treatment;
- Approximately 4.6% of Fairfax County students in the 8th, 10th, and 12th grades reported taking painkillers without a doctor's order, and 4.0% reported taking other prescription drugs without a doctor's order, within a month of the survey date in November 2016;
- Opioid overdose continues to be the leading cause of death for individuals under the age of 50; and,
- The statewide rate of drug-caused deaths exceeded the number of deaths due to motor vehicle accidents.

Substance use disorder affects people at all ages and stages of life, including older adults, and the need for substance use disorder services is growing. The work of the state's Task Force on Prescription Drug and Heroin Abuse and the Heroin and Prescription Drug Abuse Strategy, are significant steps toward developing a comprehensive statewide approach to tackling substance use disorder. The 2017 GA approved legislation to help reduce the available supply of opioids by increasing awareness among doctors and patients, strengthening prescription monitoring, and limiting prescriptions to what is medically necessary. However, more is required to confront this public health emergency. It is essential that the Commonwealth provide additional funding for detoxification, medication-assisted treatment, and other substance use disorder services that are cost-efficient, accessible, and outcome driven. *(Updates and reaffirms previous position.)*

Mental Health

Mental Health

Support funding for implementation of STEP-VA (System Transformation, Excellence and Performance in Virginia), the Commonwealth's behavioral health transformation plan. Also support additional state funding to improve the responsiveness and increase the capacity of the mental health system for Virginians of all ages.

Building on mental health reforms made in recent years, the 2017 GA enacted STEP-VA, which mandates that CSBs provide new core services. As a result, all CSBs must provide same-day mental health screening services and outpatient primary care screening, monitoring, and follow-up beginning July 1, 2019. Nine other core services (including outpatient mental health and substance abuse services, detoxification, and psychiatric rehabilitation, among others) are mandated to begin on July 1, 2021. The GA must appropriate sufficient funds to enable all CSBs to implement these mandates (the 2017 GA only provided funding for same-day access to mental health services for 18 CSBs, which did not include the Fairfax-Falls Church CSB), and such funding must be commensurate with the size of the population served. STEP-VA has the potential to enhance community-based services for mental health and substance use to better meet the diverse needs of children, youth, and adults, but successful implementation cannot be achieved by shifting an additional funding burden to localities (Fairfax County already provides nearly 77% of the CSB's funding through local dollars). *(Updates and reaffirms previous position.)*

Emergency Responsiveness

Support sufficient state funding for intensive community resources, allowing individuals to transition safely and expediently from psychiatric hospitals to community care.

State funding remains insufficient to provide the intensive community resources that allow individuals hospitalized for mental health emergencies to transition back to community care. In 2016, nearly 25% of Northern Virginia's local state hospital beds were continually occupied by individuals unable to make that transition due to lack of services. The cost of serving an individual in the community is a fraction of the cost of providing such services in a hospital setting. Increased investments in intensive mental health community services could have long-term financial benefits, in addition to the individual benefits of returning to the community more quickly. *(Updates and reaffirms previous position.)*

Services for Transitional Youth

Support enhanced residential and mental/behavioral health services for transitional youth who currently “age out” of such services.

In Virginia, significantly more public services are available to children in need of mental and behavioral health treatment than to adults in need of similar services. As a result, once they turn 18, youth may no longer receive all of the assistance that was previously provided. It is critical that the Commonwealth focus additional resources on transitional age youth (ages 16 to 24) who have received intensive mental/behavioral health services and/or been in out-of-home placements, to ensure they receive the essential services needed for a successful transition to adulthood.

Services from which transitional youth typically age out include children’s mental health services; home-based services supports; case management; supervised, supported, or group home settings; educational support; specialized vocational support, preparation, and counseling; preparation for independent living; and, social skills training. Although the state has been successful in reducing the number of youth in out-of-home placements, many young people over 18 and their families continue to need transitional supportive housing and case management. The state should develop policies and utilize evidence-based practices that, coupled with appropriate funding, create, enhance, and sustain youth-in-transition services, including residential supports, case management, and mental health services. *(Reaffirms previous position.)*

WITHDRAWN

Board Agenda Item
November 21, 2017

3:30 p.m.

Public Hearing on PCA 82-S-077-04 (Arden Courts of Centreville VA, LLC) to Amend the Proffers for PCA 82-S-077-02 Previously Approved for Residential and Institutional and Quasi-Public Use and Associated Modifications to Permit a Medical Care Facility with an Overall Floor Area Ratio of 0.249, Located on Approximately 5.0 Acres of Land Zoned PHD-3 and WS (Sully District) (Concurrent with PCA 94-Y-020)

and

Public Hearing on PCA 94-Y-020 (Arden Courts of Centreville VA, LLC) to Amend the Proffers for RZ 94-Y-020 Previously Approved for Single Family Attached Residential, Institutional and Quasi-Public Use and Associated Modifications to Permit a Medical Care Facility with an Overall Floor Area Ratio of 0.249, Located on Approximately 5.0 Acres of Land Zoned PHD-3 and WS (Sully District) (Concurrent with PCA 82-S-077-04)

This property is located on the East Side of Centreville Road SouthEast of its intersection with Bradenton Drive on Approximately . Tax Map 65-3 ((1)) 40A

PLANNING COMMISSION RECOMMENDATION:

On October 5, 2017, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Hedetniemi were absent from the public hearing) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 82-S-077-04, subject to the of the proffers consistent with those dated September 14, 2017;
- Approval of PCA 94-Y-020, subject to the execution of proffers consistent with those dated September 14, 2017;
(During the discussion the applicant agreed to revise proffer language regarding (1) potential blasting occurring on the Application Property, and (2) ensure that that the construction vehicle access to the Application Property does not interfere with pick-up and drop-off of school children by school busses on Compton Village Drive. Both proffer revisions shall occur prior to the Board of Supervisors public hearing.)

WITHDRAWN

Board Agenda Item
November 21, 2017

- Approval of a modification of Section 13-302 of the Zoning Ordinance regarding Transitional Screening requirements along the northwestern, southern, and eastern property boundaries, in favor of the landscape plantings and site design, as depicted in the GDP;
- Approval of a waiver of Section 17-201 of the Zoning Ordinance requiring a service drive along Centreville Road to permit access from Compton Village Drive; and
- Approval of a waiver of Section 17-201 of the Zoning Ordinance requiring right-of way dedication and frontage improvements along Centreville Road.

In a related action, on October 5, 2017, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Hedetniemi were absent from the public hearing) to approve FDPA 82-S-077-04, subject to the development conditions dated September 19, 2017, and subject to the Board of Supervisors approval of the concurrent PCA application.

Also in a related action, on October 5, 2017, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Hedetniemi were absent from the public hearing) to approve FDPA 94-Y-020 subject to the development conditions dated September 19, 2017, and subject to the Board of Supervisors approval of the concurrent PCA application.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Sharon Williams, Planner, DPZ

Board Agenda Item
November 21, 2017

3:30 p.m.

Public Hearing on RZ 2016-SU-015 (Old Lee Road, LLC) to Rezone from 1-3, AN, and WS to 1-5, AN and WS to Permit a New Vehicle Storage, Vehicle Major Service Establishment and Vehicle Light Service Establishment with an Overall Floor Area Ratio of 0.09, Located on Approximately 5.35 Acres of Land (Sully District)

This property is located on the North Side of Old Lee Road approximately 1,000 feet West of its intersection with Williard Road. Tax Map 43-2 ((1)) 2

PLANNING COMMISSION RECOMMENDATION:

On September 27, 2017, the Planning Commission voted 9-0-2 (Commissioners Keys-Gamarra and Sargeant abstained from the vote and Commissioner Hedetniemi was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2016-SU-015, subject to the execution of proffers dated September 14, 2017; and
- Approval of a modification of Section 13-303 of the Zoning Ordinance for transitional screening in favor of that depicted on the Generalized Development Plan.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Sharon Williams, Planner, DPZ

Board Agenda Item
November 21, 2017

3:30 p.m.

Public Hearing on SE 2017-SP-018 (Cellco Partnership D/B/A Verizon Wireless) to Permit a Telecommunications Facility (Monopole), Located on Approximately 12.50 Acres of Land Zoned R-3 and WS (Springfield District)

This property is located at 4515 Stringfellow Road, Chantilly, 20151. Tax Map 45-3 ((1)) 10

PLANNING COMMISSION RECOMMENDATION:

On November 2, 2017, the Planning Commission voted 9-0 (Commissioner Hart was absent from the public hearing) to recommend approval to the Board of Supervisors of SE 2017-SP-018, subject to the development conditions dated November 2, 2017.

In a related action, on November 2, 2017, the Planning Commission voted 9-0 (Commissioner Hart was absent from the public hearing) to approve 2232-S17-25; the Planning Commission found that the application satisfies the criteria of character, location and extent as specified in Section 15.2-2232 of the *Code of Virginia*, and, therefore, is substantially in accordance with the adopted Comprehensive Plan.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Jonathan Buono, Planner, DPZ

Board Agenda Item
November 21, 2017

3:30 p.m.

Public Hearing on SE 2017-SU-020 (Milestone Limited Partnership III; Cellco Partnership D/B/A Verizon Wireless) to Permit a Telecommunications Facility (monopole) and Increase in Fence Height, Located on Approximately 8.43 Acres of Land Zoned R-C and WS (Sully District)

This property is located at 6309T Bull Run Post Office Road, Centreville, 20120. Tax Map 52-2 ((1)) 11E1

PLANNING COMMISSION RECOMMENDATION:

On November 9, 2017, the Planning Commission voted 9-0 (Commissioner Sargeant recused himself from the vote) to recommend approval to the Board of Supervisors of SE 2017-SU-020, subject to the proposed development conditions dated November 9, 2017.

In a related action, on November 9, 2017, the Planning Commission voted 9-0 (Commissioner Sargeant recused himself from the vote) to approve 2232-Y17-34; the Planning Commission found that 2232-Y-34 satisfies the criteria of location, character, and extent as specified in section 15.2-2232 of the *Code of Virginia* and, therefore, is substantially in accord with the provisions of the adopted Comprehensive Plan.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Doug Hansen, Planner, DPZ

Board Agenda Item
November 21, 2017

3:30 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 8, 9, 16, 18 and 20 – Minor Modifications to Approved Zonings and Related Changes

ISSUE:

The proposed Zoning Ordinance amendment includes changes that will provide new flexibility for consideration by the Zoning Administrator of additional minor modifications to approved rezonings, special exceptions, and special permits; creates a new process for the Board of Supervisors' consideration, without a public hearing, of minor variations to proffered conditions; and makes revisions and clarifications to related Zoning Ordinance sections.

PLANNING COMMISSION RECOMMENDATION:

On November 9, 2017, the Planning Commission voted 9-0-1 (Commissioner Strandlie abstained from the vote) to recommend the following actions to the Board of Supervisors:

- Adoption of the proposed Zoning Ordinance Amendment, Articles 8, 9, 16, 18, and 20, *Minor Modifications To Approved Zonings and Other Related Changes*, as set forth in the staff report dated September 26, 2017, with the additional text revisions included in Attachment B of the memorandum to the Planning Commission dated November 7, 2017;
- Approval of the procedures for minor variations, as set forth in Attachment A of the memorandum to the Planning Commission dated November 7, 2017; and
- Direct staff to report back to the Planning Commission and the Board of Supervisors on the results of the Amendment in 18 months after adoption.

RECOMMENDATION:

The County Executive concurs with the Planning Commission recommendation.

TIMING:

Board's authorization to advertise – September 26, 2017; Planning Commission public hearing – October 26, 2017; Planning Commission Deferral of Decision to November 9, 2017; Board's public hearing – November 21, 2017, at 3:30 p.m.

BACKGROUND:

The proposed amendment adds new flexibility to the “Minor Modification Provisions” of the Zoning Ordinance. The amendment would allow additional minor modifications to rezonings, special exceptions, and special permits to be approved by the Zoning Administrator, thereby reducing the number of changes that require formal zoning amendment applications. The amendment also creates a more expeditious process under which the Board of Supervisors can approve certain variations to proffered conditions. This process includes public input, but not a public hearing. Originally placed on the 2016 Priority I Zoning Ordinance Work Program, this amendment was added to the list of prioritized amendments under the Zoning Ordinance Modernization (zMOD) Initiative as Item #2 on the 2017 Priority I Zoning Ordinance Work Program. The priority of this amendment was established by the Board of Supervisors and responds to several Fairfax First development process improvement initiatives, as well as various discussions conducted with County staff, applicants, and stakeholders. The proposed amendment was presented, in concept, to the Board’s Development Process Committee on several occasions, and on June 6, 2017, the Board directed staff to process the amendment and to undertake appropriate community outreach. Staff has conducted two public meetings and met with a number of stakeholders including the Citizen Working Group representing the nine magisterial districts; several of the District Land Use committees and NVBIA/NAIOP. Staff has also has met with the Planning Commission’s Land Use Process Review Committee, the Private Land Use Attorneys Working Group, and the Land Use Council of the Tysons Partnership.

The current Zoning Ordinance provides the Zoning Administrator with the authority to approve minor modifications to approved zonings. Approval of a minor modification does not change the underlying zoning of a property and must be determined to be in substantial conformance with the zoning. This authority has existed for over 30 years and has been amended numerous times during that period.

The specific changes to the Zoning Ordinance proposed in this amendment include: (1) the provision of additional flexibility for the consideration by the Zoning Administrator of minor modifications to previously approved proffered rezonings, PRC and development plans, special exceptions and special permits to address building height and rooftop coverage issues related to energy and environmental technologies; to address the incidental floor area created by the replacement of a building façade in the renovation and repositioning of existing structures; to address sign color and typeface; and, to allow additional floor area as a minor building addition; (2) the creation of a new procedure for Board approval of specific minor variations to proffered conditions (related to the addition of uses, building height, minimum yard dimensions, community recreation uses, proffer obsolescence, and architecture), without a public hearing; and, (3) related changes to the initiation of applications, submission requirements, fees and definitions. A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 1.

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Since publication of the Staff Report, several editorial changes were made to the proposed text in response to citizen and industry comments. In addition, Staff prepared a set of procedures for the implementation of requests for the Minor Variations proposed in the Zoning Ordinance Amendment. These were described in a Memorandum to the Planning Commission dated October 20, 2017 (Attachment 4). After the public hearing on October 26, 2017, a second Memorandum dated November 7, 2017 was sent to the Planning Commission (Attachment 5). This Memorandum provided responses to several questions and comments made at the public hearing and also included clarifying changes to the proposed text for Minor Variation #4.

Staff wants the Board to be aware that as the modernization of the Zoning Ordinance moves forward, there will be a period of transition in which the updating of existing text with plain language and formats may not match the remainder of the Ordinance that has not yet been updated.

As an example, a question was raised at the Planning Commission public hearing about the replacement of the word "shall" in the proposed Zoning Ordinance text. This change is based on the fact that the word "shall" has been legally contested over the years and is not always automatically interpreted to be imperative in its meaning. In the proposed text, where an action is intended to be an imperative, the word "shall" is now replaced by the word "must" and where it is not (including prohibitions), it is typically replaced by words such as "will" or "may." With this revision, there is no substantive change to the content of the Ordinance or any weakening of the Ordinance, although staff believes there will be greater clarity.

However since "shall" will continue to be used in other parts of the Zoning Ordinance, staff proposes to include a statement with all future amendments regarding the text in transition and its relationship to the existing Ordinance.

REGULATORY IMPACT:

The proposed amendment will provide additional flexibility for the Zoning Administrator to approve minor modifications to proffered rezonings, PRC and development plans, special exceptions, and special permits in response to final engineering and design issues, or as circumstances have changed over time, without the need for a formal zoning amendment application. The amendment also will create a more expeditious process for the Board of Supervisors to approve minor variations to proffered rezonings.

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FISCAL IMPACT:

The proposed amendment will not require any additional staff to implement or cost to the public; however, a fee will be charged for requests for minor variations to proffered conditions to partially offset costs.

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report available online at:

<https://www.fairfaxcounty.gov/dpz/zoningordinance/proposed/minormodifications.pdf>

Attachment 2 – Planning Commission Recommended Text (November 7, 2017)

Attachment 3 – Proposed Minor Variation Procedures (November 7, 2017)

Attachment 4 – October 20, 2017 Memo to the Planning Commission

Attachment 5 – November 7, 2017 Memo to the Planning Commission

Attachment 6 – November 9, 2017 Planning Commission Verbatim Excerpt

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Barbara A. Byron, Director, Office of Community Revitalization

Leslie B. Johnson, Zoning Administrator, DPZ

Kevin J. Guinaw, Special Projects Coordinator, DPZ

**PLANNING COMMISSION RECOMMENDED TEXT
PROPOSED AMENDMENT**

November 7, 2017

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of September 26, 2017, and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Changes to the proposed text (dated September 26, 2017) are noted as Strikethroughs and Shaded Italics.

Amend Article 8, Special Permits, Part 0, General Provisions, by revising Sect. 8-004, to read as follows:

8-004 Status of Special Permit Uses

1. ~~Once a~~ A special permit is approved, such use may only be established in accordance with ~~such the special permit approval, and a~~ Any site plan, subdivision plat, Building Permit, Residential or Non-Residential Use Permit ~~hereafter~~ submitted for the development or use of the property in accordance with the special permit ~~shall~~ must be in substantial conformance with the approved special permit, and no development or use ~~shall~~ may be approved by any County official in the absence of such conformance.
2. Once established, the use ~~shall~~ must be conducted in substantial conformance with the special permit, any conditions or restrictions imposed by the BZA and all other requirements of this Ordinance. Except as may be permitted under Paragraphs 3 and 4 below, no use ~~shall~~ may be enlarged, expanded, increased in intensity or relocated and no condition of the special permit ~~shall~~ may be ~~modified~~ amended unless an application is made and approved for an amendment to the special permit in accordance with Sect. 014 below or a new special permit is approved.
3. ~~Notwithstanding the above, a~~ Any modification to an approved and currently valid special permit to provide an accessibility improvement ~~shall~~ may be permitted and ~~shall~~ does not require approval of an amendment to the special permit or a new special permit.
4. ~~Minor modifications to an approved special permit may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved special permit and that such are in response to~~

issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par 4A(7) or 4B(7) below.

A. For approved special permits for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:

- (1) Permit a more intensive use which shall include but not be limited to an expansion of the hours of operation or an increase in number of seats, students or employees from that approved pursuant to the special permit; or
- (2) Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A (7) below; or
- (3) Permit uses other than those approved pursuant to the special permit, except that accessory uses in accordance with this paragraph may be permitted; or
- (4) Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or
- (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
- (6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or
- (7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:
 - (a) five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross

1 floor area shown on the approved special permit plat is less
 2 than 50,000 square feet; or

3
 4 (b) ~~one (1) percent of the approved gross floor area when the total~~
 5 ~~gross floor area shown on the approved special permit plat is~~
 6 ~~50,000 square feet or more; or~~

7
 8 (c) ~~250 square feet of gross floor area of accessory storage~~
 9 ~~structure uses when the total gross floor area shown on the~~
 10 ~~approved special permit plat is 10,000 square feet or less; and~~

11
 12 (d) ~~the maximum permitted FAR for the zoning district in which~~
 13 ~~located.~~

14
 15 B. ~~For approved special permits for places of worship and places of worship~~
 16 ~~with a child care center, nursery school or private school of general or~~
 17 ~~special education, the modifications shall, in no event:~~

18
 19 (1) ~~Permit an expansion of the hours of operation from that approved~~
 20 ~~pursuant to the special permit; or~~

21
 22 (2) ~~Permit an increase in the number of seats, parking spaces or~~
 23 ~~students, if applicable, which exceeds more than ten (10) percent~~
 24 ~~of the amount approved pursuant to the special permit; or~~

25
 26 (3) ~~Permit uses other than those approved pursuant to the special~~
 27 ~~permit, except that accessory uses in accordance with this~~
 28 ~~paragraph may be permitted; or~~

29
 30 (4) ~~Reduce the effectiveness of approved transitional screening,~~
 31 ~~buffering, and landscaping or open space; or~~

32
 33 (5) ~~Permit changes to bulk, mass, orientation or location which~~
 34 ~~adversely impact the relationship of the development or part thereof~~
 35 ~~to adjacent property; or~~

36
 37 (6) ~~Result in an increase in the amount of clearing and/or grading for a~~
 38 ~~stormwater management facility, including any clearing and/or~~
 39 ~~grading associated with spillways, inlets, outfall pipes or~~
 40 ~~maintenance roads, that reduces non-stormwater management open~~
 41 ~~space, tree save and/or landscaping area on the lot; or~~

42
 43 (7) ~~Include the addition of any building or additions to buildings except~~
 44 ~~that accessory structures clearly subordinate to the use, and minor~~
 45 ~~additions to buildings may be permitted, provided that:~~

(a) ~~the sum total of all such structures or additions shall not exceed the greater of 500 square feet of gross floor area, or five (5) percent of the approved gross floor area up to a maximum of 2500 square feet of gross floor area; and~~

(b) ~~the maximum permitted FAR for the zoning district shall not be exceeded.~~

C. ~~For all approved special permit uses, any request for an addition shall require the provision of written notice by the requester in accordance with the following:~~

(1) ~~the notice shall include the letter of request with all attachments as submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and~~

(2) ~~the notice shall be sent to the last known address of the owners, as shown in the real estate assessment files of the Department of Tax Administration, of all property abutting and across the street from the site, or portion thereof, which is the subject of the request, and shall be delivered by hand or sent by certified mail, return receipt requested.~~

~~The request for an addition submitted to the Zoning Administrator shall include: an affidavit from the requester affirming that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and the Tax Map references for all parcels notified. No request for an addition shall be considered by the Zoning Administrator unless the affidavit has been provided in accordance with this paragraph.~~

Minor modifications to special permits are allowed when the Zoning Administrator determines that they substantially conform to the approved special permit and do not materially alter the character of the development. In making this determination, the Zoning Administrator may consider factors such as topography, engineering and design.

Minor modifications may not:

A. Remove any land from or add any land to the area subject to the special permit;

B. Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;

- 1 C. Result in an increased parking requirement, except for any additional
2 parking required for building additions or modifications permitted under
3 Paragraphs 4 D and 4 K below;
4
- 5 D. Permit a more intensive use than that approved in the ~~exception~~ *special*
6 *permit*, except that places of worship or places of worship with a child care
7 center, nursery school, private school of general or special education, may
8 increase the number of seats, parking spaces, and/or students up to ten (10)
9 percent of the approved amount, if not expressly prohibited by the special
10 permit;
11
- 12 E. Permit uses other than those approved pursuant to the special permit, except
13 that accessory uses may be permitted;
14
- 15 F. Reduce the effectiveness of approved transitional screening, buffering,
16 landscaping, and/or open space;
17
- 18 G. Permit changes to bulk, mass, orientation, or location that adversely impact
19 the relationship of the development to adjacent property, except that:
20
- 21 (1) Modifications that reduce yards up to 10% may be considered,
22 provided that they do not adversely impact adjacent property; and
23
- 24 (2) Increases in *building* height up to 10 feet and increases in percentages
25 of rooftop coverage may be permitted to exempt solar collectors and
26 other innovative energy and environmental technologies.
27
- 28 H. Increase the amount of clearing or grading for a stormwater management
29 facility, including any clearing or grading associated with spillways, inlets,
30 outfall pipes, or maintenance roads that reduces non-stormwater
31 management open space, tree save area, or landscaping area on the lot;
32
- 33 I. Expand hours of operation;
34
- 35 J. Expand the area or type of signage approved, although changes to color and
36 typeface may be considered provided they do not change the character of
37 the approved sign;
38
- 39 K. Include the addition of or to any building, except that accessory structures
40 clearly subordinate to the principal use and minor building additions,
41 including those for cellar space, may be permitted, provided that the total of
42 all such structures or additions cannot exceed the following:
43

(1) 500 square feet or five (5) percent of the approved gross floor area up to 2500 square feet, whichever is greater, when the total gross floor area approved does not exceed 250,000 square feet.

(2) One (1) percent of the approved gross floor area when the total gross floor area approved exceeds 250,000 square feet.

(3) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area approved is 10,000 square feet or less.

(4) The maximum allowable density or FAR in the zoning district; however, any increase in gross floor area resulting from replacing the materials of an existing building façade is not included in the calculation of FAR.

Anyone requesting a minor modification for a building addition must send notice of the request to the owners of all property abutting and across the street from the site, or portion thereof, to the last known address, as shown in the real estate assessment files of the Department of Tax Administration.

The notice must be delivered by hand or sent by certified mail, return receipt requested and include the letter of request submitted to the Zoning Administrator with all attachments, a statement that the request has been submitted, and where to call for additional information.

An affidavit from the requester must be sent to the Zoning Administrator affirming: that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and, the Tax Map references for all parcels notified. The Zoning Administrator will not consider any request for an addition that omits this affidavit.

When it is determined by the Zoning Administrator that a modification is not in substantial conformance with the approved special permit, the modification requires the approval of an amendment to the special permit in accordance with Sect. 8-014 below or a new special permit.

Amend Article 9, Special Exceptions, Part 0, General Provisions, by revising Sect. 9-004 to read, as follows:

9-004 Status of Special Exception Uses

1. ~~Once a~~ A special exception ~~has been approved, such~~ use may only be established in accordance with the special exception ~~such~~ approval. ~~and a~~ Any site plan, subdivision plat, Building Permit, Residential or Non-Residential Use Permit ~~hereafter~~ submitted for the development or use of the property in

accordance with the special exception ~~shall~~ must be in substantial conformance with the approved special exception, and no development or use ~~shall~~ may be approved by any County official in the absence of such conformance.

2. Once established, the use must be conducted in substantial conformance with the special exception, any conditions or restrictions imposed by the Board, and all other requirements of this Ordinance. Except as may be permitted under Paragraphs 3 and 4 below, no use ~~shall~~ may be enlarged, expanded, increased in intensity or relocated and no condition of the special exception ~~shall~~ may be ~~modified~~ amended unless an application is made and approved for an amendment to the special exception in accordance with Sect. 014 below or a new special exception is approved.
3. ~~Notwithstanding the above, a~~ Any modification to an approved and currently valid special exception to provide an accessibility improvement ~~shall~~ may be permitted and ~~shall~~ does not require approval of an amendment to the special exception or a new special exception.
4. ~~Minor modifications to an approved special exception may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved special exception and that such are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 4A(7) or 4B(7) below.~~
 - A. ~~For approved special exceptions for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education the modifications shall, in no event:~~
 - (1) ~~Change the amount of land area or permit a more intensive use which shall include but not be limited to an expansion of the hours of operation or an increase in number of seats, dwellings, students or employees from that approved pursuant to the special exception; or~~
 - (2) ~~Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A (7) below; or~~
 - (3) ~~Permit uses other than those approved pursuant to the special exception, except that accessory uses in accordance with this paragraph may be permitted; or~~

- (4) ~~Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or~~
 - (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
 - (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or~~
 - (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:~~
 - (a) ~~five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved special exception plat is less than 50,000 square feet; or~~
 - (b) ~~one (1) percent of the approved gross floor area when the total gross floor area shown on the approved special exception plat is 50,000 square feet or more; or~~
 - (c) ~~250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved special exception plat is 10,000 square feet or less; and~~
 - (d) ~~the maximum permitted FAR for the zoning district in which located; or~~
 - (e) ~~the maximum density permitted by the approved special exception.~~
- B. ~~For approved special exceptions for places of worship and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:~~
- (1) ~~Permit an expansion of the hours of operation from that approved pursuant to the special exception; or~~

- (2) ~~Permit an increase in the number of seats, parking spaces or students, if applicable, which exceeds more than ten (10) percent of the amount approved pursuant to the special exception; or~~
 - (3) ~~Permit uses other than those approved pursuant to the special exception, except that accessory uses in accordance with this paragraph may be permitted; or~~
 - (4) ~~Reduce the effectiveness of approved transitional screening, buffering, and landscaping or open space; or~~
 - (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
 - (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non stormwater management open space, tree save and/or landscaping area on the lot; or~~
 - (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that:~~
 - (a) ~~the sum total of all such structures or additions shall not exceed the greater of 500 square feet of gross floor area, or five (5) percent of the approved gross floor area up to a maximum of 2500 square feet of gross floor area; and~~
 - (b) ~~the maximum permitted FAR for the zoning district shall not be exceeded.~~
- C. ~~For all approved special exception uses, any request for an addition shall require the provision of written notice by the requester in accordance with the following:~~
- (1) ~~the notice shall include the letter of request with all attachments as submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and~~
 - (2) ~~the notice shall be sent to the last known address of the owners, as shown in the real estate assessment files of the Department of Tax Administration, of all property abutting and across the street from the site, or portion thereof, which is the subject of the request, and~~

shall be delivered by hand or sent by certified mail, return receipt requested.

The request for an addition submitted to the Zoning Administrator shall include: an affidavit from the requester affirming that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and the Tax Map references for all parcels notified. No request for an addition shall be considered by the Zoning Administrator unless the affidavit has been provided in accordance with this paragraph.

Minor modifications to special exceptions are allowed when the Zoning Administrator determines that they substantially conform to the approved special exception and do not materially alter the character of the development. In making this determination, the Zoning Administrator may consider factors such as topography, engineering and design.

Minor modifications may not:

- A. Remove any land from or add any land to the area subject to the special exception;
- B. Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;
- C. Result in an increased parking requirement, except for any additional parking required for building additions or modifications permitted under Paragraphs 4 D and 4 K below;
- D. Permit a more intensive use than that approved in the exception, except that places of worship or places of worship with a child care center, nursery school, private school of general or special education, may increase the number of seats, parking spaces, and/or students up to ten (10) percent of the approved amount, if not expressly prohibited by the special exception conditions;
- E. Permit uses other than those approved pursuant to the special exception, except that accessory uses may be permitted;
- F. Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space;
- G. Permit changes to bulk, mass, orientation, or location that adversely impact the relationship of the development to adjacent property, except that:

(1) Modifications that reduce yards up to 10% may be considered, provided that they do not adversely impact adjacent property; and

(2) Increases in *building* height up to 10 feet and increases in percentages of rooftop coverage may be permitted to exempt solar collectors and other energy and environmental innovative technologies.

H. Increase the amount of clearing or grading for a stormwater management facility, including any clearing or grading associated with spillways, inlets, outfall pipes, or maintenance roads that reduces non-stormwater management open space, tree save area, or landscaping area on the lot;

I. Expand hours of operation;

J. Expand the area or type of signage approved, although changes to color and typeface may be considered provided they do not change the character of the approved sign;

K. Include the addition of or to any building, except that accessory structures clearly subordinate to the principal use and minor building additions, including those for cellar space, may be permitted, provided that the total of all such structures or additions cannot exceed the following:

(1) 500 square feet or five (5) percent of the approved gross floor area up to 2500 square feet, whichever is greater, when the total gross floor area approved does not exceed 250,000 square feet.

(2) One (1) percent of the approved gross floor area when the total gross floor area approved exceeds 250,000 square feet.

(3) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area approved is 10,000 square feet or less.

(4) The maximum allowable density or FAR in the zoning district, however, any increase in gross floor area resulting from replacing the materials of an existing building façade is not included in the calculation of FAR.

Anyone requesting a minor modification for a building addition must send notice of the request to the owners of all property abutting and across the street from the site, or portion thereof, to the last known address, as shown in the real estate assessment files of the Department of Tax Administration.

The notice must be delivered by hand or sent by certified mail, return receipt requested and include the letter of request submitted to the Zoning Administrator with all attachments, a statement that the request has been

submitted, and where to call for additional information.

An affidavit from the requester must be sent to the Zoning Administrator affirming: that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and, the Tax Map references for all parcels notified. The Zoning Administrator will not consider any request for an addition that omits this affidavit.

When it is determined by the Zoning Administrator that a modification is not in substantial conformance with the approved special exception, the modification requires the approval of an amendment to the special exception in accordance with Sect. 9-014 below or a new special exception.

Amend Article 16, Development Plans, as follows:

- Amend Part 2, Procedures for Review and Approval of a PRC District as follows:

- Amend Sect. 16-202, Rezoning to a PRC District, by revising Par. 9 as follows:

9. Once a development plan has been approved, all subsequent approvals, uses and structures ~~shall~~ must be in substantial conformance with the approved development plan and any development conditions associated with such approval. Should there be cause for amendment of the development plan or any portion thereof, such amendment ~~shall~~ will be processed as a new submission. A development plan amendment ~~application~~ may cover all or be filed on a portion of the property subject to an approved development plan, upon a determination by the Zoning Administrator that the amendment (a) would not adversely affect the use of the property subject to the development plan and conditions but not incorporated into the amendment application, (b) would not inhibit, adversely affect, or preclude in any manner the fulfillment of the development plan and conditions applicable to the area not incorporated into the amendment application, and (c) would not increase the overall approved density/intensity for the development. In its review of a request that does not cover all of the property subject to an approved development plan, the Board should consider whether the request would have an adverse impact on the remainder of the property in terms of (a) the approved use, (b) fulfillment of conditions, (c) vehicular and pedestrian circulation, connectivity, landscaping and streetscape, and (d) the approved density or intensity. The portion of the development plan and previously approved conditions which are not subject to the amendment request will remain in full force and effect.

- Amend Sect. 16-203, PRC Plan Approval, to read as follows:

1. Subsequent to the approval of a rezoning application, a PRC plan ~~shall be~~ is required for those uses as set forth in Par. 2 below. The Board may approve a

PRC plan subject to the provisions of this Part and Sect. 18-110. ~~Such~~ A PRC plan ~~shall~~ may not be approved by the Board until the rezoning application and development plan have been approved by the Board. However, a PRC plan may be filed with and included in the processing of the rezoning application and development plan.

All PRC plans ~~shall~~ must be in accordance with the approved rezoning and development plan, any conditions or modifications that may have been approved by the Board, the design standards of Sect. 102 above, the applicable objectives and regulations of the PRC District and the provisions of Sect. 303 below.

2. A PRC plan ~~shall be~~ is required for all uses, except the following:
 - A. Single family detached dwellings, provided the general street and lot layout are shown on the approved development plan.
 - B. Additions to existing single family attached or detached dwellings or accessory structures related to such existing single family dwellings.
 - C. Additions to existing buildings or uses other than single family dwellings, when such additions do not exceed 2000 square feet or ten (10) percent of the gross floor area of the existing building or use, whichever is less.
 - D. Additions or changes to non-structural site elements such as transitional screening and parking and loading provided the area of such addition or change does not exceed ten (10) percent of the existing area occupied by such site element. Parking redesignation plans and parking tabulation revisions are also exempt from the requirement for a PRC plan regardless of the area of such change.
 - E. Minor accessory structures and uses in open space areas such as benches, gazebos, playground equipment, and bus shelters.
 - F. Those special permit uses and special exception uses which do not require a site plan as set forth in Article 8 or Article 9, respectively.
 - G. Any permitted use on a temporary basis for a period not to exceed one (1) year.
- ~~Notwithstanding the above, a~~ A PRC plan ~~shall~~ is not be required for additions and alterations to provide an accessibility improvement.
3. A PRC plan may be prepared and submitted for the entire planned development at one time or for the various segments thereof, and each such plan ~~shall~~ must be submitted in twenty-three (23) copies to the Zoning Administrator.

4. Upon determination by the Zoning Administrator that the content of the PRC plan is complete in accordance with the requirements of Sect. 303 below, the plan ~~shall~~ will be accepted and submitted for comment and review to appropriate departments and agencies. Upon completion of such administrative review, the plan ~~shall~~ will be submitted to the Planning Commission.
5. The Planning Commission ~~shall may~~ will consider the PRC plan in accordance with the standards set forth in Par. 1 above, and ~~shall~~ will hold a public hearing thereon. In the event the PRC plan is not filed with and included in the processing of the rezoning application, the Planning Commission will hold a public hearing no later than six (6) months from the date the plan has been accepted. Subsequent to the public hearing, the Commission ~~shall~~ will transmit the PRC plan to the Board with its recommendation to approve, approve with modifications or disapprove.
6. The Board ~~shall~~ will consider the PRC plan in accordance with the standards set forth in Par. 1 above, and ~~shall~~ will hold a public hearing ~~thereon~~. The Board ~~shall may~~ approve, approve with modifications or disapprove the PRC plan.
7. Once the PRC plan has been approved, all subsequent approvals, uses and structures ~~shall must~~ be in substantial conformance with the approved PRC plan and any development conditions associated with such approval.
8. Minor modifications to an approved rezoning and development plan may be permitted in a PRC plan when it is determined by the Zoning Administrator that they substantially conform to the approved rezoning and development plan and do not materially alter the character of the development. In making this determination, the Zoning Administrator may consider factors such as topography, engineering, and design. such are in substantial conformance with the approved rezoning and development plan and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 8A(7) or 8B(7) below:
 - A. ~~For approved rezonings and development plans for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:~~
 - (1) ~~Permit a more intensive use than that approved pursuant to the approved rezoning and development plan; or~~

- (2) ~~Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 8A(7) below; or~~
- (3) ~~Permit additional uses other than those approved pursuant to the approved rezoning and development plan, except that accessory uses in accordance with this paragraph may be permitted; or~~
- (4) ~~Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or~~
- (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
- (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or~~
- (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:~~
 - (a) ~~five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved development plan is less than 50,000 square feet; or~~
 - (b) ~~one (1) percent of the approved gross floor area when the total gross floor area shown on the approved development plan is 50,000 square feet or more; or~~
 - (c) ~~250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved development plan is 10,000 square feet or less; and~~
 - (d) ~~the maximum permitted density; or~~
 - (e) ~~the maximum permitted FAR.~~

B. ~~For approved rezonings and development plans for places of worship and places of worship with a child care center, nursery school or private school of general education, the modifications shall, in no event:~~

~~(1) Permit an expansion of the hours of operation from that approved pursuant to the approved rezoning and development plan; or~~

~~(2) Permit an increase in the number of seats, parking spaces or students, if applicable, which exceeds more than ten (10) percent of the amount approved pursuant to the rezoning and development plan; or~~

~~(3) Permit uses other than those approved pursuant to the rezoning and development plan, except that accessory uses in accordance with this paragraph may be permitted; or~~

~~(4) Reduce the effectiveness of approved transitional screening, buffering, and landscaping or open space; or~~

~~(5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~

~~(6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or~~

~~(7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that:~~

~~(a) the sum total of all such structures or additions shall not exceed the greater of 500 square feet of gross floor area, or five (5) percent of the approved gross floor area up to a maximum of 2500 square feet of gross floor area; and~~

~~(b) the maximum permitted FAR for the zoning district shall not be exceeded.~~

C. ~~For all approved rezonings and development plans, any request for an addition shall require the provision of written notice by the requester in accordance with the following:~~

- (1) ~~the notice shall include the letter of request with all attachments as submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and~~
- (2) ~~the notice shall be sent to the last known address of the owners, as shown in the real estate assessment files of the Department of Tax Administration, of all property abutting and across the street from the site, or portion thereof, which is the subject of the request, and shall be delivered by hand or sent by certified mail, return receipt requested.~~

~~The request for an addition submitted to the Zoning Administrator shall include: an affidavit from the requester affirming that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and the Tax Map references for all parcels notified. No request for an addition shall be considered by the Zoning Administrator unless the affidavit has been provided in accordance with this paragraph.~~

Minor modifications may not:

- A. Remove any land from or add any land to the area subject to the rezoning or development plan;
- B. Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;
- C. Result in an increased parking requirement, except for any additional parking required for building additions or modifications permitted under Paragraphs 4 D and 4 K below;
- D. Permit a more intensive use than that approved in the proffered conditions, except that places of worship or places of worship with a child care center, nursery school, private school of general or special education, may increase the number of seats, parking spaces, and/or students up to ten (10) percent of the proffered amount, if not expressly prohibited by the rezoning or development plan;
- E. Permit uses other than those approved pursuant to the rezoning or development plan except that accessory uses may be permitted;
- F. Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space;

1 G. Permit changes to bulk, mass, orientation, or location that adversely
 2 impact the relationship of the development to adjacent property, except
 3 that:

4
 5 (1) Modifications that reduce proffered yards up to 10% may be
 6 considered, provided that they do not adversely impact adjacent
 7 property; and

8
 9 (2) Increases in *building* height up to 10 feet and increases in percentages
 10 of rooftop coverage may be permitted to exempt solar collectors and
 11 other innovative energy and environmental technologies.

12
 13 H. Increase the amount of clearing or grading for a stormwater management
 14 facility, including any clearing or grading associated with spillways,
 15 inlets, outfall pipes, or maintenance roads that reduces non-stormwater
 16 management open space, tree save area, or landscaping area on the lot;

17
 18 I. Expand hours of operation;

19
 20 J. Expand the area or type of signage approved, although changes to color
 21 and typeface may be considered provided they do not change the
 22 character of the approved sign;

23
 24 K. Include the addition of or to any building, except that accessory structures
 25 clearly subordinate to the principal use and minor building additions,
 26 including those for cellar space, may be permitted, provided that the total
 27 of all such structures or additions cannot exceed the following:

28
 29 (1) 500 square feet or five (5) percent of the approved gross floor area
 30 up to 2500 square feet, whichever is greater, when the total gross
 31 floor area approved does not exceed 250,000 square feet.

32
 33 (2) One (1) percent of the approved gross floor area when the total gross
 34 floor area approved exceeds 250,000 square feet or more.

35
 36 (3) 250 square feet of gross floor area of accessory storage structure uses
 37 when the total gross floor area approved is 10,000 square feet or less.

38
 39 (4) The maximum allowable density or FAR in the zoning district,
 40 however, any increase in gross floor area resulting from replacing the
 41 materials of an existing building façade is not included in the
 42 calculation of FAR.

43
 44 Anyone requesting a minor modification for a building addition must send

notice of the request to the owners of all property abutting and across the street from the site, or portion thereof, to the last known address, as shown in the real estate assessment files of the Department of Tax Administration.

The notice must be delivered by hand or sent by certified mail, return receipt requested and include the letter of request submitted to the Zoning Administrator with all attachments, a statement that the request has been submitted, and where to call for additional information.

An affidavit from the requester must be sent to the Zoning Administrator affirming: that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and, the Tax Map references for all parcels notified. The Zoning Administrator will not consider any request for an addition that omits this affidavit.

When it is determined by the Zoning Administrator that a modification is not in substantial conformance with the approved rezoning or development plan, such modification ~~shall~~ will require the resubmission and amendment of the development plan in accordance with Sect. 202 above.

9. When the Board approves a minor variation to a proffered condition in accordance with Sect. 18-204, the variation is deemed to apply to any approved development plan or PRC plan and does not require approval of a separate amendment.

~~9.10. Notwithstanding Par. 8 above, a~~ Any modification to provide an accessibility improvement ~~shall be~~ is permitted and ~~shall not require~~ without requiring approval of a development plan amendment.

~~10.11.~~ Once a PRC plan has been approved, any proposed amendment ~~shall be~~ is subject to Board of Supervisors approval in accordance with the provisions of this section.

~~11.12.~~ Preliminary site plans approved prior to December 6, 1994 and preliminary site plans approved pursuant to the grandfather provisions for Zoning Ordinance Amendment #94-263 ~~shall be~~ are deemed to be approved PRC plans. Additionally, PRC plans processed and approved prior to March 27, 2007 ~~shall be~~ are deemed to be approved PRC plans and are valid for three (3) years from the date of approval. However, if a site plan for all or a portion of the area is approved during that period, the approved PRC plan for the corresponding area ~~shall~~ will remain valid for the life of the site plan.

- **Amend Part 4, Procedures for Review and Approval of All P Districts Except the PRC District, as follows:**

- 1 - **Amend Sect. 16-401, Conceptual Development Plan Approval, by revising Par. 11,**
 2 **to read as follows:**

3
 4 11. Once a conceptual development plan has been approved, all subsequent
 5 approvals, uses and structures ~~shall~~ must be in substantial conformance with
 6 the approved conceptual development plan and any development conditions
 7 associated with such approval. Should there be cause for amendment of the
 8 conceptual development plan or any portion thereof, such amendment ~~shall~~ will
 9 be processed as a new submission; provided, however, that the Zoning
 10 Administrator may waive any submission requirement if such requirement is
 11 not necessary for an adequate review of the conceptual development plan
 12 amendment application. A conceptual development plan amendment
 13 application may cover all or be filed on a portion of the property subject to an
 14 approved conceptual development plan, ~~upon a determination by the Zoning~~
 15 ~~Administrator that the amendment (a) would not adversely affect the use of the~~
 16 ~~property subject to the conceptual development plan and conditions but not~~
 17 ~~incorporated into the amendment application, (b) would not inhibit, adversely~~
 18 ~~affect, or preclude in any manner the fulfillment of the conceptual development~~
 19 ~~plan and conditions applicable to the area not incorporated into the amendment~~
 20 ~~application, (c) would not adversely affect the vehicular and pedestrian~~
 21 ~~circulation, connectivity, landscaping and streetscape applicable to the area not~~
 22 ~~incorporated into the amendment application, and (d) would not increase the~~
 23 ~~overall approved density/intensity for the development, provided, however,~~
 24 ~~within the PTC District, for a multiple phased development, an increase in the~~
 25 ~~intensity may be approved for any portion of such development, provided it~~
 26 ~~does not adversely affect the intensity applicable to the area not incorporated~~
 27 ~~into the amendment application. In its review of a request that does not cover~~
 28 ~~all of the property subject to an approved conceptual development plan, the~~
 29 ~~Board should consider whether the request would have an adverse impact on~~
 30 ~~the remainder of the property in terms of (a) the approved use, (b) fulfillment~~
 31 ~~of conditions, (c) vehicular and pedestrian circulation, connectivity,~~
 32 ~~landscaping and streetscape, and (d) the approved density or intensity. The~~
 33 portion of the conceptual development plan and previously approved
 34 conditions which are not subject to the amendment request shall remain in full
 35 force and effect.

- 36
 37 - **Amend Sect. 16-403, Site Plan/Subdivision Plat Preparation, Building Permit,**
 38 **Residential Use Permit and Non-Residential Use Permit, to read as follows:**

39
 40 Approval of a final development plan ~~shall be~~ is a prerequisite and ~~shall~~ constitutes
 41 authority for the applicant to prepare a site plan or a subdivision plat. Approval of
 42 site plans or subdivision plats and the issuance of Building Permits, Residential
 43 and/or Non-Residential Use Permits ~~shall~~ must be in substantial conformance with
 44 the final development plan, and in accordance with the provisions of this Ordinance
 45 and Chapter 101 of The Code, The Subdivision Ordinance, and the following:

1. Separate site plans or subdivision plats ~~shall~~ must be submitted for each section of the planned development in accordance with the approved final development plan. For development within the PTC District subject to a phasing plan, each site plan or subdivision plat ~~shall~~ must provide a statement in tabular form indicating the amount of gross floor area, FAR and/or number of dwelling units approved for each specific phase and the overall development subject to the rezoning to the PTC District and ~~shall~~ must also include the amount of gross floor area, FAR and/or number of dwelling units constructed within each phase and for the overall development as of the date of the submission of the site plan or subdivision plan.
2. Except in the PTC District, when a planned development is to be constructed in sections, the total area of open space provided at any stage of development ~~shall~~ must bear substantially the same relationship to the total open space to be provided in the entire planned development as the sections completed or under development bear to the entire planned development.
3. Minor deviations from the provisions of this Ordinance and Chapter 101 of The Code, The Subdivision Ordinance, may be permitted, but only where ~~such~~ the deviations are indicated on the approved final development plan.
4. ~~Minor modifications to an approved final development plan may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved final development plan and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 4A(7) or 4(B)7 below.~~
 - A. ~~For approved final development plans for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:~~
 - (1) ~~Permit a more intensive use than that approved pursuant to the approved conceptual development plan, final development plan or any applicable proffers or development conditions; or~~
 - (2) ~~Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A(7) below; or~~
 - (3) ~~Permit additional uses other than those approved pursuant to the approved conceptual development plan, final development plan, or~~

any applicable proffers or development conditions, except that accessory uses in accordance with this paragraph may be permitted; or

- (4) Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or
- (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
- (6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or
- (7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:
 - (a) five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved final development plan is less than 50,000 square feet; or
 - (b) one (1) percent of the approved gross floor area when the total gross floor area shown on the approved final development plan is 50,000 square feet or more; or
 - (c) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved final development plan is 10,000 square feet or less; and
 - (d) the land area designated for commercial uses in the PDH District or the maximum FAR provisions in the PDC, PRM and PTC Districts; or
 - (e) the maximum permitted density.

B. For approved final development plans for places of worship and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:

- (1) ~~Permit an expansion of the hours of operation from that approved pursuant to the approved conceptual development plan, final development plan or any applicable proffers or development conditions; or~~
 - (2) ~~Permit an increase in the number of seats, parking spaces or students, if applicable, which exceeds more than ten (10) percent of the amount approved pursuant to the conceptual development plan, final development plan or any applicable proffers or development conditions; or~~
 - (3) ~~Permit uses other than those approved pursuant to the conceptual development plan, final development plan, or any applicable proffers or development conditions, except that accessory uses in accordance with this paragraph may be permitted; or~~
 - (4) ~~Reduce the effectiveness of approved transitional screening, buffering, and landscaping or open space; or~~
 - (5) ~~Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or~~
 - (6) ~~Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non stormwater management open space, tree save and/or landscaping area on the lot; or~~
 - (7) ~~Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that:

 - (a) ~~the sum total of all such structures or additions shall not exceed the greater of 500 square feet of gross floor area, or five (5) percent of the approved gross floor area up to a maximum of 2500 square feet of gross floor area; and~~
 - (b) ~~the maximum permitted FAR for the zoning district shall not be exceeded.~~~~
- C. ~~For all approved final development plans, any request for an addition shall require the provision of written notice by the requester in accordance with the following:~~
- (1) ~~the notice shall include the letter of request with all attachments as~~

submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and

- (2) ~~the notice shall be sent to the last known address of the owners, as shown in the real estate assessment files of the Department of Tax Administration, of all property abutting and across the street from the site, or portion thereof, which is the subject of the request, and shall be delivered by hand or sent by certified mail, return receipt requested.~~

~~The request for an addition submitted to the Zoning Administrator shall include: an affidavit from the requester affirming that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and the Tax Map references for all parcels notified. No request for an addition shall be considered by the Zoning Administrator unless the affidavit has been provided in accordance with this paragraph.~~

Minor modifications to a final development plan are allowed when the Zoning Administrator determines that they substantially conform to the approved final development plan and do not materially alter the character of the development. In making this determination, the Zoning Administrator may consider factors such as topography, engineering and design.

Minor modifications may not:

- A. Remove any land from or add any land to the area subject to the proffered conditions;
- B. Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;
- C. Result in an increased parking requirement, except for any additional parking required for building additions or modifications permitted under Par. 4 D and 4 K below;
- D. Permit a more intensive use than that approved in the proffered conditions, except that Places of Worship or Places of Worship with a Child Care Center, Nursery School, Private School of General or Special Education, may increase the number of seats, parking spaces, and/or students up to ten (10) percent of the proffered amount, if not expressly prohibited by the proffered conditions;
- E. Permit uses other than those approved pursuant to the final development plan except that accessory uses may be permitted;

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- F. Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space;
 - G. Permit changes to bulk, mass, orientation, or location that adversely impact the relationship of the development to adjacent property, except that:
 - (1) Modifications that reduce proffered yards up to 10% may be considered, provided that they do not adversely impact adjacent property; and
 - (2) Increases in *building* height up to 10 feet and increases in percentages of rooftop coverage may be permitted to exempt solar collectors and other innovative technologies.
 - H. Increase the amount of clearing or grading for a stormwater management facility, including any clearing or grading associated with spillways, inlets, outfall pipes, or maintenance roads that reduces non-stormwater management open space, tree save area, or landscaping area on the lot;
 - I. Expand hours of operation;
 - J. Expand the area of signage approved, although changes to color and typeface may be considered provided they do not change the character of the approved sign;
 - K. Include the addition of or to any building, except that accessory structures clearly subordinate to the principal use and minor building additions, including those for cellar space, may be permitted, provided that the total of all such structures or additions cannot exceed the following:
 - (1) 500 square feet or five (5) percent of the approved gross floor area up to 2500 square feet, whichever is greater, when the total gross floor area approved does not exceed 250,000 square feet.
 - (2) One (1) percent of the approved gross floor area when the total gross floor area approved exceeds 250,000 square feet.
 - (3) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area approved is 10,000 square feet or less.
 - (4) Exceed the maximum allowable density or FAR in the zoning district, however, any increase in gross floor area resulting from replacing the materials of an existing building façade is not included

1 in the calculation of FAR.

2
3 Anyone requesting a minor modification for a building addition must send
4 notice of the request to the owners of all property abutting and across the street
5 from the site, or portion thereof, to the last known address, as shown in the real
6 estate assessment files of the Department of Tax Administration.

7
8 The notice must be delivered by hand or sent by certified mail, return receipt
9 requested and include the letter of request submitted to the Zoning
10 Administrator with all attachments, a statement that the request has been
11 submitted, and where to call for additional information.

12
13 An affidavit from the requester must be sent to the Zoning Administrator
14 affirming: that the required notice has been provided in accordance with the
15 above; the date that the notice was delivered or sent; the names and addresses
16 of all persons notified; and, the Tax Map references for all parcels notified. The
17 Zoning Administrator will not consider any request for an addition that omits
18 this affidavit.

19
20 When it is determined by the Zoning Administrator that a modification is not
21 in substantial conformance with the approved final development plan, such
22 modification ~~shall~~ requires the resubmission and amendment of the final
23 development plan in accordance with Sect. 402 above.

24
25 5. When the Board approves a minor variation to a proffered condition in
26 accordance with Section 18-204, the variation is deemed to apply to any
27 approved final development plan or final development plan condition and not
28 require approval of a separate amendment to that plan.

29
30 ~~5.6. Notwithstanding the above, a~~ Any modification to an approved final
31 development plan to provide an accessibility improvement shall be permitted
32 and ~~shall~~ not require approval of an amendment to the final development plan.

33
34 6.7. Notwithstanding the above, any alteration to a single family dwelling unit shall
35 be governed by the regulations of that R zoning district which most closely
36 characterizes the given development as determined by the Zoning
37 Administrator. If, however, the desired alteration is not in substantial
38 conformance with the approved final development plan, it will be allowed only
39 after amendment of the final development plan in accordance with the
40 provisions set forth in Sect. 402 above.

41
42 **Amend Article 18, Administration, Amendments, Violations and Penalties, as follows:**

- 43
44 - **Amend Part 1, Administration, Sect. 18-106 Application and Zoning Compliance**
45 **Letter Fees, by revising Par. 9 as follows:**
46

9. Interpretation of approved zoning application or minor variation to proffered conditions: \$520

- Amend Part 2, Amendments, as follows:

- Amend the entirety of Sections 18-201, 18-202, and 18-203, to read as follows:

18-201 Initiation of Amendments

The text of this Ordinance and any zoning district boundary shown on the Zoning Map may be amended by the Board, provided ~~that proceedings for any the~~ amendment ~~shall be~~ is initiated ~~only~~ in the following manner:

1. ~~By the a~~ Adoption by the Planning Commission of a resolution of intention to propose an amendment; or
2. ~~By the a~~ Adoption by the Board of a resolution of intention to amend, which resolution, upon adoption, ~~shall be~~ is referred to the Planning Commission; or
3. ~~By the f~~ Filing with the Zoning Administrator of an application submitted by the owners, contract purchasers, or a condominium in accordance with the provisions of Sect. 2-518, or their agents, of the land proposed to be rezoned, which application ~~shall~~ must be sworn to under oath or affirmation and acknowledged before a notary public.

18-202 Submission Requirements

All applications for amendments to the Zoning Map, initiated ~~in the manner prescribed by~~ under Par. 3 of Sect. 201 above, except as qualified below, ~~shall must~~ be filed with the Zoning Administrator and shall include the following information:

1. ~~Four (4) copies of an~~ One (1) original completed application signed by the applicant on forms provided by the County, ~~completed and signed by the applicant.~~
2. Four (4) copies of a certified plat of the subject property containing the following information:
 - A. Boundaries of the entire property, with bearings and distances of the perimeter property lines, and of each existing and proposed zoning district.
 - B. Total area of property and of each existing and proposed zoning district presented in square feet or acres.

- C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat.
 - D. Location of all existing buildings and structures.
 - E. Names and route numbers of all boundary roads or streets, and the width of existing right(s)-of-way.
 - F. Seal and signature of person preparing the plat.
3. Four (4) copies of a legal description of the property, including metes and bounds of each zoning district proposed.
4. One (1) copy of the current Fairfax County Zoning Section Sheet(s) covering the area of the application, at a scale of one inch equals five hundred feet (1" = 500'), showing:
 - A. Boundaries of the subject property outlined in red.
 - B. Major thoroughfare access to the property and any known plans for future widening as indicated in the adopted comprehensive plan or a plan prepared by the Virginia Department of Transportation.

If more than one (1) Zoning Section Sheet is required to cover the subject property, the sheets must be attached so as to create an intelligible map.
5. For all applications proposing residential development, five (5) copies of a map identifying classification of soil types at a scale not less than one inch equals five hundred feet (1" = 500'), based upon the County of Fairfax Soils Identification Maps.
6. For all applications, except an application involving an amendment constituting the adoption of a comprehensive zoning plan, an ordinance applicable throughout the County, or an application initiated by the Board under Par. 2 of Sect. 201 above that involves more than ten (10) parcels that are owned by different individuals, trusts, corporations or other entities, an affidavit, as presented on an affidavit form approved by the Board of Supervisors and provided by the County, must be completed, signed by the applicant or the applicant's authorized agent and notarized, including a statement indicating whether or not a member of the Board or Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership in stock in a corporation owning such land, or through an interest in a partnership owning such land. If the applicant's agent completes the application or affidavit on the applicant's behalf, a certified statement from the applicant must be submitted showing the agent's authorization to act in such capacity.

Prior to each public hearing on the application, the applicant must reaffirm the affidavit required by this Paragraph in accordance with the reaffirmation procedure outlined on the affidavit form approved by the Board of Supervisors and provided by the County.

Additionally, for developments which are subject to the provisions of Part 8 of Article 2, the owner and/or applicant must submit an affidavit which includes:

- A. The names of the owners of each parcel of the sites or portions thereof at one location, as such terms are defined in Par. 1 of Sect. 2-802; and
 - B. The Fairfax County Property Identification Map Number, parcel size and zoning district classification for each parcel which is part of the site or portion thereof.
7. An application filed by an agent, contract purchaser or lessee must include a notarized written statement signed by the property owner indicating endorsement of the application. For a condominium, a notarized written statement by the property owner must be provided in accordance with the provisions of Sect. 2-518.
 8. Six (6) copies of an environmental assessment/impact statement as required by the provisions of Part 5 below.
 9. Four (4) copies of a written statement of justification, dated and signed.
 10. ~~If the proposed amendment is for a rezoning to an R, C or I district, twenty three (23) copies of a generalized development plan, certified by a professional engineer, architect, landscape architect or land surveyor authorized to practice as such by the State, including any resubmissions of the plan and supporting graphics, to be submitted in accordance with the provisions of Sect. 203 below, and to include the information set forth below. One 8 1/2" x 11" reduction of the plan, any resubmissions and supporting graphics shall also be submitted. However, the requirement for such development plan may be modified or waived by the Zoning Administrator when it has been determined that (a) such plan is not necessary for the adequate review of the rezoning application, and (b) such development as is proposed upon rezoning is of a nature as not to have a significant adverse impact upon the community or upon the public facilities available to the property.~~

~~A generalized development plan, at a scale of not less than one inch equals one hundred feet (1" = 100'), which scale may be modified by the Zoning Administrator based on the nature and/or size of the application, shall show the following:~~

- 1 A. ~~Scale and north arrow, with north, to the extent feasible, oriented to the~~
- 2 ~~top of the plan.~~
- 3
- 4 B. ~~Except for single family detached dwellings, the approximate location~~
- 5 ~~and dimensions of all proposed structures and uses, to include the~~
- 6 ~~maximum height in feet of all structures and penthouses, and a graphic~~
- 7 ~~depiction of the angle of bulk plane, if applicable.~~
- 8
- 9 C. ~~The proposed traffic circulation plan including major streets and major~~
- 10 ~~pedestrian, bike and/or bridle paths, and the location of all trails required~~
- 11 ~~by the adopted comprehensive plan.~~
- 12
- 13 D. ~~All proposed major open space areas and the approximate location of all~~
- 14 ~~proposed community and public facilities.~~
- 15
- 16 E. ~~The proposed plan for all major sanitary sewer improvements.~~
- 17
- 18 F. ~~Approximate location, estimated size of footprint in acres and type of all~~
- 19 ~~proposed stormwater management facilities, including the full extent~~
- 20 ~~of side slopes, embankments, spillways, dams, and approximate water~~
- 21 ~~surface elevation for design storms, if applicable. In addition, a~~
- 22 ~~preliminary stormwater management plan that includes information~~
- 23 ~~about the adequacy of downstream drainage, including the sufficiency of~~
- 24 ~~capacity of any storm drainage pipes and other conveyances into which~~
- 25 ~~stormwater runoff will be conveyed. When there is 2500 square feet or~~
- 26 ~~more of land disturbing activity on the entire application property, in~~
- 27 ~~addition to the above, the preliminary stormwater management plan shall~~
- 28 ~~include:~~
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- 30 (1) ~~A graphic depicting:~~
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- 32 (a) ~~The approximate footprint of the stormwater management~~
- 33 ~~facility and, where applicable, the height of the dam~~
- 34 ~~embankment and the location of the emergency spillway~~
- 35 ~~outlet for each stormwater management facility.~~
- 36
- 37 (b) ~~The approximate on-site and off-site areas to be served by~~
- 38 ~~each stormwater management facility, along with the acreage~~
- 39 ~~draining to each facility.~~
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- 41 (c) ~~A preliminary layout of all on-site drainage channels, outfalls~~
- 42 ~~and pipes, including inlet and outlet pipes within the~~
- 43 ~~stormwater management facility.~~
- 44
- 45 (d) ~~The approximate location or alternative locations, if any, of~~
- 46 ~~any maintenance access road or other means of access to the~~

- stormwater management facility, and the identification of the types of surfaces to be used for any such road.
- (e) ~~Proposed landscaping and tree preservation areas in and near the stormwater management facility.~~
 - (f) ~~The approximate limits of clearing and grading on site and off site for the stormwater management facility, storm drainage pipes, spillways, access roads and outfalls, including the provision of energy dissipation, storm drain outlet protection and/or stream bank stabilization measures.~~
- (2) ~~A preliminary stormwater management narrative setting forth the following:~~
- (a) ~~Description of how the detention and best management practice requirements will be met.~~
 - (b) ~~The estimated area and volume of storage of the stormwater management facility to meet stormwater detention and best management practice requirements.~~
 - (c) ~~For each watercourse into which drainage from the property is discharged, a description of the existing outfall conditions, including any existing ponds or structures in the outfall area. The outfall area shall include all land located between the point of discharge from the property that is located farthest upstream, down to the point where the drainage area of the receiving watercourse exceeds 100 times the area of that portion of the property that drains to it or to a floodplain that drains an area of at least 1 square mile, whichever comes first.~~
 - (d) ~~Description of how the adequate outfall requirements of the Public Facilities Manual will be satisfied.~~
- G. ~~The location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.~~
- H. ~~A schedule showing the number of parking spaces provided and the number required by the provisions of Article 11.~~
- I. ~~Existing topography with a maximum contour interval of two (2) feet and a statement indicating whether it is air survey or field run.~~

- J. ~~A delineation of those general areas that have scenic assets or natural features deserving of protection and preservation, and a statement of how such will be accomplished.~~
- K. ~~A statement or visual presentation of how adjacent and neighboring properties shall be protected from any adverse effects prompted by the proposed development, to include vehicular access plans and dimensions of all peripheral yards that will be provided.~~
- L. ~~A delineation of all existing structures, and an indication of their date of construction if known, and whether they will be retained or demolished.~~
- M. ~~A statement setting forth the maximum gross floor area and FAR proposed for all uses other than residential.~~
- N. ~~A statement or presentation setting forth the maximum number of dwelling units proposed, and the density and the open space calculations based on the provisions of Sections 2-308 and 2-309.~~
- O. ~~A statement of those special amenities that are proposed within the development.~~
- P. ~~A statement of the public improvements, both on and off site, that are proposed for dedication and/or construction, and an estimate of the timing of providing such improvements.~~
- Q. ~~A statement setting forth the proposed approximate development schedule.~~
- R. ~~Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.~~
- S. ~~Any proposed improvements to the public right(s) of way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right of way.~~
- T. ~~A plan showing limits of clearing, proposed landscaping and screening in accordance with Article 13, and a delineation of existing vegetation, to include existing vegetation to be preserved, and when there is 2500~~

- ~~square feet or more of land disturbing activity, an existing vegetation map.~~
- ~~U. Approximate delineation of any grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact the burial site.~~
- ~~V. A statement which confirms the ownership of the subject property, and the nature of the applicant's interest in same.~~
- ~~10.11.~~ A statement explaining the relationship of the development to and compliance with the development criteria of the adopted comprehensive plan of the County.
- ~~11.12.~~ A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on-site and the size and contents of any existing or proposed storage tanks or containers.
- ~~12.13.~~ A statement that the proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards or, if any waiver, exception or variance is sought by the applicant, it must be specifically noted with the justification for the modification.
- If the proposal includes the request for a waiver of the yard regulations for yards abutting certain principal arterial highways and railroad tracks pursuant to Sect. 2-414, a study showing projected noise impacts, proposed mitigation measures and the effectiveness of such measures must be submitted.
- ~~13.14.~~ Any additional information that the applicant may desire to proffer in the consideration of the application.
- ~~14.15.~~ Where applicable, any other information as may be required by the provisions of Article 7, including the submission of the Archaeological Survey Data Form and a Phase I Archaeological Survey to the Fairfax County Park Authority as may be required pursuant to Sect. 7-210 for applications resulting in 2500 square feet or more of land disturbing activity and where the application property is located wholly or partially within or contiguous to a Historic Overlay District.
- ~~15.16.~~ ~~If the proposed amendment is f~~ For a rezoning to a R, C, or I district, twenty-three (23) copies of a generalized development plan in accordance with Sect. 203 below; and for a rezoning to a P district, twenty-three (23) copies of a development plan as provided for in Article 16.

~~16.17.~~ An application fee as provided for in Sect. 106 above.

17. All statements, plans, profiles, elevations, and other materials submitted become part of the record of the hearing on the application for an amendment to the Zoning Map.

18-203 Generalized Development Plan Regulations

Generalized development plans ~~as required by Par. 10 of Sect. 202 above shall be~~ are subject to the following regulations:

1. ~~A generalized development plan shall be filed with an application for rezoning. A generalized development plan not filed with the initial submission of the an application to amend the Zoning Map shall may be submitted within sixty (60) days of the acceptance date of the application. Failure to meet this requirement shall will change the acceptance date of the application pursuant to Sect. 107 above, may be due cause to a delay in the processing of the application in accordance with Sect. 107 above, and may be due cause to for dismissal of the application in accordance with Sect. 209 below. All data shall be submitted in writing and by use of demonstrative materials necessary to present a clear and complete description of the application, and such data shall be filed with the Zoning Administrator.~~

The requirement for submission of the generalized development plan may be modified or waived by the Zoning Administrator when it has been determined that (a) the plan is not necessary for the adequate review of the rezoning application, and (b) the development as proposed by the rezoning will not have a significant adverse impact upon the community or upon the public facilities available to the property.

2. A generalized development plan, including any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect or land surveyor authorized to practice as such by the State. One 8 1/2" x 11" reduction of the plan, any resubmissions and supporting graphics must also be submitted. All written statements, and all plans, profiles, elevations and other illustrative materials submitted with the generalized development plan must shall be filed in twenty-three (23) copies. Plans, profiles, elevations and other illustrative materials shall must be presented on a sheet having a maximum size of 24" x 36". If presented on more than one (1) sheet, match lines shall must clearly indicate where the several sheets join. The sheet size of a generalized development plan may be modified by the Zoning Administrator, based on the nature and/or size of the application.

3. A generalized development plan, at a scale of not less than one inch equals one hundred feet (1" = 100'), which scale may be modified by the Zoning Administrator based on the nature and/or size of the application, shall must show the following:

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- A. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plan.
 - B. Except for single family detached dwellings, the approximate location and dimensions of all proposed structures and uses, to include the maximum height in feet of all structures and penthouses, and a graphic depiction of the angle of bulk plane, if applicable.
 - C. The proposed traffic circulation plan including major streets and major pedestrian, bike and/or bridle paths, and the location of all trails required by the adopted comprehensive plan.
 - D. All proposed major open space areas and the approximate location of all proposed community and public facilities.
 - E. The proposed plan for all major sanitary sewer improvements.
 - F. Approximate location, estimated size of footprint in acres and type of all proposed stormwater management facilities, including the full extent of side slopes, embankments, spillways, dams, and approximate water surface elevation for design storms, if applicable. In addition, a preliminary stormwater management plan that includes information about the adequacy of downstream drainage, including the sufficiency of capacity of any storm drainage pipes and other conveyances into which stormwater runoff will be conveyed. When there is 2500 square feet or more of land disturbing activity on the entire application property, in addition to the above, the preliminary stormwater management plan must include:
 - (1) A graphic depicting:
 - (a) The approximate footprint of the stormwater management facility and, where applicable, the height of the dam embankment and the location of the emergency spillway outlet for each stormwater management facility.
 - (b) The approximate on-site and off-site areas to be served by each stormwater management facility, along with the acreage draining to each facility.
 - (c) A preliminary layout of all on-site drainage channels, outfalls and pipes, including inlet and outlet pipes within the stormwater management facility.

- (d) The approximate location or alternative locations, if any, of any maintenance access road or other means of access to the stormwater management facility, and the identification of the types of surfaces to be used for any such road.
- (e) Proposed landscaping and tree preservation areas in and near the stormwater management facility.
- (f) The approximate limits of clearing and grading on-site and off-site for the stormwater management facility, storm drainage pipes, spillways, access roads and outfalls, including the provision of energy dissipation, storm drain outlet protection and/or stream bank stabilization measures.
- (2) A preliminary stormwater management narrative setting forth the following:
- (a) Description of how the detention and best management practice requirements will be met.
- (b) The estimated area and volume of storage of the stormwater management facility to meet stormwater detention and best management practice requirements.
- (c) For each watercourse into which drainage from the property is discharged, a description of the existing outfall conditions, including any existing ponds or structures in the outfall area. The outfall area must include all land located between the point of discharge from the property that is located farthest upstream, down to the point where the drainage area of the receiving watercourse exceeds 100 times the area of that portion of the property that drains to it or to a floodplain that drains an area of at least 1 square mile, whichever comes first.
- (d) Description of how the adequate outfall requirements of the Public Facilities Manual will be satisfied.
- G. The location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- H. A schedule showing the number of parking spaces provided and the number required by the provisions of Article 11.
- I. Existing topography with a maximum contour interval of two (2) feet and a statement indicating whether it is air survey or field run.

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2 J. A delineation of those general areas that have scenic assets or natural
3 features deserving of protection and preservation, and a statement of how
4 such will be accomplished.
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6 K. A statement or visual presentation of how adjacent and neighboring
7 properties will be protected from any adverse effects prompted by the
8 proposed development, to include vehicular access plans and dimensions
9 of all peripheral yards that will be provided.
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11 L. A delineation of all existing structures, and an indication of their date of
12 construction if known, and whether they will be retained or demolished.
13
14 M. A statement setting forth the maximum gross floor area and FAR
15 proposed for all uses other than residential.
16
17 N. A statement or presentation setting forth the maximum number of
18 dwelling units proposed, and the density and the open space calculations
19 based on the provisions of Sections 2-308 and 2-309.
20
21 O. A statement of those special amenities that are proposed within the
22 development.
23
24 P. A statement of the public improvements, both on and off-site, that are
25 proposed for dedication and/or construction, and an estimate of the timing
26 of providing such improvements.
27
28 Q. A statement setting forth the proposed approximate development
29 schedule.
30
31 R. Approximate delineation of any floodplain designated by the Federal
32 Emergency Management Agency, United States Geological Survey, or
33 Fairfax County, the delineation of any Resource Protection Area and
34 Resource Management Area, and the approximate delineation of any
35 environmental quality corridor as defined in the adopted comprehensive
36 plan, and, if applicable, the distance of any existing and proposed
37 structures from the floodplain, Resource Protection Area and Resource
38 Management Area, or environmental quality corridor.
39
40 S. Any proposed improvements to the public right(s)-of-way and
41 delineation of the existing centerline of all streets abutting the property,
42 including dimensions from the existing centerline to the edge of the
43 pavement and to the edge of the right-of-way.
44
45 T. A plan showing limits of clearing, proposed landscaping and screening
46 in accordance with Article 13, and a delineation of existing vegetation, to

include existing vegetation to be preserved, and when there is 2500 square feet or more of land disturbing activity, an existing vegetation map.

U. Approximate delineation of any grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact the burial site.

V. A statement which confirms the ownership of the subject property, and the nature of the applicant's interest in same.

~~All statements, plans, profiles, elevations, and other demonstrative materials shall become part of the record of the hearing on the application for an amendment to the Zoning Map. Any model must be accompanied by 8" by 10" clear photographs showing a top view, an isometric view and each side of the model.~~

4. ~~Any statement, plan, profile, elevation or other demonstrative material which is submitted with a rezoning application and which is to be a proffered condition shall be identified as such by a written statement to that effect signed by the applicant and the owner, to include contract purchaser. For a condominium, the written statement of proffered conditions shall be signed in accordance with the provisions of Sect. 2-518.~~

- **Amend Section 18-204. Proffered Condition Regulations by deleting the existing text in its entirety and replace with new text, as follows:**

18-204 Proffered Condition Regulations

Proffered conditions may include any statement, plan and other materials which are submitted with a rezoning application and referenced in a written statement signed by the applicant, the owner and any contract purchaser(s), and accepted by the Board in conjunction with the approval of a rezoning. For condominiums, the written statement of proffers must be signed in accordance with Sect. 2-518.

Proffered conditions are subject to the following:

1. Once the public hearing has begun, no change or addition to any proffer is allowed without a second public hearing before the Board and, at the option of the Board, a second public hearing before the Planning Commission.
2. If an amendment to the Zoning Map is adopted subject to proffered conditions, the property must be annotated as such on the Zoning Map.
3. Proffered conditions become a part of the zoning regulations applicable to the rezoned property, unless changed by a subsequent amendment approved by the Board. These proffered conditions are in addition to the specific regulations set

1 forth in the Ordinance for the zoning district in question. Once an application with
 2 proffered conditions is approved, any site plan, subdivision plat, or development
 3 plan submitted for the development of the property must be in substantial
 4 conformance with all proffered conditions and no County official may approve
 5 any development without such substantial conformance, except as may be
 6 permitted by Paragraphs 4, 5 and 6, below.

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 8 4. Minor modifications to the proffered conditions are allowed when the Zoning
 9 Administrator determines that they substantially conform to the proffered
 10 conditions and do not materially alter the character of the approved development.
 11 In making this determination, the Zoning Administrator may consider factors
 12 such as topography, engineering and design. Minor modifications are not
 13 amendments or variations to the proffered conditions.

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 15 Minor modifications may not conflict with a proffer or:

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 17 A. Remove any land from or add any land to the area subject to the proffered
 18 conditions;
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 20 B. Create, intensify, or expand any nonconformity with maximum or minimum
 21 requirements of the zoning district;
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 23 C. Result in an increased parking requirement, except for any additional
 24 parking required for building additions or modifications permitted under
 25 Paragraphs 4 D and 4 K below;
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 27 D. Permit a more intensive use than that approved in the proffered conditions,
 28 except that places of worship or places of worship with a child care center,
 29 nursery school, private school of general or special education, may increase
 30 the number of seats, parking spaces, and/or students up to ten (10) percent
 31 of the proffered amount, if not expressly prohibited by the proffered
 32 conditions;
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 34 E. Permit uses other than those approved pursuant to the proffered conditions
 35 except that accessory uses may be permitted;
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 37 F. Reduce the effectiveness of approved transitional screening, buffering,
 38 landscaping, and/or open space;
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 40 G. Permit changes to bulk, mass, orientation, or location that adversely impact
 41 the relationship of the development to adjacent property, except that:
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 43 (1) Modifications that reduce setback dimensions up to 10% from that
 44 shown on an approved development plan may be considered, provided
 45 that they do not adversely impact adjacent property; and
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(2) Increases in **building** height up to 10 feet and increases in percentages of rooftop coverage may be permitted for solar collectors and other innovative energy and environmental technologies.

H. Increase the amount of clearing or grading for a stormwater management facility, including any clearing or grading associated with spillways, inlets, outfall pipes, or maintenance roads that reduces non-stormwater management open space, tree save area, or landscaping area on the lot;

I. Expand hours of operation;

J. Expand the area or type of signage approved, although changes to color and typeface may be considered provided they do not change the character of the approved sign;

K. Include the addition of or to any building, except that accessory structures clearly subordinate to the principal use and minor building additions, including those for cellar space, may be permitted, provided that the total of all such structures or additions cannot exceed the following:

(1) 500 square feet or five (5) percent of the approved gross floor area up to 2500 square feet, whichever is greater, when the total gross floor area shown on the proffered development plan does not exceed 250,000 square feet.

(2) One (1) percent of the approved gross floor area when the total gross floor area shown on the proffered development plan exceeds 250,000 square feet.

(3) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the proffered development plan is 10,000 square feet or less.

(4) The maximum density or FAR allowed in the zoning district or the proffered conditions; however, any increase in gross floor area resulting from replacing the materials of an existing building façade is not included in the calculation of FAR;

Anyone requesting a minor modification for a building addition must send notice of the request to the owners of all property abutting and across the street from the site, or portion thereof, at the last known address, as shown in the real estate assessment files of the Department of Tax Administration.

The notice must be delivered by hand or sent by certified mail, return receipt requested and include the letter of request submitted to the Zoning Administrator with all attachments, a statement that the request has been

submitted, and where to call for additional information.

An affidavit from the requester must be sent to the Zoning Administrator affirming that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and, the Tax Map references for all parcels notified. The Zoning Administrator will not consider any request for an addition that omits this affidavit.

5. The Board may approve certain requests for minor variations to proffered conditions and the associated PRC development plan, generalized development plan, conceptual development plan and final development plan, including any approved conditions of such plans, or final development plan conditions without a public hearing in accordance with the following:

A. Such requests cannot materially affect proffered conditions of use, density, or intensity, and are permissible only in one or more of the following circumstances.

- (1) To add or modify a use, provided that the proffered conditions do not specifically preclude such use and that the applicant demonstrates that the new use would have no materially greater land use impacts than the approved uses would, based on factors such as ~~in terms of~~ parking, trip generation, vehicular circulation, or hours of operation.
- (2) To increase permitted building height provided that the resultant height increase does not:
 - (a) exceed 15 feet or 15% of the approved building height, whichever is less;
 - (b) cause the building to exceed the maximum height of the zoning district;
 - (c) have a materially adverse impact on adjacent properties.
- (3) To modify ~~proffered~~ minimum yard dimensions, building setbacks or distances from peripheral lot lines shown on an approved development plan, but only if the modified dimensions would not have a materially adverse impact on adjacent properties or other proffered conditions.
- (4) To ~~add,~~ modify or delete, at the request of the property owner or owners' association, local community/HOA active or passive recreation uses at the request of the property owner or the owners' association, shown on an approved development plan provided that if the request is consistent with the objectives of the original zoning

approval; does any deletion or modification would not reduce the recreational uses or open space below the minimum required for the zoning district or otherwise required by the Zoning Ordinance; and, does not delete an approved but unbuilt facility.

(5) To modify proffer commitments related to technologies (such as computer business centers) or services (such as transportation shuttles) that are underutilized or have become ineffective or obsolete as circumstances have changed.

(6) To modify architectural design, character, color, features, or materials for buildings and signs provided such modifications are of equivalent quality and do not have a materially adverse impact on adjacent properties.

B. When the Board approves a minor variation that affects an approved development plan, the variation is deemed to apply to the development plan and not require a separate development plan amendment.

C. Anyone making such a request to the Board must send *written* notice in accordance with *Par. 4 of Sect. 110 above and Virginia Code Sect. 15.2-2204(B).*

D. The Board at its discretion may elect not to waive a public hearing under this section, in which case the application may be processed under Par. 6 below.

6. A request that cannot be accomplished as a minor modification or minor variation requires approval of a proffered condition amendment after a public hearing before the Board in accordance with Sect. 205 below.

A. An application for such an amendment may cover all or a portion of the property subject to proffered conditions, or it may request to add proffered conditions on a parcel not currently the subject of any proffered condition. In its review of a request that does not cover all of the property subject to proffered conditions, the Board should consider whether the request would have an adverse impact on the remainder of the property in terms of (a) the approved use, (b) fulfillment of proffered conditions, (c) vehicular and pedestrian circulation, connectivity, landscaping and streetscape, and (d) the approved density or intensity. After approval of an amendment, all other previously approved proffered conditions remain in full force and effect.

B. Any modification to a proffered condition to provide an accessibility improvement will be permitted and will not require approval of a proffered condition amendment.

- 1 7. The Zoning Administrator is vested with all necessary authority on behalf of the
 2 Board to administer and enforce proffered conditions. Such authority includes the
 3 ability to remedy, by written order, any noncompliance with a proffered condition
 4 and the ability to bring legal action to insure compliance, as provided for in Part
 5 9 of this Article.
 6
- 7 8. The Zoning Administrator, or designated agent, may require a guarantee,
 8 satisfactory to the Board, in an amount sufficient to cover the construction cost
 9 of any physical improvements required by the proffered conditions, or a contract
 10 for the construction of such improvements and the contractor's guarantee, in like
 11 amount, which may be reduced or released by the Board or agent thereof, upon
 12 the submission of satisfactory evidence that the construction of the improvements
 13 has been completed in whole or in part.
 14
- 15 9. Failure to meet or comply with any proffered condition is sufficient cause to deny
 16 the approval of a subdivision plan or site plan, and the issuance of any permits,
 17 including Building Permits and Residential and Non-Residential Use Permits, as
 18 the Zoning Administrator may deem appropriate.
 19
- 20 10. Any person aggrieved by a decision of the Zoning Administrator regarding any
 21 proffered condition may appeal that decision to the Board. The appeal must be
 22 filed within thirty (30) days from the date of the decision being appealed by filing
 23 with the Clerk to the Board and the Zoning Administrator a notice of appeal
 24 specifying the grounds on which aggrieved. The notice of appeal filed with the
 25 Zoning Administrator must include a filing fee, as provided for in Sect. 106,
 26 above.
 27

28 **Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 2,**
 29 **Interpretations, to add a new Par. 12, as follows:**
 30

- 31 12. The term 'rezoning' means an amendment to the zoning map.
 32

33 **Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions,**
 34 **by amending the definition of FLOOR AREA, GROSS, as follows:**
 35

36 FLOOR AREA, GROSS: The sum of the total horizontal areas of the several floors of all
 37 buildings on a lot, measured from the interior faces of exterior walls. Gross floor area
 38 shall include basements; elevator shafts and stairwells at each story; floor space used for
 39 mechanical equipment with structural headroom of six (6) feet, six (6) inches or more;
 40 penthouses, except as qualified below; attic space, whether or not a floor has actually
 41 been laid, providing structural headroom of six (6) feet, six (6) inches or more; interior
 42 balconies; and mezzanines.
 43

44 Gross floor area shall not include cellars; outside balconies which do not exceed a
 45 projection of six (6) feet beyond the exterior walls of the building; parking structures
 46 below or above grade; rooftop mechanical equipment; ~~or~~ enclosed or structural walkways
 47 designed and used exclusively for pedestrian access between buildings and/or parking

- 1 structures; and floor space created incidental to the replacement of an existing building
- 2 façade.

PROPOSED MINOR VARIATION PROCEDURES (November 7, 2017)

The Department of Planning and Zoning will use the following procedures for Minor Variations to proffered conditions that may be considered for approval by the Board of Supervisors under Par. 5 of Section 18-204 of the Zoning Ordinance. A description of each step and a general timeline are provided below.

1. RECEIPT OF A REQUEST (Week 1)

- a. A request for a Minor Variation may be filed by a property owner, contract purchaser, or owners association (the same entities that can file for a PCA). If the requestor is not the owner of the subject property, owner concurrence is required.
- b. The request will be processed by the Zoning Evaluation Division Interpretation Branch.
- c. A request should be submitted as a letter, and include demonstration of compliance with "a" above, related graphic material, as appropriate, the required fee, and an affidavit.
- d. Initial Staff review will include a determination by the Director, ZED that the proposed request is permitted under the Zoning Ordinance as a Minor Variation. If permitted, the request will be distributed for review. If not permitted under the Zoning Ordinance as a Minor Variation, the request will be returned to the requestor.
- e. Minor Variation requests will be logged-in and tracked in an automated database system in the same way as are current Interpretation/Minor Modification requests.

2. DISTRIBUTION (Week 1)

- a. Each Minor Variation request will be distributed to the Board of Supervisors member and Planning Commissioner for the particular magisterial district; the Board member and Planning Commissioner of the adjacent district, if the property is located within ¼ mile of the magisterial district boundary; and the Executive Director of the Planning Commission.
- b. Board member agreement to proceed with a proposal as a Minor Variation will be verified by Staff.
- c. Requests will be distributed to functional agency reviewers as needed, depending on the subject (same as Single Issue PCA).
- d. Information on requests filed for Minor Variations will be sent to any Community Association as may be identified by the Board member in a particular magisterial district.

3. EVALUATION AND PREPARATION OF BOARD ITEM (Weeks 1-5)

- a. Staff will analyze the request based upon the approved zoning and proffers, and impacts, including those on adjacent properties, in accordance with the Zoning Ordinance provisions for Minor Variations.
- b. Staff will coordinate with the District Board member on evaluation and scheduling.

- c. Staff will schedule the Board Action Item for a Board of Supervisors meeting approximately 60 days following the filing of a complete request.
 - d. Board Item titles will be provided to the Clerk to the Board 5 weeks prior to Board of Supervisors meeting.
 - e. Based on the completed analysis, Staff will prepare a County Executive Action Item, which will include a recommendation on the Minor Variation request.
 - f. At any point in the evaluation process, the Board may deny the request to process the issue as a Minor Variation, at which point the applicant may file a PCA for the request.
- 4. NOTICE PACKAGE (Week 4)
 - a. Notifications are required by the Zoning Ordinance and the State Code. Staff will send the notice package and instructions to the requester 30 days prior to the Board meeting. Notices are to be completed by the requester.
 - b. Notices must be sent by the requestor and postmarked no later than 15 days prior to the scheduled Board meeting.
 - c. Notice receipts will be reviewed by the Planning Commission Staff.
- 5. SUBMITTING BOARD ACTION ITEM (Week 5)
 - a. The Action Item for Minor Variation will be submitted to the Clerk to the Board for inclusion in the Board package on the Friday ~~2-25 weeks~~ 12 business days prior to the Board meeting.
 - b. The Item will be posted in the Board package on the Wednesday before the Board meeting.
- 6. AFFIDAVIT (Weeks 6 - 7)
 - a. No more than 14 business days but no less than 7 business days before the scheduled Board meeting, the requester must submit a reaffirmation of the affidavit to Office of the County Attorney for review and approval (or submit a revised affidavit with concurrent reaffirmation).
 - b. If the affidavit requirement is not met, the Board Action Item will be deferred (unless the Board waives its policy).
- 7. BOARD DECISION (Week 8)
 - a. The Minor Variation request is considered by the Board as an "Action Item" under Items presented by the County Executive at a public meeting.
 - b. ZED Staff will present the Minor Variation request to the Board.
- 8. CLERK'S LETTER/RECORDS (Week 8+)

Attachment 3

- a. A draft letter on the Board action will be prepared by the Clerk to the Board and reviewed by ZED staff.
- b. A letter will be issued by the Clerk to the Board documenting Board Action and outlining any implementation required.
- c. Action on the Minor Variation will be recorded in Zoning and Planning System (ZAPS) (or future system) under zoning application number.



County of Fairfax, Virginia

Attachment 4

MEMORANDUM

DATE: October 20, 2017

TO: Peter F. Murphy, Chairman
Planning Commission

FROM: Kevin J. Guinaw, Special Projects Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

SUBJECT: Update on Proposed Minor Modifications Zoning Ordinance Amendment

The Proposed Minor Modifications Zoning Ordinance Amendment is scheduled for public hearing before the Planning Commission on October 26, 2107. This is the first amendment being brought forward under the Zoning Ordinance Modernization (zMOD) Project.

Attached you will find the procedures developed by the Department of Planning and Zoning for the implementation of a new process included within the Minor Modifications Amendment by which the Board of Supervisors would be able to approve certain “minor variations” to proffered conditions as an Action Item at a public meeting, but without a public hearing (Attachment A). The ability to approve changes to proffered conditions without a public hearing is allowed under a recent amendment to the State Code. The Board has requested these procedures to be considered and included with the adoption of the proposed Minor Modifications Amendment.

Also attached are staff recommended changes to the proposed Zoning Ordinance text (Attachment B). The changes are editorial and clarifying in nature and are within the scope of the advertisement for the proposed Zoning Ordinance Amendment. Specifically, they address the following.

1. Under the minor modification provisions for special permits (Sect. 8-004), special exceptions (Sect. 9-004), rezonings (Sect. 18-204), development plans in the PRC District (Sect. 16-203), and final development plans (Sect. 16-403), in Par. 4.G.(2) the word height is clarified as “building height.” (Pages 5, 11, 18, 25 and 40 in the revised text)
2. Under minor modifications for special permits, Par. 4.D. in Sect. 8-004 is corrected to refer to a “special permit.” (page 5)

3. As part of this first effort at modernizing the Zoning Ordinance, the word “shall” has been replaced in most of the proposed text. Under the PRC Plan Approval provisions, Par. 5 of Section 16-203, the word “will” replace “shall” in the first line. (Page 14)
4. A clarification is added to the Introduction to Par. 5 of Sect. 18-204 related to minor variations to list the types of plans which are typically associated with proffered conditions (PRC development plan, generalized development plan, conceptual development plan and final development plan, including any approved conditions of such plans). An associated development plan was previously only generally referred to in Par. 5B. (Page 41)
5. In Par. 5A(1) of Sect. 18-204, the word “materially” is added to reflect the fact that an evaluation of factors will occur in the determination of land use impacts. The words “based on factors such as” are added to reinforce that fact and to recognize that this list is not exclusive of other factors that may exist in a specific request. (Page 41)
6. In Par. 5A(3) of Sect. 18-204, the word “proffered” is deleted. It is redundant since a minor variation is defined above in the introduction to be a variation to a proffered condition. (Page 41)
7. Par. 5C of Sect. 18-204 is clarified to note that “written” notices are required and to cite the appropriate reference to Sect. 18-110 of the Zoning Ordinance, in addition to the State Code reference provided in the proposed text. (Page 42)
8. A new Par. 8 is added to Sect. 18-204. This paragraph relates to proffer guarantees for the construction of physical improvements. It is contained in the current provisions of Sect. 18-204 and was inadvertently omitted in the proposed text. It is needed for proffer guarantees and securities and is also specifically referenced in the Site Plan provisions in Sect. 17-112 for securities. (Page 43)

Attachments: A/S

cc: Board of Supervisors
Fred R. Selden, Director, Department of Planning and Zoning
Barbara A. Byron, Director, Office of Community Revitalization
Leslie B. Johnson, Zoning Administrator
Tracy D. Strunk, Director, Zoning Evaluation Division, DPZ
T. David Stoner, Deputy County Attorney
Laura S. Gori, Senior Assistant County Attorney



MEMORANDUM

DATE: November 7, 2017

TO: Peter F. Murphy, Chairman
Members, Planning Commission

FROM: Kevin J. Guinaw, Special Projects Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

SUBJECT: Update on Proposed Minor Modifications Zoning Ordinance Amendment

The Planning Commission held a public hearing on the Proposed Minor Modifications Zoning Ordinance Amendment on October 26, 2017, and deferred its decision to November 9, 2017.

The following information is provided in response to several questions and comments presented at the public hearing or transmitted to the Planning Commission on the proposed Zoning Ordinance Amendment.

1. Modernization of the Zoning Ordinance: Text in Transition

A question was raised about the replacement of the word “shall” in the proposed Zoning Ordinance text. This change is based on the fact that the word “shall” has been legally contested over the years and is not always automatically interpreted to be imperative in its meaning. In the proposed text, where an action is intended to be an imperative, “shall” is now replaced by the word “must” and where it is not (including prohibitions), it is typically replaced by words such as “will” or “may.” With this revision, there is no substantive change to the content of the Ordinance or any weakening of the Ordinance, although Staff believes there will be greater clarity.

Staff will include with all future amendments a statement in the Staff Comments that as the modernization of the Zoning Ordinance moves forward, there will be a period of transition in which the updating of existing text with plain language and formats may not match the remainder of the Ordinance that has not yet been updated.

2. Information on Minor Variations for the Public and the Planning Commission

As presented in the Procedures for Minor Variations in Attachment A, each Minor Variation request would be distributed to the Board of Supervisors member and Planning Commissioner

Peter F. Murphy
November 14, 2017
Page 2 of 2

for the particular magisterial district; the Board member and Planning Commissioner of the adjacent district, if the property is located within ¼ mile of the magisterial district boundary; and the Executive Director of the Planning Commission.

A suggestion was made at the public hearing about creating a public list of Minor Variation requests that are filed. In response to this question, Staff proposes to develop a format for posting a list of Minor Variations filed on the DPZ website.

In addition, Staff has proposed to distribute information on requests filed for Minor Variations to any Community Association as may be identified by the Board member in a particular magisterial district. Please see Step 2d. of the Procedures for Minor Variations in Attachment A.

3. Editorial revision to the Procedures for Minor Variations

A suggestion was made to change the representation of the timeframe for submitting Action Assignments to the Board from 2.25 weeks to 12 business days. This revision has been made to Step 5a. of the Procedures for Minor Variations in Attachment A.

4. Editorial and clarifying changes to the proposed text for Minor Variation #4

In response to issues raised by the Reston Association, proposed Par. 5A (4) in Sect. 18-204 is revised to read as follows.

To add, modify or delete active or passive recreation uses at the request of the property owner or owners' association, if the request is consistent with the objectives of the original zoning approval; does not reduce the recreational uses or open space below the minimum required for the zoning district or otherwise required by the Zoning Ordinance; and, does not delete an approved but unbuilt facility.

Please see Page 41 in Attachment B. This is the only change to the proposed text presented at the October 26, 2017 public hearing.

Attachments: A/S

cc: Board of Supervisors
Fred R. Selden, Director, Department of Planning and Zoning
Barbara A. Byron, Director, Office of Community Revitalization
Leslie B. Johnson, Zoning Administrator
Tracy D. Strunk, Director, Zoning Evaluation Division, DPZ
T. David Stoner, Deputy County Attorney
Laura S. Gori, Senior Assistant County Attorney

**County of Fairfax, Virginia
Planning Commission Meeting
November 9, 2017
Verbatim Excerpt**

ZONING ORDINANCE AMENDMENT – MINOR MODIFICATIONS (ARTICLES 8, 9, 16, 18, AND 20) AND MINOR MODIFICATIONS TO APPROVED ZONINGS AND OTHER RELATED CHANGES – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: Revises Sections 8-004, 9-004, 16-203, 16-403, and 18-204 to revise existing text for simplicity and clarity, and to give the Zoning Administrator additional authority to allow minor modifications to approved rezonings, special exceptions, special permits, PRC plans, and final development plans in the following areas: (1) allow modifications to building setbacks up to 10%; (2) allow increases in building height up to 10 feet and in percentages of rooftop coverage for solar collectors and other innovative energy and environmental technologies; (3) allow changes to typeface and color of approved signage; (4) increase amount of floor area permitted for minor building additions to include cellar space and limited to the greater of 500 square feet or 5% of the approved floor area up to 2500 square feet for developments no larger than 250,000 square feet, or 1% of the approved floor area for developments of more than 250,000 square feet; and (5) clarify that minor building additions may not exceed the proffered density or FAR; and revises these sections to identify circumstances in which minor modifications will not be allowed.

Establishes a new procedure in Section 18-204 for Board of Supervisors approval, without a public hearing, of minor variations to proffered conditions in the following circumstances: (1) addition or modification of uses not otherwise prohibited; (2) additional building height; (3) modifications to yard dimensions and building setbacks; (4) modification or deletion of local community or homeowner association recreation facilities; (5) change in circumstances related to provision of services or new technologies where the proffer is ineffective or no longer relevant; and (6) changes to architecture, building features, or materials. The revised text requires that requests for minor variations be subject to the notice requirements set forth in § 15.2 2204 of the Code of Virginia.

- 1) Reorganizes and makes editorial revisions for simplicity and clarity to Sections 18 201, 202, and 203 related to initiation of amendments, submission requirements for applications for amendments to the zoning map (rezonings) and generalized development plan regulations.
- 2) Revises Sections 16 202, 16 401, and 18 204 regarding the circumstances in which a partial amendment can be filed. The revised text eliminates the requirement for a determination by the Zoning Administrator that a proposed partial amendment would not adversely impact the remainder of the property subject to proffered conditions prior to the acceptance of a partial amendment and allows the Board of Supervisors to consider whether a request for a partial amendment would have an adverse impact on the remainder of the property.
- 3) Revises the definition of gross floor area in Article 20 to exclude an increase in floor space incidental to the replacement of an existing building facade. Revises Article 20, Part 2, Interpretations, to add a paragraph that says an amendment to the zoning map is also referenced as a rezoning.
- 4) Pursuant to Virginia Code §§ 15.2-107 and -2286(A)(6), revises Section 18 106 to establish a minimum fee of \$520 for a minor variation request. (Countywide)

ZONING ORDINANCE AMENDMENT –
MINOR MODIFICATIONS (ARTICLES 8, 9, 16, 18, AND 20) AND
MINOR MODIFICATIONS TO APPROVED ZONINGS AND
OTHER RELATED CHANGES

Page 2

Decision Only During Commission Matters
(Public Hearing held on October 26, 2017)

Commissioner Hart: Thank you, Mr. Chairman. On October 26th, the Commission held a public hearing on a Zoning Ordinance Amendment, Minor Modifications to Approved Zonings and Related Changes, and deferred decision until tonight. I first want to thank the citizens and industry representatives who testified and submitted written comments. We received a number of helpful suggestions, some of which will be reflected in my motions. I also want, very much, to thank our staff team on this case, many of whom are sitting up there right now. Kevin Guinaw, Barbara Byron, Tracy Strunk – our Zoning Administrator, Leslie Johnson – and David Stoner and Laura Gori from the County Attorney’s office for their efforts. This is the first amendment in a series under the umbrella, which we will get to know as zMOD, to modernize the zoning ordinance, an enormous project that requires significant outreach and staff deliberation. It will take time, but we have a broad consensus as to the direction we are heading and these proposed changes are a good start. With respect to one of the requests we heard at the public hearing, which falls outside of the advertising, related to whether any of the submission requirements for homeowners associations and/or condominium associations can be waived or modified, I have spoken to staff and been assured that the Zoning Ordinance permits such modifications and waivers, and that staff routinely grants them where the requirements are not necessary for the review of the application. We have also rewritten one section, following the public hearing, to address the changes requested by Reston Association. Other changes requested may fall outside the scope of the advertising, but may also be considered in the context of upcoming amendments. The text, as – as revised through this Tuesday, has staff’s favorable recommendation, with which I concur. Therefore, Mr. Chairman, I will have several motions. First, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT, ARTICLES 8, 9, 16, 18, AND 20, MINOR MODIFICATIONS TO APPROVED ZONINGS AND OTHER RELATED CHANGES, AS SET FORTH IN THE STAFF REPORT DATED SEPTEMBER 26, 2017, WITH THE ADDITIONAL TEXT REVISIONS INCLUDED IN ATTACHMENT B OF THE MEMORANDUM OF THE PLANNING COMMISSION DATED NOVEMBER 7, 2017.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. Yes, I’m going to vote in favor of this motion. But I did take the time in between – after the public hearing – to check on the issue of covenants. And there was one member from a homeowner association that was concerned that the covenants – it didn’t cover the issues that – that were being waived, you know, by the Zoning Ordinance, they felt. But I went back to their covenants. I pulled up their covenants and I – they do have the authority within their covenants and I find that to be quite common. But it’s quite often that the community wants the Planning Commission to do the heavy lifting. And so the – that’s not the case. They have the ability to protect themselves – the homeowners associations – if they so have the desire to do so, legally. Thank you.

ZONING ORDINANCE AMENDMENT –
MINOR MODIFICATIONS (ARTICLES 8, 9, 16, 18, AND 20) AND
MINOR MODIFICATIONS TO APPROVED ZONINGS AND
OTHER RELATED CHANGES

Page 3

Chairman Murphy: Further discussion of the motion? All those in favor of the recommend to the Board of Supervisors that it adopt Articles 8, 9, 16, 18, and 20, Minor Modifications to Approved Zonings and Other Related Changes, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries, Mr. Hart.

Commissioner Strandlie: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Strandlie: I was not here. I'd like to abstain.

Chairman Murphy: Okay. Ms. Strandlie abstains, not present for the public hearing.

Commissioner Hart: Second, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROCEDURES FOR MINOR VARIATIONS, AS SET FORTH IN ATTACHMENT A OF THE MEMORANDUM TO THE PLANNING COMMISSION DATED NOVEMBER 7, 2017.

Commissioners Migliaccio and Ulfelder: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Strandlie abstains.

Commissioner Hart: Third, I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT DIRECT STAFF TO REPORT BACK TO THE PLANNING COMMISSION AND THE BOARD ON THE RESULTS OF THE AMENDMENT IN 18 MONTHS AFTER ADOPTION.

Commissioner Migliaccio: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Hart: Thank you, Mr. Chairman.

ZONING ORDINANCE AMENDMENT –
MINOR MODIFICATIONS (ARTICLES 8, 9, 16, 18, AND 20) AND
MINOR MODIFICATIONS TO APPROVED ZONINGS AND
OTHER RELATED CHANGES

Page 4

Chairman Murphy: Thank you.

Each motion carried by a vote of 9-0-1. Commissioner Strandlie abstained from the vote.

JLC

Board Agenda Item
November 21, 2017

4:00 p.m.

Public Hearing on SE 2017-LE-004 (Alganesh Weldgargis/Beilul Home Day Care) to Permit a Home Child Care Facility, Located on Approximately 1,500 Square Feet of Land Zoned PHD-12 and HC (Lee District)

This property is located at 5824 Apsley House Court, Alexandria, 22310. Tax Map 81-4 ((35)) 47

PLANNING COMMISSION RECOMMENDATION:

On October 12, 2017, the Planning Commission voted 9-0 (Commissioners de la Fe, Hedetniemi, and Keys-Gamarra were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2017-LE-004, subject to proposed development conditions dated September 27, 2017.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Casey Gresham, Planner, DPZ

Board Agenda Item
November 21, 2017

4:00 p.m.

Public Hearing on SE 2017-BR-013 (Hasnaa Ali, F/K/A Hasna Ali Abdulla and Hasna Ali) to Permit a Home Child Care Facility, Located on Approximately 7,920 Square Feet of Land Zoned PHD-3 and HD (Braddock District)

This property is located at 10586 John Ayres Drive, Fairfax, 22032. Tax Map 77-1 ((12)) 29

PLANNING COMMISSION RECOMMENDATION:

On October 12, 2017, the Planning Commission voted 9-0 (Commissioners de la Fe, Hedetniemi, and Keys-Gamarra were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2017-BR-013, subject to the proposed development conditions dated September 26, 2017.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Daniel Creed, Planner, DPZ

Board Agenda Item
November 21, 2017

4:00 p.m.

Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 2, Property Under County Control

ISSUE:

Public Hearing on amendments to the Code of the County of Fairfax, Chapter 2, Property Under County Control, portions of Sections 2-2-1, Property seized by police; disposition of *unclaimed property* generally; notice of sale and 2-2-2, Sale or donation of unclaimed bicycles, and the repeal of Section 2-2-3, Perishable or bulky property seized by police; disposition.

RECOMMENDATION:

The County Executive recommends approval of the proposed amendments to Chapter 2.

TIMING:

On October 24, 2017, the Board authorized advertisement of a public hearing to consider this matter on November 21, 2017, at 4:00 p.m.

BACKGROUND:

As a housekeeping measure to update Chapter 2, portions of Sections 2-2-1, Property seized by police; disposition of *unclaimed property* generally; notice of sale and 2-2-2, Sale or donation of unclaimed bicycles, and the repeal of Section 2-2-3, Perishable or bulky property seized by police; disposition.

During a routine audit, it was discovered Fairfax County Code 2-2-1, which permits the Police Department to return unclaimed property to the finder should not be followed based on state code, Va. Code Ann. § 15.2-1719, which controls the disposition of found property. The state has the right to claim any property pursuant to the Uniform Disposition of Unclaimed Property Act (Va. Code Ann. § 55-210, *et seq.*). Moreover, if the state declines, the Police Department would be able to sell or retain the item(s) for law enforcement use. Additionally, there is no provision for releasing those items back to the finder. The disposition of bicycles is not affected by this change. Making these changes will put us in compliance with the state code and correct the problem.

FISCAL IMPACT:

None.

Board Agenda Item
November 21, 2017

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed Amendments to Chapter 2, Property under County Control, 2-2-1, Property seized by police; disposition of *unclaimed property* generally; notice of sale.

Attachment 2 – Proposed Amendments to Chapter 2, Property under County Control, 2-2-2, Sale or donation of unclaimed bicycles.

Attachment 3- Repeal of Chapter 2, Property under County Control, Section 2-2-3, Perishable or bulky property seized by police; disposition.

STAFF:

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

ASSIGNED COUNSEL:

Kimberly P. Baucom, Senior Assistant County Attorney

Section 2-2-1. - Property seized by police; disposition of *unclaimed property* generally; notice of sale; proceeds of sale of property.

- (a) It shall be the duty of the Chief of Police to ~~keep or cause to be kept~~ maintain an adequate record of all property seized or otherwise taken possession of by the Police Department of the County. ~~If, after sixty (60) days have elapsed from the date of possession of property acquired other than by seizure the property has not been claimed by the rightful owner thereof, the Chief of Police shall direct that such property be released to the possession of any person who found and delivered or caused the property to be delivered to the Police Department upon such person claiming said property within ten (10) days from the expiration of the initial sixty (60) day period, provided that such finder is not himself either a member of the Police Department or member of any such person's immediate family. Failure by the finder to claim said property within the ten (10) day period shall be deemed a waiver of any claim the finder may have to said property. Unclaimed property shall be treated as provided in Subsection (b) hereof.~~

If such property is not claimed by the rightful owner thereof within sixty (60) days from the date of the final disposition of the court proceedings in connection with which such property was seized or otherwise taken possession of, or if there are no court proceedings, then if such property is not claimed by the rightful owner thereof within sixty (60) days from the date of such seizure or taking possession of by the police, then such property shall be remitted to the State Treasurer under the Uniform Disposition of Unclaimed Property Act (Va. Code Ann. § 55-210.1, et seq.). If the State Treasurer indicates that such property seized or otherwise taken possession of by the Police Department will be declined, then such property will be treated as provided in Subsections (b) – (f) hereof, as “unclaimed personal property.” Unclaimed bicycles and mopeds may also be disposed of in accordance with Section 2-2-2. Unclaimed firearms may also be disposed of in accordance with Section 2-2-4.

- (b) Unclaimed personal property for which the estimated fair market value exceeds the cost of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale ~~Property seized or otherwise taken possession of by the Police Department which is necessary to any court action and which is not claimed by the rightful owner thereof within sixty (60) days from the date of the final disposition of such court proceedings or by the finder within ten (10) days after the initial sixty (60) day period shall, within one (1) year from the expiration of the aforementioned seventy (70) applicable sixty (60) days day period set forth in Section (a) hereof, be included on a list certified by the Chief of Police and forwarded to the County purchasing agent describing such property, showing the date of seizure or possession by the Police Department, and stating that the listed property is not necessary to any court action and that no person has claimed ownership thereof.~~
- (c) Prior to the sale or retention for use by the Police Department of any unclaimed personal property, the Chief of Police, or his duly authorized agent(s) shall make reasonable attempts to notify the rightful owner of the property, and obtain from the Commonwealth’s Attorney a statement, in writing advising that the item is not needed in any criminal prosecution.

(d) Upon receipt of such list, the purchasing agent shall publish or cause to be published, in two (2) or more newspapers published or having general circulation in the County, once a week for two successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the Police Department, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale.

~~a description of such property with the date of seizure or the taking possession thereof and shall give notice that if such property be not claimed by the rightful owner thereof within thirteen (13) days from the initial date of such publishing such property will be sold at public auction at such place as the purchasing agent may direct and in such a manner as to expose to the inspection of bidders all property so offered for sale; provided, however, that all such unclaimed property of use to the County may be retained for the use of the County.~~

~~(d)~~ (e) In addition to the publication of notice provided for in this section, the purchasing agent shall post or cause to be posted at the front door of the Fairfax County Courthouse ~~Circuit Court for the County of Fairfax~~ a copy of the notice published in the newspapers, and shall make a record of the date when such publication and the posting of notice are made. If more than three (3) days have passed since the last date of such publication and posting and no claim for such property described in such notice shall have been made by the rightful owner thereof, the purchasing agent shall retain it for use by the County or proceed to sell such property at public auction.

(f) The Chief of Police, or his duly authorized agent(s) shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the sale proceeds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. If no claim has been made by the owner for the property or proceeds of such sale within 60 days of the sale, the remaining sale proceeds shall be paid into the County treasury and credited to the County General Fund and the retained property may be placed into use by the Police Department. Any such owner shall be entitled to apply to the County within three years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the sale proceeds or property is made, the County shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation.

(9-11-57, § 1; 1961 Code, § 17-8; 12-78-2.)

Section 2-2-2. - Sale or donation of unclaimed bicycles.

Any bicycle not necessary to any court action, ~~seized or taken into possession by the Police or Sheriff's Department which has been in the possession of the Police or Sheriff's Department, unclaimed, for more than seventy (70) days (as set forth in Fairfax County Code Section 2-2-1(a), (b))~~ may be sold at public auction or donated to a charitable organization, provided more than three (3) days have passed since the purchasing agent has caused to be published at least once a week for two (2) successive weeks in newspapers of general circulation within the County, the location and description of the bicycle, which is found and delivered to the Police or Sheriff's Department by a private person that thereafter remains unclaimed for thirty (30) days after the final date of publication as required herein may be given to the finder; however, the location and description of the bicycle shall be published at least once a week for two successive weeks in a newspaper of general circulation within the County. In addition, if there is a license, tag, or adhesive license decal affixed to the bicycle, the record owner shall be notified directly. Failure by the finder to claim the bicycle within ten (10) days of the expiration of the thirty (30) day period shall be deemed a waiver of any claim the finder may have to the bicycle, and the bicycle may thereafter be sold at a public auction or donated to a charitable organization. Where a bicycle seized or taken into possession by the Police or Sheriff's Department is necessary to court action, the above time periods shall begin to run as of the date of final disposition of said action.

(12-78-2.)

Section 2-2-3. - Perishable or bulky property seized by police; disposition.

~~If any property seized or taken possession of by the police force shall be is of a perishable nature or so bulky or of such nature as to make it dangerous or inadvisable to retain possession thereof for the length of time specified in Section 2-2-1, upon a certificate of such fact by the Chief of Police setting forth his reasons why such property should not be retained for the period fixed in Section 2-2-1 before selling the same, the purchasing agent shall cause such property to be advertised forthwith in two or more newspapers published or having general circulation in the County and shall sell such property at public auction at any time after three (3) days shall have elapsed from the date of such publication.~~

Board Agenda Item
November 21, 2017

4:00 p.m.

Public Hearing to Consider Adopting an Ordinance Expanding the Lake Braddock Residential Permit Parking District, District 5 (Braddock District)

ISSUE:

Public Hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Lake Braddock Residential Permit Parking District (RPPD), District 5.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix G, of the Fairfax County Code, to expand the Lake Braddock RPPD, District 5.

TIMING:

On October 24, 2017, the Board authorized a Public Hearing to consider the proposed amendment to Appendix G, of the Fairfax County Code, to take place on November 21, 2017, at 4:00 p.m.

BACKGROUND:

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

Board Agenda Item
November 21, 2017

Staff has verified that the petitioning block is within 1,000 feet from the property boundary of Lake Braddock High School, and all other requirements to expand the RPPD have been met.

FISCAL IMPACT:

The cost of sign installation is estimated to be \$450. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to the Fairfax County Code

Attachment II: Map Depicting Proposed Limits of RPPD Expansion

STAFF:

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

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

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Charisse Padilla, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Marc Gori, Assistant County Attorney

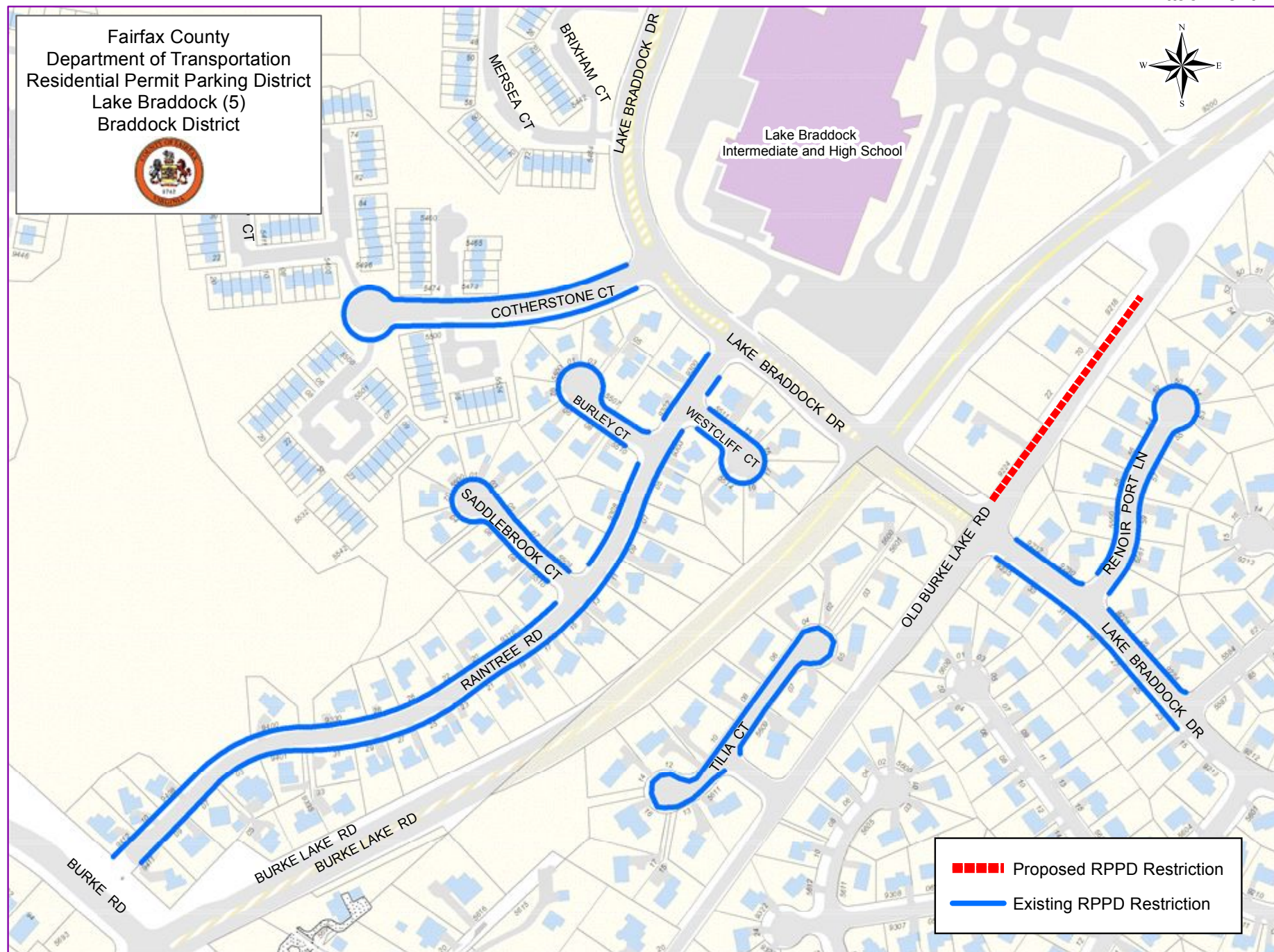
Proposed Amendment

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

Old Burke Lake Road (Route 8248):

From Lake Braddock Drive to the northern property line of 9218 Old Burke Lake Road; west side only

Fairfax County
Department of Transportation
Residential Permit Parking District
Lake Braddock (5)
Braddock District



Board Agenda Item
November 21, 2017

4:00 p.m.

Public Hearing on PCA 2003-SU-035-03 (DD South Retail LC) to Amend the Proffers and Conditions Development Plan for RZ 2003-SU-035 Previously Approved for Mixed Use Development to Permit a Commercial/Retail, Drive-in Bank or Fast Food Restaurant with a Drive-Through and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of .12, Located on Approximately 1.10 Acres of Land Zoned PDC, WS, and HD (Sully District) (Concurrent with SE 2017-SU-015)

and

Public Hearing on SE 2017-SU-015 (DD South Retail LC) to Permit a Fast Food Restaurant with a Drive-Through, Located on Approximately 1.10 Acres of Land Zoned PDC, WS, and HD (Sully District) (Concurrent with PCA 2003-SU-035-03)

This property is located at 3456 Historic Sully Way, Chantilly, 20151. Tax Map 34-2 ((1)) 1D

PLANNING COMMISSION RECOMMENDATION:

On November 9, 2017, the Planning Commission voted 10-0, to recommend the following actions to the Board of Supervisors:

- Approve PCA 2003-SU-035-03 and its associated Conceptual Development Plan Amendment, subject to the proffers dated November 3, 2017;
- Approve SE 2017-SU-015, subject to the Development Conditions dated October 26, 2017;
- Reaffirm a waiver of the loading space requirement for the financial institution with drive through, pursuant to Paragraph 6 of Section 11- 203 of the Zoning Ordinance;
- Approve a modification of the transitional screening and a waiver of the barrier requirement between the child care center and the proposed financial institution with drive through, retail/commercial or fast food restaurant with drive through pursuant to Paragraph 1 of Section 13 -305 of the Zoning Ordinance; and
- Approve a waiver of the on-road bicycle lane requirement along Air and Space Museum Parkway, pursuant to Paragraph 2 of Section 17-201 of the Zoning Ordinance.

Board Agenda Item
November 21, 2017

In a related action, on November 9, 2017, the Planning Commission voted 10-0 to approve FDPA 2003-SU-035-03, subject to the development conditions dated October 26, 2017, and subject to the Board of Supervisors' approval of PCA 2003-SU-035-03 and its associated Conceptual Development Plan Amendment.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Kelly Atkinson, Planner, DPZ

Board Agenda Item
November 21, 2017

4:00 p.m.

Public Hearing on PCA 85-S-061-05 (Copt Parkstone LLC) to Amend the Proffers and General Development Plan for RZ 85-S-061 Previously Approved for Office to Permit Site Modifications to Permit the Location of Two Office Buildings and Associated Modifications to Proffers with an Overall Floor Area Ratio of 0.50, Located on Approximately 14.94 Acres of Land Zoned I-3 and WS (Sully District)

This property is located in the SouthWest quadrant of the intersection of Conference Center Drive and Parkstone Drive. Tax Map 43-4 ((6)) 27 (pt.) and 37A

PLANNING COMMISSION RECOMMENDATION:

On October 19, 2017, the Planning Commission voted 8-0 (Commissioners Sargeant, Keys-Gamarra, Hedetniemi and Niedzielski-Eichner were absent from the public hearing) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 85-S-061-05 subject to the execution of proffers consistent with those dated September 28, 2017;
- Approval of a modification of Section 13-202 of the Zoning Ordinance requiring interior parking lot landscaping in favor of planting along the ground plane in lieu of planting on top of the proposed garage;
- Reaffirmation of the modification of the required number of loading spaces pursuant to Section 11-200 of the Zoning Ordinance;
- Reaffirmation of the modification of the transitional screening requirements along the southern property line pursuant to Section 13-304 of the Zoning Ordinance;
- Reaffirmation of the waiver of barrier requirements along the southern property line pursuant to Section 13-304 of the Zoning Ordinance; and
- Reaffirmation of a waiver of Section 17-201.4 for construction of the Braddock Road widening.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Sharon Williams, Planner, DPZ

Board Agenda Item
November 21, 2017

4:30 p.m.

Public Hearing on SE 2017-MA-014 (Washington Gas Light Company) to Permit a Telecommunications Facility (Self-Support Tower), Located on Approximately 7,140 Square Feet of Land Zoned I-6 (Mason District)

This property is located at 6801 Industrial Road, Springfield, 22151. Tax Map 80-2 ((1)) 31 (pt.)

This public hearing was deferred at the October 24, 2017 Board meeting, until November 21, 2017 at 4:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On October 19, 2017, the Planning Commission voted 7-0 (Commissioners Sargeant, Keys-Gamarra, Hedetniemi and Niedzielski-Eichner were absent from the public hearing and Commissioner Hart recused himself from the public hearing) to recommend to the Board of Supervisors approval of SE 2017-MA-014, including a modification of the maximum fence height pursuant to Section 10-104 of the Zoning Ordinance, subject to the proposed development conditions dated October 10, 2017.

In a related action, on October 19, 2017, the Planning Commission voted 7-0 (Commissioners Sargeant, Keys-Gamarra, Hedetniemi and Niedzielski-Eichner were absent from the public hearing and Commissioner Hart recused himself from the public hearing) to find that the facility proposed under 2232-M16-34, satisfies the criteria of location, character, and extent as specified in Section 15-2232 of the *Code of Virginia*, and, therefore, is substantially in accord with the provisions of the Comprehensive Plan.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Emma Estes, Planner, DPZ

Board Agenda Item
November 21, 2017

4:30 p.m.

Public Hearing on SEA 95-Y-071 (Sunoco Retail LLC) to Amend SE 95-Y-071
Previously Approved for a Service Station, Mini-Mart and a Car Wash to Permit a Quick-
Service Food Store and to Modify Development Conditions, Located on Approximately
1.10 Acres of Land Zoned C-8 and WS (Springfield District)

This property is located at 4647 West Ox Road, Fairfax, 22030. Tax Map 56-1 ((13)) 1

PLANNING COMMISSION RECOMMENDATION:

On October 19, 2017, the Planning Commission voted 8-0 (Commissioners Sargeant, Keys-Gamarra, Hedetniemi and Niedzielski-Eichner were absent from the public hearing) to recommend to the Board of Supervisors approval of SEA 95-Y-071, subject to the development conditions dated October 4, 2017.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Casey Gresham, Planner, DPZ

Board Agenda Item
November 21, 2017

4:30 p.m.

Public Hearing on SEA 86-D-056-03 (Sunoco Retail LLC) to Amend SE 86-D-056
Previously Approved for a Service Station and a Quick Service Food Store to Modify
Development Conditions, Located on Approximately 33,124 Square Feet of Land Zoned
C-8 (Dranesville District)

This property is located at 11516 Leesburg Pike, Herndon, 20170. Tax Map 6-4 ((1)) 79

PLANNING COMMISSION RECOMMENDATION:

On October 19, 2017, the Planning Commission voted 8-0 (Commissioners Sargeant, Keys-Gamarra, Hedetniemi and Niedzielski-Eichner were absent from the public hearing) to recommend to the Board of Supervisors approval of SEA 86-D-056-03, subject to the proposed development conditions dated October 4, 2017.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Casey Gresham, Planner, DPZ

Board Agenda Item
November 21, 2017

4:30 p.m.

Public Hearing to Sublease Property at 9520 Furnace Road (Stempson House) in Connection with the Resident Curator Program (Mount Vernon District)

ISSUE:

Public hearing to sublease property owned by the Fairfax County Park Authority (FCPA) at 9520 Furnace Road (Stempson House) in connection with the Resident Curator Program.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to sublease FCPA-owned property at 9520 Furnace Road (Stempson House) in connection with the Resident Curator Program.

TIMING:

On October 24, 2017, the Board authorized the advertisement of a public hearing on November 21, 2017 at 4:30 p.m. to sublease FCPA-owned property at 9520 Furnace Road (Stempson House).

BACKGROUND:

In accordance with enabling legislation enacted by the Commonwealth, the Board approved the creation of the Resident Curator Program (Program) to address underutilized publicly owned historic properties by entering into long-term leases with qualified tenants who pledge to rehabilitate the property in accordance with federal standards established for the treatment of historic properties. The tenant under the lease (Resident Curator) agrees to complete the rehabilitation and provide ongoing maintenance and upkeep of the property for the duration of the lease in exchange for rent-free accommodation. The program is managed by the FCPA.

The state legislation requires that the Board serve as the landlord under the lease. Consequently, the FCPA will lease the property selected through the screening process established in the Program to the Board (Lease), and the Board will concurrently sublease the property to the Resident Curator (Sublease). The Sublease will contain the detailed provisions on the rehabilitative workplan for the property; however, the responsibility for monitoring the Resident Curator's progress with the workplan and the Program will remain with the FCPA per the terms of the Lease.

The first property selected by the FCPA for inclusion in the Program is the Stempson House located at 9520 Furnace Road within Laurel Hill Park. The Stempson House is significant due to its association with the Occoquan Workhouse and Reformatory, later known as Lorton Prison, which incorporated Progressive Era reform ideals, and for its association with the Women's Suffrage movement of the early 1900s. During the eight-year, eight-month term of the sublease, the Resident Curator will restore the Stempson

Board Agenda Item
November 21, 2017

House and the garage outbuilding in compliance with the Secretary for the Interior's Standards for rehabilitating historic buildings and the recommendations set forth in a historic structures report and building condition assessment prepared for the FCPA. The leasehold area will only encompass the immediate three (3) acres around the structure. Public pedestrian trails will continue to be accessible during the term of the Sublease.

In accordance with Board Policy and Section 15.2-1800 of the Code of Virginia, a public hearing is required prior to the leasing of any property owned or leased by the Board.

FISCAL IMPACT:

None. Any expenses associated with the Program or acting as landlord under the Sublease shall be borne by the FCPA.

ENCLOSED DOCUMENTS:

Attachment 1 – Location Map
Attachment 2 – Draft Sublease Agreement
Attachment 3 – Photographs of Stempson House

Exhibits to the Sublease Agreement are available online at:
<https://www.fairfaxcounty.gov/parks/rcp/>

STAFF:

David J. Molchany, Deputy County Executive
Joseph M. Mondoro, Chief Financial Officer, Department of Management and Budget
Sara K. Baldwin, Acting Director, Fairfax County Park Authority
Jose A. Comayagua, Jr., Director, Facilities Management Department

ASSIGNED COUNSEL:

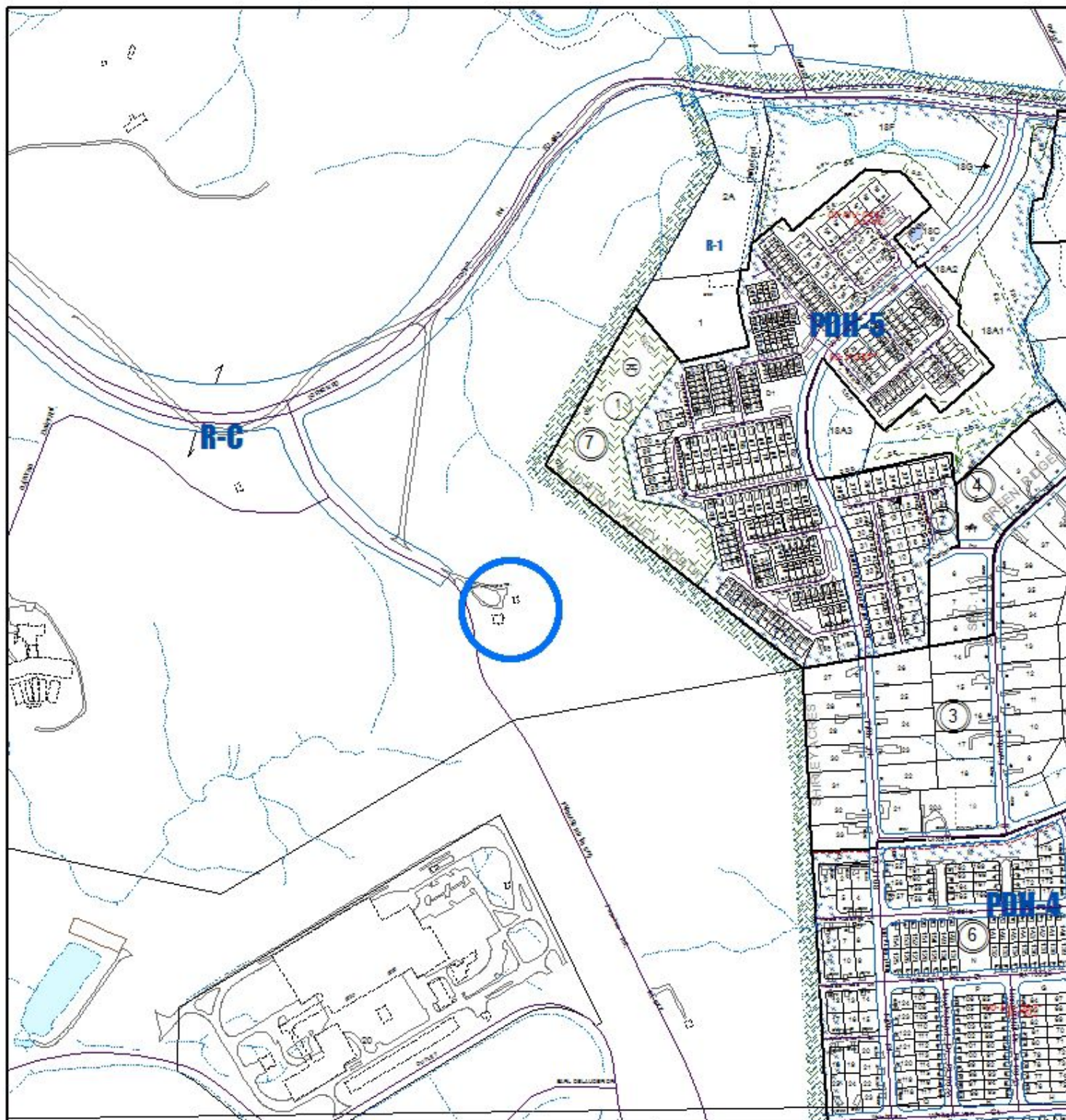
Daniel Robinson, Assistant County Attorney

Stempson House

9520 Furnace Road
Tax Map No.
1073 01 0019 (part)
Mount Vernon District



0 190 380 760 Feet



RESIDENT CURATOR LEASE

COMMENCEMENT DATE: _____, 20__

between

BOARD OF SUPERVISORS OF FAIRFAX COUNTY as LESSOR (“LESSOR”)

and

STEVEN J. MCCULLOUGH as LESSEE (“RESIDENT CURATOR”)

on Property owned by the

FAIRFAX COUNTY PARK AUTHORITY (“PROPERTY OWNER”)

at the

**Stempson House
9501-9599 Furnace Road
Lorton, Virginia 22079**

in

LAUREL HILL PARK

Tax Map # 107-3((1))19

RESIDENT CURATOR LEASE

THIS LEASE ("Lease") made this _____ day of _____, 2017, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY (BOS)**, 12000 Government Center Parkway, Suite 424, Fairfax, Virginia 22035, as **Lessor ("Lessor")**, and **STEVEN J. MCCULLOUGH** as **Lessee ("Resident Curator")** on property owned by the **FAIRFAX COUNTY PARK AUTHORITY (FCPA)**, a body corporate and politic, as **Property Owner ("Property Owner")**.

RECITALS

RECITALS

R-1 Property Owner is the owner of certain real estate that includes the **STEMPSON HOUSE ("Stempson House")**, located at **9501-9599 Furnace Rd, Lorton, VA 22079**, in **LAUREL HILL PARK ("Park")** that is identified in the Fairfax County Tax Administration records as **Tax Map 107-3(1)19**. The subject of this lease is for a portion of the Park, which portion is a house, garage, and grounds collectively referred to as the **Leased Property ("Leased Property")** as shown on **Exhibit A**. Property Owner leased the Leased Property to Lessor pursuant to a Lease dated _____ ("**Master Lease**").

R-2 The Resident Curator Program Ordinance, Chapter 125, of *The Code of the County of Fairfax Virginia*, established a **Resident Curator Program ("Resident Curator Program")** to preserve and maintain historic properties owned or leased by Fairfax County by leasing historic properties to individuals or businesses for the purposes of maintaining and improving leased properties in accordance with the **Secretary of the Interior's Standards for the Treatment of Historic Properties**, 36 CFR Part 68 (2013) as shown on **Exhibit B**.

R-3 Subject to the Fairfax County Park Authority Laurel Hill Park General Management Plan and Conceptual Development Plan as of July, 2004 and incorporated by reference into this Lease, and the **Memorandum of Agreement**, attached as **Exhibit C** and incorporated by reference into this Lease, between the General Service Division (GSA), The Bureau of Land Management (BLM), The County of Fairfax, Virginia (The County), the Fairfax County Park Authority (FCPA), the Fairfax County Public Schools (FCPS), The Federation of Lorton Communities (FOLC), the Lorton Heritage Society (LHS), The Northern Virginia Regional Park Authority (NVRPA), the Virginia Department of Historic Resources (VDHR), and the Advisory Council on Historic Preservation (The Council), the Resident Curator responded to an **Invitation to Submit Application ("ISA")** for participation in the Resident Curator Program at Stempson House, and the Lessor and the Property Owner accepted the **Resident Curator's Response to the ISA ("Resident Curator's Response to ISA")** attached as **Exhibit D** and incorporated by reference into this Lease, and **Steven J. McCullough** as the appointed Resident Curator under this Lease.

R-4 Lessor desires to enter into a lease with the Resident Curator who will rehabilitate the Stempson House and garage, and maintain the grounds, in accordance with the **Resident Curator's Response to the ISA**, the **Resident Curator Maintenance Guidelines** and

Checklist (“Maintenance Guidelines”), attached hereto as **Exhibit E** and incorporated into this Lease, the **Stempson House Treatment Plan (“Treatment Plan”)**, attached hereto as **Exhibit F** and incorporated into this Lease, **The Stempson House Building Evaluation (“Building Evaluation”)**, attached hereto as **Exhibit G** and incorporated into this Lease, and the **Resident Curator Stempson House Approved Work Plan (“Approved Work Plan”)**, attached hereto as **Exhibit H** and incorporated into this Lease. The Resident Curator’s Response to the ISA, Maintenance Guidelines, Treatment Plan, Building Evaluation and Approved Work Plan are collectively referred to as the **Curator Program (“Curator Program”)**. This Lease shall incorporate any **Additional Non-Discretionary Improvements and Additional Discretionary Improvements**, defined below, in accordance with Section 8 and Section 9 of this Lease.

R-5 All Resident Curator Program schedules and performance milestones associated with the Curator Program shall be collectively referred to as **Curator Schedule and Milestones (“Curator Schedule and Milestones”)**.

R-6 The Lessor delegated certain responsibilities to the Property Owner to effectuate efficient administration of the Resident Curator Program per a March 29, 2016 memorandum and Property Owner will monitor Resident Curator’s compliance with this Lease pursuant to the Master Lease.

R-7 Lessor, the Resident Curator, and the Property Owner will collectively be referred to as the **Parties (“Parties”)**.

NOW THEREFORE, the parties hereto mutually agreed as follows:

1. GRANT OF LEASED PROPERTY. Lessor does hereby lease unto Resident Curator and Resident Curator does hereby lease from Lessor the Leased Property, including nonexclusive access to the Leased Property through the Park via the driveway shown on Exhibit A. It is agreed that by occupying the Leased Property, Resident Curator acknowledges that he has had full opportunity to examine the Leased Property and is fully informed, independent of any statements by Lessor and Property Owner, as to the character, construction and structure of the Leased Property. All amenities and appliances, if any, are in "AS IS" condition and Lessor and Property Owner shall have absolutely no obligation whatsoever to repair such items or to replace any such amenities at the end of their useful life. It is agreed that by occupying the Leased Property, Resident Curator agrees that there are no requirements imposed upon Lessor or Property Owner to perform improvements or repairs to the Leased Property. Resident Curator and Lessor acknowledge that this Lease, including the agreement that Lessor and Property Owner have no requirement to perform repairs or otherwise maintain the Leased Property, is entered into in good faith and that Resident Curator’s agreement to perform the maintenance and repairs required under this Lease support the purpose of the Resident Curator Program permitted under Va. Code § 15.2-2306.

2. ACCEPTANCE OF POSSESSION. Lessor shall deliver possession of the Leased Property to Resident Curator under this Lease on the **Commencement Date (“Commencement Date”)** of _____, 2017, and Resident Curator shall accept possession of the Leased

Property on the Commencement Date in its “AS IS” condition on the date of execution of this Lease.

3. **TERM.** The term of this Lease (the "Term") shall be for a period of eight (8) years and eight (8) months commencing on 12:00 noon on the **1st day of xxxxxxxxxx, 2017** (“**Commencement Date**”), and, unless otherwise agreed by the parties hereto and, subject to early termination if an Event of Default as described in Section 26 shall occur, or if Lessor shall otherwise elect to terminate this Lease as described in Section 25, or if Resident Curator shall elect to terminate this Lease in accordance with Section 6, this Lease will expire on the **31st day of xxxxxxxxxx, 2027**, (“**Scheduled Termination Date**”). At the expiration of the tenancy hereby created, or upon any re-entry by Lessor into the Leased Property pursuant to any provision herein, Resident Curator shall surrender the Leased Property. Resident Curator does not have any right to extend or renew this lease except as provided for herein.

Notwithstanding the stated Commencement Date under the Lease, under no circumstances shall Resident Curator be permitted to occupy the Leased Property unless and until a **Residential Use Permit** (“**RUP**”) or **Non-Residential Use Permit** (“**Non-RUP**”) for the Leased Property has been issued by the appropriate Fairfax County (“**County**”) Agency. If a temporary or partial RUP or Non-RUP has been issued by the appropriate County Agency, Resident Curator may occupy that certified portion of the Leased Property, but none other.

4. **CURATOR SCHEDULE and MILESTONES:** Resident Curator, at Resident Curator's sole expense and cost, shall timely perform and timely complete the Work, defined in Section 10 below, in accordance with the terms of the Curator Program. The Curator Program documents set forth in detail sufficient to satisfy the Lessor and Property Owner of the items, methodology and timeframes for the development, redevelopment, remediation, improvements, replacement, refurbishment, renovation, rehabilitation, major maintenance and repair of the Leased Property. The Resident Curator and Lessor acknowledge that this Lease, including the agreement that Lessor and Property Owner have no requirement to perform repairs or otherwise maintain the Leased Property, is entered into in good faith and that Resident Curator's agreement to perform the maintenance and repairs required under this Lease support the purpose of the Resident Curator Program permitted under Va. Code § 15.2-2306. The Approved Work Plan includes an outline of public benefit activities as presented in the Resident Curator's Response to the ISA as well as his public presentation to the Resident Curator Program's Application Evaluation Team on July 19, 2017, held at the Laurel Hill Golf Club.

6. **EARLY TERMINATION.** Lessor and Resident Curator agree that Resident Curator shall have the right at any time and for any reason to terminate this Lease prior to the Scheduled Termination Date (“**Early Termination Date**”) provided that notice is given at least ninety (90) days prior to the Early Termination Date. Lessor reserves the right of Early Termination in an Event of Default as described in Section 26 and elsewhere in this Lease.

7. **RENT, FAIR MARKET RENTAL VALUE.** Residents Curator's consideration for the lease is the performance of the Curator Schedule and Milestones, which has an **estimated value of \$165,000**. The parties agree that adjusted **Fair Market Rental Value** for the **eight (8) years and eight (8) month term is \$164,897.20** as shown on **Exhibit I** which is incorporated into this

Lease.

8. ACCOUNTING FOR REQUIRED WORK NOT INCLUDED IN THE CURATOR SCHEDULE AND MILESTONES. Resident Curator and Lessor acknowledge that there may be certain improvements that are necessary, that affect the structure of the Leased Property, that were unknown to the parties at the execution of this Lease, that are not included in the Curator Schedule and Milestones and that are capital in nature. These improvements are defined as “**Additional Non-Discretionary Improvements.**” If Resident Curator determines that he is required to effect such Additional Non-Discretionary Improvements, then he shall provide written notice to Lessor and Property Owner of all such Additional Non-Discretionary Improvements before commencing work on the Additional Non-Discretionary Improvements and may not commence such work until he receives consent in writing from Lessor and Property Owner. If Lessor and Property Owner agree that the improvements listed on that written notice qualify as Additional Non-Discretionary Improvements, then they shall notify Resident Curator in writing that they agree the improvements qualify as Additional Non-Discretionary Improvements and advise Resident Curator whether they consent to Resident Curator performing the Additional Non-Discretionary Improvements. The Parties may agree to add the cost of the Additional Non-Discretionary Improvements to the estimated rehabilitation project costs if before commencement of the Additional Non-Discretionary Improvements the Resident Curator first gives notice of any intent to add the cost of the Additional Non-Discretionary Improvements in writing with a cost accounting of all labor and materials to the Lessor and the Property Owner with a cost accounting of all labor and materials. Additional Non-Discretionary Improvements covered in this section shall be accounted for according to the template included in **Exhibit J.** Lessor and Property Owner reserve the right to refuse all or any part of such cost accounting.

9. ADDITIONAL DISCRETIONARY IMPROVEMENTS. **Additional Discretionary Improvements** (“**Additional Discretionary Improvements**”) are those improvements, capital or otherwise, that the Resident Curator decides to undertake for his own convenience or desire, and that are not covered by Section 4 or Section 8. Resident Curator may not perform any Additional Discretionary Improvements unless he has the written consent of Lessor and Property Owner, which consent may be withheld in their absolute discretion. Lessor and Property Owner reserve the right to refuse to consent to all or any part of Additional Discretionary Improvements. Resident Curator makes any such Additional Discretionary Improvements at his own risk and expense. Resident Curator understands that such Additional Discretionary Improvements become the property of the Property Owner at the time of installation.

10. CURATOR PROGRAM, ADDITIONAL NON-DISCRETIONARY IMPROVEMENTS, ADDITIONAL DISCRETIONARY IMPROVEMENTS. The Curator Program, Additional Non-Discretionary Improvements, and Additional Discretionary Improvements shall be collectively referred to as **Work** (“**Work**”) for the purposes of plan submission, approval, permitting, and occupancy and performance of the improvements and rehabilitation. Approved installations of Curator Program, Additional Non-Discretionary Improvements, and Additional Discretionary Improvements shall be collectively referred to as Improvements (“**Improvements**”) upon Completion of Work per Section 11.

11. REVIEW AND APPROVAL OF WORK. The Resident Curator shall submit all of the documents for proposed Work, including but not limited to the required plans and specifications, to the Property Owner for review and approval. Activity cannot start until the Property Owner has determined that the Work will have “no adverse effect” on the historic integrity of the Leased Property. Resident Curator shall not commence construction of any Work until the Property Owner has have given final written approval.

In order to obtain approval for all Work, Resident Curator must send the Property Owner the following support information: (1) Narrative Summary of proposed improvements; (2) representative photos (digital or print) that clearly indicates the proposed project area; (3) a site map indicating the project area; and (4) any supporting material, material samples, plans, schematics and specifications that Property Owner determines is pertinent to review of the project. Property Owner shall review the plans and specifications for conformity with the terms of this Lease, and Property Owner shall, within ninety (90) days after receipt thereof, either approve the submissions or notify the Resident Curator in writing of disapproval, specifying the respects in which the submissions do not conform to the terms of this Lease. If Property Owner fails to respond within ninety (90) days, it will be deemed a disapproval of the plans and specifications.

In the event of disapproval, the Resident Curator shall resubmit the plans and specifications altered so as to conform to the terms of this Lease in those respects specified by the Property Owner as the grounds for disapproval. The re-submission shall be subject to review and approval by the Property Owner in accordance with the procedure provided above for an original submission, until the plans and specifications have been approved by the Property Owner.

If the Property Owner determines that the Work requires review by the Fairfax County Architectural Review Board (ARB), or that other regulations are in effect governing such Work that require review by another regulatory entity, then Property Owner will advise Resident Curator of that determination and Resident Curator will prepare required documents in accordance with the governing regulations and submit all required documents to the ARB or other regulatory entity for review with a copy to Property Owner. Work will be allowed to proceed if Property Owner consents in writing and the ARB or other regulatory entity determines that there will be no adverse effect on the Leased Property historic or archaeological resources. Resident Curator will inform Lessor and Property Owner of any such determination. In the event of a determination of adverse effect, Resident Curator must follow and fulfill any prescribed mitigation requirements.

A. Compliance. All Work undertaken by or for the Resident Curator at the Leased Property, and any future changes thereto, shall be in material conformity with all applicable Laws, including, without limitation, the Americans With Disabilities Act of 1990, 42 U.S.C. §§ 12101, et seq. and Resident Curator’s insurance policies.

B. Permits, Due Diligence. Resident Curator will comply with all applicable laws. Resident Curator shall obtain and pay for the preparation and approval of required Engineering, Architectural or other plans, permits, and inspections for any renovation, replacement and/or construction work undertaken by or for the Resident Curator. Any

architect or engineer undertaking any of the construction work shall carry professional liability insurance naming Resident Curator, Lessor, and Property Owner as additional insureds, and Resident Curator shall provide proof of such insurance to Lessor and Property Owner.

C. Construction by Contractor or Resident Curator. The term **Contractor** (“**Contractor**”) shall mean any person or entity, including the Resident Curator, that provides labor, materials or both for the construction, repair, restoration or rehabilitation of any portion of the Work, whether or not paid by Resident Curator. Contractor shall provide evidence of any required license (“**License**”), bond (“**Bond**”) and insurance (“**Contractor’s Insurance**”) for Work performed by Contractor in accordance with all applicable local, state and federal regulations. Contractor shall provide a warranty for at least one (1) year for completed Improvements.

D. General Provisions Governing Work.

(i) No Contractor shall commence Work until all applicable construction permits, including the building permits and all other permits, certificates, and approvals for the commencement of such construction have been issued and remain in effect.

(ii) Once commenced, the Work shall be prosecuted continuously and with diligence in accordance with the Curator Schedule and Milestones.

(iii) Resident Curator shall dispose of all waste and debris from any demolition of the existing structures and any Work performed on the Leased Property. All such disposal shall be performed in accordance with all applicable laws and regulations.

(iv) Work will be of high quality and performed in a workmanlike manner, free from faults and defects.

(v) While the Work is in progress, Resident Curator shall maintain, or shall require its Contractor(s) to maintain, worker’s compensation insurance in the amounts required by law (or reasonably comparable insurance if such insurance is no longer available); builder’s risk (or such reasonably comparable insurance) insurance on an “all risk” basis (including collapse) insuring against casualty to such construction for full replacement value of the work performed and the equipment, supplies and materials furnished and stored, unless such insurance coverage is provided under policies carried by Resident Curator; automobile liability in the minimum amounts required by law; and public liability insurance within limits in an amount reasonably satisfactory to Lessor and Property Owner.

E. Payment for Work. Resident Curator shall pay the entire cost of all Work in cash or its equivalent within the time periods specified in its construction contracts, or promptly where there is no such contract.

F. Inspection of Work. Lessor and Property Owner shall enter upon the Leased Property from time to time upon reasonable notice to Resident Curator and without material interruption to the Work, for the purpose of inspecting the Work being performed by or on behalf of Resident Curator, and such entry shall not be construed to be a violation of Resident Curator's right to the Leased Property.

G. Time for Completion of Work. Notwithstanding any provision of this Lease, including any applicable cure period for a default or Force Majeure, the Work shall be completed in accordance with the Curator Schedule and Milestones and all applicable laws and regulations, including any applicable State or Local Building Code. Resident Curator shall commence the Work and shall complete the Work in accordance with Curator Program documents.

H. Record Set of Drawings. Resident Curator shall furnish Lessor and Property Owner with a complete record set of any final plans and specifications for any Work constructed by or for Resident Curator, together with copies of all final permits and approvals issued by local plumbing, gas, electrical, building and other inspectors.

I. Mechanics' Liens. No mechanics, materialmen or similar lien shall ever attach against Lessor or Property Owner's interest in and to the Leased Property by reason of any Work performed by or for Resident Curator. If any lien relating to the construction of any Work is filed against Lessor, Property Owner or Resident Curator's interest in the Leased Property and said lien is not dissolved within sixty (60) days after the date for payment under the contract for said work, then Resident Curator shall discharge the same by payment or by filing any necessary bond within fifteen (15) days after the expiration of said sixty-day period.

J. Completion of Work. The Work shall be considered complete ("Completion of Work") for the purposes of this Lease only when Resident Curator has performed all of the Work including (i) complete installation of all structural and mechanical elements, fixtures, life safety systems, decorations, and landscaping, (ii) proper offsite removal and disposal of construction debris, and (iii) provided proof that all governmental inspections have been completed, and all permits, approvals, certificates and the like, if any, necessary for the lawful use and occupancy of the Leased Property or any portion thereof, have been issued, including, any temporary or permanent certificates of occupancy, a copy of which shall be delivered by Resident Curator to Lessor and Property Owner.

12. CONTROL OF WORK AND OWNERSHIP OF IMPROVEMENTS. Property Owner shall continue to have title to the Leased Property and Resident Curator, subject to the terms of this Lease, shall have control of the Work within the Leased Property. Upon the expiration or termination of this Lease, all approved Improvements shall become the property of Property Owner with no compensation to Resident Curator for any Improvements which may have been paid for by or on behalf of Resident Curator.

13. UTILITIES AND SERVICE. Resident Curator shall be responsible for securing accounts with local utility companies in order to activate service of all utilities, as well as paying

for all of the required utility services for the Leased Property. Utilities and services used at the Leased Property shall be consistent with this Lease.

14. USE OF LEASED PROPERTY. Resident Curator shall have the right to use the Leased Property as a residence for Resident Curator and his immediate family. For the purposes of this Lease, “immediate family” means the Resident Curator’s spouse and children. If Resident Curator would like any individual other than his immediate family to reside in the Leased Property, he must receive written consent from Property Owner for that specific individual to reside in the Leased Property. Resident Curator shall provide Property Owner with a written list of all individuals who are authorized by Resident Curator to have keys or access to the Leased Property and all individuals age eighteen (18) years and over who live in the Leased Property. Resident Curator shall keep this written list current and shall review and update it periodically, providing updates to Property Owner within two (2) days upon request.

Resident Curator shall be responsible for performance and compliance with all applicable laws, rules, orders, ordinances and regulations related to the Leased Property. Resident Curator may be required to work with Lessor and the Property Owner to apply for permits and to comply with reviews including those required under VDEQ regulations, if any, all at Resident Curator’s expense.

Lessor and Property Owner agree that if Resident Curator shall perform, fulfill and observe the other obligations and liabilities of Resident Curator under this Lease prior to the expiration of any grace or cure period applicable thereto, if any, Resident Curator shall peacefully and quietly have, hold and enjoy the Leased Property.

15. SIGNS AND MARKETING. Lessor and Property Owner shall have the right to install one or more **Signs or Kiosks** (“Signs”) on the Leased Property on the exterior and in the interior of the buildings provided that such Signs shall not unreasonably interfere with Resident Curator’s use of the Leased Property. Resident Curator shall have the right to install interior and exterior signs on the Leased Property only if he receives written consent from Lessor. No signage, whether exterior or interior, that is visible from the exterior shall include any commercial advertising beyond the identification of the Resident Curator and the Leased Property. Any signage at the entrance to the Leased Property or otherwise visible to the public will require the prior review and approval of the Property Owner, it being agreed by Resident Curator that Lessor’s or Property Owner’s name and logo shall be included in major signage such as entrance signage. Property Owner shall have the right to install a plaque or other designating signage on the property in order to indicate the name of Stempson House and its inclusion in Resident Curator Program. The location and method of installation will be determined in consultation with Resident Curator. If Resident Curator proposes any directional signs for the Leased Property located off of the Leased Property, the Property Owner retains the right to review and approve any signs in its absolute discretion.

16. PARK USE. Resident Curator acknowledges that Leased Property is located in a public park and, therefore, is subject to inconveniences due to the public nature of the grounds surrounding the Leased Property, and subject to **Fairfax County Park Authority Regulations** (“**Park Authority Regulations**” attached hereto as **Exhibit K** and incorporated into this Lease

by reference. Property Owner will identify key points of contact for all inquiries regarding construction or other activities that impact the operation and management of Park. Resident Curator shall provide two (2) week advanced written notification to the Property Owner Contact and the Laurel Hill Park Contact for any Work or other activities that could potentially impact or interfere with Park operations and Resident Curator shall adjust Work or other activities if required by Property Owner.

Property Owner Contact: David Buchta, Heritage Conservation Branch Manager, Resource Management Division, david.buchta@fairfaxcounty.gov, (703) 324-8586

Lessor Contact: Mike Lambert, Assistant Director, Facilities Management, michael.lambert@fairfaxcounty.gov, (703) 324-2825

Laurel Hill Park Contact: Ed Richardson, Area 4 Manager, Park Operations Division, ed.richardson@fairfaxcounty.gov, (703) 425-2123

Resident Curator Contact Info: Name, email, phone

The contacts listed in this Section may be changed by any Party through the Notice process set forth in Section 27.

17. PUBLIC ACCESS. Resident Curator shall allow public access, including programmatic access, to the Leased Property to the public consistent with the historic property's nature and use as agreed upon by the Parties in writing (email confirmation is acceptable) for the purpose of providing public access to the historic qualities of the property, pursuant to the Resident Curator Program. A failure to allow the public access required in this section will be an Event of Default.

18. MEETINGS WITH PARTIES. Parties shall meet quarterly or more frequently at the request of any Party, at a location determined by the Property Owner, starting on the Commencement Date of this Lease. The Property Owner's representative is David Buchta or his designee or successor. The Lessor's representative is Mike Lambert or his designee or successor. The Resident Curator is Steven J. McCullough, Resident Curator.

19. ANNUAL REPORT. Within ninety (90) days after the end of the first year of the term, and every year of the term thereafter, Resident Curator shall submit to the Property Owner a written **Annual Report** ("**Annual Report**") that summarizes the progress and status of the Resident Curator Program at the Leased Property for the then-ended fiscal year. The Annual Report shall demonstrate to Lessor's and Property Owner's reasonable satisfaction that Resident Curator is rehabilitating and maintaining the Leased Property in compliance with the Resident Curator Program and this Lease. The Annual Report shall also note the nature and dates for any public and community activities at the Leased Property, and the number of visitors participating in each event. Each Annual Report must contain a financial statement accounting for all Work completed to date as well as the value of any Work. Resident Curator will certify each Annual Report under the penalty of perjury, as being accurate, true, and complete, to the best of Resident

Curator's knowledge, belief, and ability to ascertain. Resident Curator's failure to file Annual Report within the time limits prescribed hereunder shall be considered an Event of Default.

20. PROPERTY OWNER APPROVAL. All reports, financial statements, analyses and other documentation provided by Resident Curator shall be subject to verification and audit by Lessor, Property Owner, agents or assigns. Resident Curator shall provide additional documents upon request if required as part of an audit.

21. INSURANCE. Resident Curator shall, at all times during the term of the Resident Curator Lease, maintain, or cause to be maintained, insurance on the Leased Property.

A. Public Liability and Property Damage Insurance. Resident Curator shall maintain comprehensive general liability insurance on an occurrence basis insuring against all claims and demands against, and liability of, any combination of Resident Curator, Lessor or Property Owner, and which names the Lessor and Property Owner as an additional insured for claims arising out of and in connection with the Leased Property or Resident Curator's use or occupancy of the Leased Property, in standard form to afford protection in such amounts as Lessor and Property Owner shall reasonably request, but, in any event, initially not less than \$1,000,000.00 per-occurrence. Limits may be based upon a combination of primary coverage (plus umbrella coverage), which policy shall include operations coverage which insures performance by Resident Curator of the indemnity provisions set forth in this Lease.

B. Property/Renter's Insurance - Personal Property. Resident Curator shall maintain on all Resident Curator's personal property on or about the Leased Property a policy of "all-risks" property insurance, with vandalism and malicious mischief endorsements, to the extent of at least 100% of their full replacement value. Resident Curator shall use the proceeds from any such policy for the replacement of such personal property.

C. Workers Compensation Insurance. If applicable, Resident Curator shall maintain Worker's Compensation Insurance, subject to the statutory limits of the Lessor and Property Owner.

D. Amounts of Insurance. If, in the reasonable judgment of Lessor or Property Owner, the types and amounts of insurance coverage at any time require adjustment, Resident Curator shall modify the types and amounts of insurance coverage, as directed by Lessor.

E. Insurance Companies. All insurance required under this Lease shall be issued by insurance companies authorized to do business in the Commonwealth of Virginia, with claims paying ability rating of A- or better and a financial class of V or better, as rated in the most recent edition of Best's Insurance Reports.

F. Certificate of Insurance. Resident Curator shall deliver Certificate(s) of Insurance bearing notations evidencing the payment of premiums or accompanied by

other evidence satisfactory to Lessor of such payment by Resident Curator to Lessor within thirty (30) days of the Commencement Date. Each Certificate of Insurance delivered under this Lease shall contain an agreement by the insurer, to the extent obtainable, that such policy shall not be cancelled or surrendered without at least thirty (30) days prior written notice to Lessor and Property Owner.

22. REPAIRS AND MAINTENANCE. Lessor and Property Owner shall have no obligation to maintain or repair any portion of the Leased Property. Resident Curator shall perform all repairs, rehabilitation and maintenance required to be performed as Work. Resident Curator shall also perform all necessary repairs and maintenance for the Leased Property during the term of this Lease. Resident Curator and Lessor acknowledge that Resident Curator's agreement to perform the maintenance and repairs required under this Lease is entered into in good faith and supports the purpose of the Resident Curator Program permitted under Va. Code § 15.2-2306.

23. NO HAZARDOUS CONDITIONS. Resident Curator shall not permit any hazardous materials, explosives, combustible, corrosive or erosive materials, as defined by the Fire Marshal, on the Leased Property or perform any action, or fail to perform any action, which would increase the cost of fire or other hazard insurance on the Leased Property.

24. PARTICIPATION IN ILLEGAL ACTIVITIES: If the Lessor or Property Owner determines that the Resident Curator has participated in or in any manner permitted any criminal activities on the Leased Property, Lessor or Property Owner reserves the right immediately to declare an Event of Default and Lessor shall thereafter have the immediate right to terminate this Lease.

25. TERMINATION OF LEASE OR END OF TERM. Upon the expiration or other termination of this Lease ("**Termination Date**"), the Resident Curator shall quit and surrender to Property Owner the Leased Property with all Improvements resulting from Work required to be performed in the original and addended **Curator Schedule and Milestones** completed, Additional Non-Discretionary Improvements, and Additional Discretionary Improvements completed, with the Leased Property broom cleaned, in such order and condition as Resident Curator is required to maintain the same hereunder, and Resident Curator shall remove all of its movable personal property therefrom to the extent that such personal property does not constitute a fixture to the Leased Property, failing which, such moveable personal property shall be deemed to have been abandoned.

26. DEFAULT.

A. An Event of Default ("Event of Default**")** shall occur if the following situations occur:

- i. **Failure to Complete Work.**** If Resident Curator does not achieve benchmarks in accordance with the Curator Schedule and Milestones, or it is anticipated by the Property Owner that the Resident Curator will be unlikely to achieve Completion of Work.

ii. **Bankruptcy.** If Resident Curator's estate shall be sold or Resident Curator files any petition or answer seeking any reorganization, arrangement, liquidation, dissolution, or similar relief for Resident Curator under the United States Bankruptcy Code, as then in effect, or any other present or future federal, state, or other statute, law, or regulation, or if Resident Curator seeks, consents to or acquiesces in the appointment of any trustee, receiver, or liquidator of Resident Curator or of all or any substantial part of Resident Curator's properties, or makes any general assignment for the benefit of creditors.

B. Remedy of Default. In addition to the Events of Default defined above, and except as provided herein, if any party fails to perform or observe any covenants, terms or conditions in this Lease within thirty (30) days after written notice thereof from the non-defaulting party, then such a failure to perform or observe shall also be considered an Event of Default and in addition to its remedies under this Lease, such non-defaulting party shall have all available rights and remedies at law and equity. The failure of one party to the action in case of a breach of the Lease or to enforce its rights hereunder shall not be deemed a waiver of any breach of this Lease. In the absence of written notice or consent, any such breach shall be a continuing one. This section however shall not be construed as a waiver of any defenses that one party may assert against the other under the Lease. The non-defaulting party shall have the right to terminate this Lease in the Event of Default.

27. NOTICES. Whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, and/or whenever either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to the Leased Property, each such notice, demand, request or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless the same shall be given or served as follows:

(a) If to Lessor:

Director, Facilities Management Department
12000 Government Center Parkway, Suite 424
Fairfax, Virginia 22035

(b) If to Property Owner:

Director, Fairfax County Park Authority
12055 Government Center Parkway, Suite 927
Fairfax, Virginia 22035

(c) If to Resident Curator:

Steven J. McCullough, Resident Curator

Every such notice, demand, request or other communication hereunder shall be deemed to have been given or served for all purposes hereunder on the date on which it is received or referred by the party to whom it was sent.

Wherever in this Lease notice or requests to Lessor and a response is required within a specified period of time, the envelope containing the notice or request shall bear on the outside thereof and the first page of such notice at the top of such page, the following legend, printed in bold-face type in a font of at least fourteen (14) points in size:

NOTICE

THIS NOTICE REQUIRES REPLY WITHIN [] DAYS

with the blank in such legend filled in with the number of days for notice or request referred to in the applicable Section of this Lease, as appropriate.

28. DAMAGE BY FIRE, ETC. Resident Curator shall give prompt notice to Property Owner of any damage or loss by fire or other casualty to the Leased Property. If the Leased Property shall be partially or completely damaged by fire or other cause and the damage renders the Leased Property or the approaches thereto unfit for use and occupancy or repairs are not financially feasible in Property Owner's sole determination, at Property Owner's election, this Lease will terminate. Lessor and Property owner are not responsible for Resident Curator's personal goods lost or damaged during any fire or fire suppression activity, and Lessor and Property Owner shall have no obligation to replace such items or compensate Resident Curator in any way for such loss or damage.

29. INDEMNIFICATION and HOLD HARMLESS.

A. Risk. The Resident Curator shall assume all risk in connection with any and all activities engaged on the Leased Property, and shall be solely responsible and answerable in damages and any other equitable remedies for all accidents or injuries caused by the Resident Curator's activities.

B. Security. The Resident Curator shall be responsible for the security of the Leased Property and the protection of the assets and property. Lessor and Property Owner shall not be responsible for property of the Resident Curator's contractors, agents, representatives, employees, permittees, licensees, guests and invitees.

C. Indemnification and Hold Harmless. The Resident Curator will defend, hold harmless, and indemnify the Lessor and the Property Owner, and each of their agents, officers and employees, from any claims arising out of any violation of any law, ordinance or regulation affecting the activities authorized herein by this Lease. The Resident Curator will also defend, hold harmless, and indemnify the Lessor and the Property Owner from any claims for personal injury or death or damage to personal property, of whatever kind or nature, arising from the Resident Curator's activities on the Leased Property, including claims arising from the negligence, carelessness or willfulness

of any combination of the Resident Curator and his contractors, agents, representatives, employees, permittees, licensees, guests and invitees, as authorized under this Lease. The Resident Curator will also defend, hold harmless and indemnify the Lessor and the Property Owner from any claims arising from the Resident Curator's failure to provide adequate security within the Leased Property.

D. Claims. The Resident Curator shall not make any claims against the Lessor or Property Owner for any injury, loss, or damage to persons, including bodily injury or death, or damage to property arising out of or in connection with the actions or omissions of any combination of the Resident Curator, his contractors, agents, representatives, employees, permittees, licensees, guests and invitees. The Resident Curator shall waive any and all claims for compensation for any and all loss or damage sustained by reason of any interference by any public agency or official in the operation of this Lease.

E. Injunctive Relief. If an Event of Default shall occur, without limiting any other rights or remedies Lessor may have at law or in equity Lessor expressly reserving the right to injunctive relief, including specific performance under this Lease, Resident Curator hereby indemnifies and holds BOS and FCPA harmless from all loss of rent and costs including legal costs, and expenses which Lessor may incur from time to time by reason of the occurrence of the Event of Default, together with interest on any unpaid rent.

30. RIGHT TO REPOSSESS. Should any Event of Default occur, then, notwithstanding any former breach of covenant or waiver of the benefit hereof or consent in a former instance, Lessor lawfully may, in addition to any and all rights and remedies otherwise available to Lessor at law, enter into and upon the Leased Property and repossess the same as of Property Owner's Leased Property, and expel Resident Curator and those claiming through or under Resident Curator or otherwise in occupancy and remove his or their effects (forcibly if necessary) without being deemed guilty of any manner of trespass, and without prejudice to any rights or remedies to which Lessor might otherwise be entitled, for arrears of rent or preceding breach of covenant.

Lessor may send written notice to Resident Curator terminating the Term of this Lease and upon the receipt of such notice of termination, the Term of this Lease shall terminate. Resident Curator covenants and agrees any entry or re-entry by Lessor whether by summary proceedings, termination or otherwise, that Resident Curator shall be and remain liable for any obligations of the Resident Curator under the Lease. If Resident Curator has not achieved Completion of Work at the date of re-entry by Lessor or termination of the Lease, then Lessor and Property Owner each have the right to finish the Work at the Resident Curator's expense. Lessor and Property Owner shall have no other obligation to mitigate damages upon the occurrence of an Event of Default. Resident Curator acknowledges that the Leased Property belongs to the Property Owner.

31. WAIVERS. No waiver or oversight of any breach of covenant, condition, or agreement herein contained, or compromise of settlement relating to such a breach, shall operate as a waiver of the covenant, condition, or agreement itself, or of any subsequent breach thereof. Each

property insurance policy obtained in connection with this Lease shall include a waiver by the insurer of all rights of subrogation against whichever party, if any, is not an insured under such policy. Resident Curator acknowledges that the Lessor and the Property Owner are not required to procure or maintain insurance of any kind on or with respect to the Leased Property under this Lease.

32. ASSIGNMENT. Resident Curator shall not assign, transfer, convey, encumber, sublease, or dispose of its right or interest in the whole or any part of the Leased Property or enter into any agreement with any entity or person except employees of the Resident Curator to exercise substantial management responsibilities for the operations authorized hereunder, all of which shall be considered an impermissible transfer of Resident Curator's interest in the Leased Property.

33. INTERPRETATION. All nouns used herein shall be interpreted and construed to include the singular, plural, masculine, feminine, or neuter forms in any place or places in which the context may require to indicate such interpretation and construction.

34. ENTIRE AGREEMENT. This Lease constitutes the entire agreement between Lessor and Resident Curator with respect to the Leased Property. This Lease shall not be changed or modified in any manner except by an instrument in writing executed by the parties hereto.

35. KEYS AND SECURITY. Property Owner shall furnish the Resident Curator with two (2) sets of keys to the Stempson House. Property Owner shall have the right to retain sets of keys as Property Owner deems appropriate for maintenance and emergency purposes as provided herein.

36. ANIMALS. Pets or other animals, other than service animals as defined in the Americans with Disabilities Act, 42 U.S.C. § 12101, *et. seq.*, shall not be allowed without prior written approval from the Property Owner. If the Property Owner approves pets or other animals, such pets or animals shall be appropriately confined consistent with park use and public access.

37. SMOKING. Smoking is prohibited at all of Property Owner's properties.

38. SAFETY, SECURITY. Resident Curator shall be responsible for ensuring adequate law enforcement at the Leased Property when breach of the peace can be reasonably anticipated, or when required by the Park Authority Regulations which Resident Curator is required to comply with when in the Park. When applicable, Resident Curator shall develop and maintain safety and security plans for its own activities subject to Lessor and Property Owner prior written approval.

39. NONDISCRIMINATION. Resident Curator agrees that Resident Curator shall not, because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation, discriminate against any qualified employee, applicant for employment, contractor, subcontractor, or person or firm seeking to provide goods or services to Resident Curator, or deny any person access to the Leased Property or to any activities or programs

carried out upon the Leased Property. Resident Curator shall comply with all applicable laws prohibiting discrimination in employment or public accommodation.

40. REAL ESTATE TAXES. “Real Estate Taxes” shall mean real estate taxes levied, assessed, or imposed against the Leased Property or the leasehold interest created pursuant to this Lease. Resident Curator acknowledges the leasehold created pursuant to this Lease will be assessed for Real Estate Taxes and that he will pay timely pay all Real Estate Taxes imposed during the term of this Lease.

41. LIABILITY. No official, employee or consultant of the Lessor or Property Owner shall be personally liable to Resident Curator or to any successor in interest or person claiming through or under Resident Curator in the Event of Default or breach of this Lease or for any amount which may become due or on any claim, cause or obligation whatsoever under the terms of this Lease.

42. ESTOPPEL. Lessor and Resident Curator agree at any time and from time to time, upon not less than fifteen (15) days prior written request by the other, to execute, acknowledge and deliver to the other either a statement in writing certifying that this Lease is unmodified and in full force and effect or if there have been modifications, that the Lease is in full force and effect as modified, and stating the modifications, and that either under the Lease there is no default and no event has occurred which, with the passage of time or the giving of notice or both, would constitute a default, or that a default exists under this Lease and specifying the nature thereof, and the dates to which the rent and other charges have been paid in advance.

43. AMENDMENTS. This Lease may be modified or altered only by agreement in writing by **Amendment** (“Amendment”) between Lessor and Resident Curator after review and consent by the Property Owner.

44. GOVERNING LAW. Landlord and Tenant agree to be bound by the Laws of the Commonwealth of Virginia in any proceeding, whether in law or in equity, with respect to any dispute arising under this Lease. The only proper jurisdiction and venue for any lawsuit arising out of or relating to this Lease shall be the Circuit Court of Fairfax County or the United States District Court for the Eastern District of Virginia.

45. FORCE MAJEURE. In any case where Resident Curator is required to do any act other than the payment of money, delays caused by or resulting from Acts of God, war, civil commotion, fire, flood or other casualty, strikes, unavailability of materials or equipment, unusually severe weather or other causes beyond the reasonable control of Resident Curator, herein referred to as **Force Majeure** (“Force Majeure”), Force Majeure shall not be counted in determining the time when the performance of such act must be completed. The period of time for completion shall be extended by the same number of days as lost due to the Force Majeure event. If Resident Curator claims any delay was caused by Force Majeure, he must provide written notification to Property Owner within seven (7) days of the first day of delay caused by Force Majeure. This written notification (“**Force Majeure Notification**”) must set forth the basis for the claim of Force Majeure, the delay that was caused and the length of the delay. If the delay continues for a period of time longer than seven (7) days, then Resident Curator must

provide a Force Majeure Notification to Property Owner every seven (7) days until the delay no longer exists.

46. LESSOR'S FINANCIAL OBLIGATIONS. To the extent there are any financial obligations of the Lessor under this Lease, such financial obligations are subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations.

47. AGREEMENT AND COVENANT. Every term, condition, agreement or provision contained in this Lease that imposes any obligation on Tenant or Lessor shall be deemed to be also a covenant by Tenant or Lessor.

48. NO PARTNERSHIP. Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Lessor and Tenant, or to create any other relationship between the parties hereto other than that of Lessor and Tenant.

49. RECITALS. Recitals R-1 through R-7, above, are incorporated into this Lease and shall be binding on Lessor and Resident Curator.

[SIGNATURES ON FOLLOWING PAGES]

Witness the following signatures and seals:

LESSOR:

**BOARD OF SUPERVISORS OF
FAIRFAX COUNTY**

By: _____
Kirk W. Kincannon, Acting County
Executive
Fairfax County

Commonwealth of Virginia :
County of Fairfax :

The foregoing Lease was acknowledged before me this ____ day of
_____, 20__ by Kirk W. Kincannon, in his capacity as the Acting County
Executive of the Board of Supervisors of Fairfax County, the Lessor hereunder.

My Commission expires: _____

Notary Public

Witness the following signatures and seals:

LESSEE:

STEVEN J. MCCOLLOUGH

By: _____
Steven J. McCullough
Resident Curator

Commonwealth of Virginia :
County of Fairfax :

The foregoing Lease was acknowledged before me this _____ day of
_____, 2017 by Steven J. McCullough, in his capacity as the Resident
Curator.

My Commission expires: _____

Notary Public

Registration Number: _____

STEMPSON HOUSE

