

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
December 4, 2018**

**AGENDA**

- |       |   |
|-------|---|
| 9:30  | Presentations   |
| 10:00 | Presentation of the Transportation Advisory Commission (TAC) Achievement Award  |
| 10:10 | Presentation by the Secretary of the Electoral Board Regarding the 2018 Midterm Elections   |
| 10:20 | Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups   |
| 10:30 | Board Adoption of the 2019 Legislative Program for the Virginia General Assembly, Approval of the County's 116th Congress Federal Legislative Strategy and Principles |
| 10:40 | Items Presented by the County Executive   |

**ADMINISTRATIVE  
ITEMS**

- |   |   |
|---|---|
| 1 | Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Telegraph Road Walkway Phase I - Rose Hill to Pike - ST-000036 (Lee District)   |
| 2 | Extension of Review Period for 2232 Applications (Mason, Providence, and Springfield Districts)   |
| 3 | Streets into the Secondary System (Providence and Springfield Districts)  |
| 4 | Supplemental Appropriation Resolution AS 19128 for the Fairfax County Economic Development Authority to Accept Grant Funding from the Commonwealth of Virginia – Commonwealth Development Opportunity Fund (COF) for the College Entrance Examination Board |
| 5 | Supplemental Appropriation Resolution AS 19127 for the Fairfax County Economic Development Authority to Accept Grant Funding from the Commonwealth of Virginia – Commonwealth Development Opportunity Fund (COF) for Appian Corporation                     |
| 6 | Authorization to Advertise a Public Hearing to Lease County-Owned Property at 5645 Revercomb Court to NCWPCS MPL 27 – Year Sites Tower Holdings LLC (Springfield District)  |

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**ADMINISTRATIVE  
ITEMS  
(Continued)**

- 7 Authorization to Advertise a Public Hearing to Lease County-Owned Property at 12111 Braddock Road to STC THREE, LLC (Springfield District)
- 8 Authorization to Advertise a Public Hearing to Amend Chapter 82 of the Code of the County of Fairfax Related to Mobile Food Vending within Virginia Department of Transportation Rights-of-Way (Dranesville and Mount Vernon Districts)
- 9 Authorization of a Public Hearing on a Proposal to Abandon a Portion of Cinder Bed Road (Mount Vernon District)
- 10 Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Sully District)
- 11 Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Article 6 – Density Provisions for the Reston PRC District
- 12 Authorization to Advertise a Public Hearing to Consider the Adoption of Amendments to Chapter 41.1 of the Fairfax County Code Relating to Wild or Exotic Animals
- 13 Supplemental Appropriation Resolution AS 19067 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
- 14 Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Federal Transit Administration, Access and Mobility Partnership Grants Program

**ACTION ITEMS**

- 1 Approval of the Sale of General Obligation Public Improvement Bonds and Public Improvement Refunding Bonds
- 2 Approval of Resolution Endorsing Projects Being Submitted for FY 2025 Regional Surface Transportation Program and Congestion Mitigation and Air Quality Federal Funding through the Northern Virginia Transportation Authority

**FAIRFAX COUNTY  
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**ACTION ITEMS  
(Continued)**

- 3                      Approval of and Authorization to Execute a Standard Project Administration Agreement with the Virginia Department of Transportation for Implementation of the Fair Lakes Boulevard Walkway Project and Approval of Supplemental Appropriation Resolution AS 19136 (Springfield District)
- 4                      Approval of and Authorization to Execute a Project Administration Agreement with the Town of Vienna for the Construction of Pedestrian Enhancement Improvements on Old Courthouse Road (Hunter Mill District)
- 5                      Approval of a Resolution Endorsing Projects for Submission to the Northern Virginia Transportation Commission for the Fiscal Year 2020 I-66 Inside the Beltway Commuter Choice Program (Providence and Dranesville Districts)
- 6                      Endorsement of the Chief Administrative Officers' Task Force Recommendation Regarding the Preliminary FY 2020 Virginia Railway Express Capital and Operating Budget
- 7                      Approval of Comments on Richmond Highway Corridor Improvements Project Draft Environmental Assessment (EA) (Lee and Mount Vernon Districts)
- 8                      Approval to Join Other Communities in Reply Comments and Otherwise Participate in a Federal Communications Commission Rulemaking Regarding Local Cable Franchising (MB Docket No. 05-311)
- 9                      Endorsement of Alternative for the Balls Hill Road and Old Dominion Drive Roadway Spot Improvement Project (Dranesville District)

**CONSIDERATION  
ITEMS**

- 1                      Approval of the Amendments to the Bylaws for the Trails, Sidewalks and Bikeways Committee

**INFORMATION  
ITEMS**

- 1                      Fairfax-Falls Church Community Services Board Fee Schedule
- 2                      Presentation of the Fiscal Year (FY) 2018 Comprehensive Annual Financial Report (CAFR)

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
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**INFORMATION  
ITEMS  
(Continued)**

- |       |   |
|-------|---|
| 3     | Endorsement of Guidelines for Development in Reston Transit Station Areas (Hunter Mill and Dranesville Districts) |
| 4     | Economic Success Strategic Plan Fall 2018 Update  |
| 10:50 | Matters Presented by Board Members  |
| 11:40 | Closed Session  |

**PUBLIC  
HEARINGS**

- |      |   |
|------|---|
| 3:30 | Decision Only on Consideration of Proposed Amendments to the Ordinances for the Fairfax County Employees', Uniformed and Police Officers Retirement Systems |
| 3:30 | Decision Only on PRC B-846-05 (Woodfield Acquisitions, LLC) (Hunter Mill District)  |
| 3:30 | Decision Only on PCA-B-846-04 (Woodfield Acquisitions, LLC) (Hunter Mill District)  |
| 3:30 | Decision Only on DPA-HM-117-03 (Woodfield Acquisitions, LLC) (Hunter Mill District)   |
| 3:30 | Public Hearing on RZ 2018-MV-012 (Fairfax County DPWES CAP BDCD) (Mount Vernon District)  |
| 3:30 | Public Hearing on PRCA-C-020 (Stanley Martin Companies, LLC) (Hunter Mill District)   |
| 3:30 | Public Hearing on RZ 2016-HM-024 (JBG/1831 Wiehle, LLC & EYA Development LLC) (Hunter Mill District)  |
| 3:30 | Public Hearing on RZ 2018-HM-004 (AG-ARC Reston 1 Owner LLC, AG-ARC Reston 2 Owner LLC, AG-ARC Reston 3 Owner LLC) (Hunter Mill District)                   |
| 3:30 | Public Hearing on SE 2018-HM-002 (AG-ARC Reston 1 Owner LLC, AG-ARC Reston 2 Owner LLC, AG-ARC Reston 3 Owner LLC) (Hunter Mill District)                   |

**FAIRFAX COUNTY  
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**PUBLIC  
HEARINGS  
(Continued)**

- |      |  |
|------|--|
| 3:30 | Public Hearing on SEA 2006-LE-030 (PMIG 1009, LLC) (Lee District)  |
| 4:00 | Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Section 7-2-13 and Rename the Ravenwood Precinct Polling Location in the Mason District, Change the Street Address for the Belvoir Precinct Polling Location in the Mount Vernon District, and Relocate the Polling Locations for the Cedar Lake and Centerpointe Precincts in the Springfield District |
| 4:00 | Public Hearing on a Proposed Zoning Ordinance Amendment<br>Re: Continuing Care Facilities, Adult Day Care Centers, and Related Provisions (Older Adult Accommodations and Services)  |
| 4:00 | Public Hearing on Proposed Amendments to The Code of the County of Fairfax (Code) and the Public Facilities Manual (PFM) Regarding the "PFM Flex Project," a Fairfax First Initiative to Improve the Speed, Consistency and Predictability of the County's Land Development Review Process   |
| 4:00 | Public Hearing on a Proposed Zoning Ordinance Amendment<br>Re: Small-Scale Production Establishments   |
| 4:00 | Public Hearing on a Proposed Zoning Ordinance Amendment<br>Re: Editorial and Minor Revisions   |
| 4:30 | Public Hearing on Proposed Plan Amendment 2018-CW-1CP, Continuing Care Facilities  |
| 4:30 | Public Hearing on Proposed Plan Amendment 2017-III-DS1, Located North of the Dulles Toll Road and Airport Access Highway, East of the Loudoun County Border and Generally West of Dulles Greene Drive and Innovation Avenue/Rock Hill Road (Dranesville District)  |
| 4:30 | Public Comment from Fairfax County Citizens and Businesses on Issues of Concern  |



# *Fairfax County, Virginia*

## ***BOARD OF SUPERVISORS***

### ***AGENDA***

**Tuesday  
December 4, 2018**

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9:30 a.m.

#### **RECOGNITION**

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

#### **PRESENTATIONS**

#### **SPORTS / SCHOOLS**

- CERTIFICATE — To recognize the Woodson High School Girls Tennis Team for winning its first state championship. Requested by Supervisors Cook, Gross, Herrity and Smyth.
- CERTIFICATE — To recognize the Woodson High School Girls Lacrosse Team for winning the state championship. Requested by Supervisors Cook, Gross, Herrity and Smyth.

— more —

Board Agenda Item  
December 4, 2018

- CERTIFICATE — To recognize Emma Seetoo from Westfield High School for winning the individual long jump state championship. Requested by Supervisor Smith.

RECOGNITIONS

- CERTIFICATE — To recognize the Fairfax County Park Authority for receiving national accreditation from the Commission for Accreditation of Parks and Recreation Agencies. Requested by Chairman Bulova.

DESIGNATIONS

- PROCLAMATION — To designate January 14-20, 2019, as Teen Cancer Awareness Month in Fairfax County. Requested by Supervisor Smith.

STAFF:

Tony Castrilli, Director, Office of Public Affairs

Bill Miller, Office of Public Affairs

Lisa Connors, Office of Public Affairs

Board Agenda Item  
December 4, 2018

10:00 a.m.

Presentation of the Transportation Advisory Commission (TAC) Achievement Award

ENCLOSED DOCUMENTS:

None.

PRESENTED BY:

Jeffrey M. Parnes, Chairman of the Transportation Advisory Commission

Board Agenda Item  
December 4, 2018

10:10 a.m.

Presentation by the Secretary of the Electoral Board Regarding the 2018 Midterm Elections

ENCLOSED DOCUMENTS:  
None.

PRESENTED BY:  
Katherine K. Hanley, Secretary, Electoral Board

Board Agenda Item  
December 4, 2018

10:20 a.m.

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

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard December 4, 2018  
(An updated list will be distributed at the Board meeting.)

STAFF:

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

December 4, 2018

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

**APPOINTMENTS TO BE HEARD DECEMBER 4, 2018**  
**(ENCOMPASSING VACANCIES PROJECTED THROUGH DECEMBER 31, 2018)**  
(Unless otherwise noted, members are eligible for reappointment)

**A. HEATH ONTHANK MEMORIAL AWARD SELECTION COMMITTEE**  
**(1 year)**

<b><u>Incumbent History</u></b>	<b><u>Requirement</u></b>	<b><u>Nominee</u></b>	<b><u>Supervisor</u></b>	<b><u>District</u></b>
VACANT (Formerly held by Ronald Copeland; appointed 1/05-1/17 by Hudgins) Term exp. 1/18 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill
Eileen J. Garnett (Appointed 1/03-2/17 by Gross) Term exp. 1/18	Mason District Representative		Gross	Mason

**AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)**

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

<b>AIRPORTS ADVISORY COMMITTEE (3 years)</b>
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by George Page; appointed 1/05-1/16 by Hudgins) Term exp. 1/19 <i>Resigned</i>	Hunter Mill Business Representative		Hudgins	Hunter Mill

<b>ARCHITECTURAL REVIEW BOARD (3 years)</b>
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Charles Bierce; appointed 11/86 by Egge; 8/89-9/13 by Hyland; 10/16 by Storck) Term exp. 9/19 <i>Resigned</i>	Architect #1 Representative		By Any Supervisor	At-Large
Susan Woodward Notkins (Appointed 11/96-9/03 by Hanley; 9/06 by Connolly; 10/09-6/16 by Bulova) Term exp. 9/18	Related Professional Group #3 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by John A. Carter; appointed 2/17 by Hudgins) Term exp. 9/18 <i>Resigned</i>	Related Professional Group #4 Representative		By Any Supervisor	At-Large

ATHLETIC 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 Rachel Huhn; appointed 1/15-10/17 by Cook) Term exp. 6/19 <i>Resigned</i>	Braddock District Alternate Representative		Cook	Braddock
VACANT (Formerly held by Karin Stamper; appointed 9/09-4/16 by McKay) Term exp. 4/18 <i>Resigned</i>	Lee District Alternate Representative		McKay	Lee
VACANT (Formerly held by Terry Adams; appointed 11/11-7/13 by Gross) Term exp. 6/15	Mason District Alternate Representative		Gross	Mason
Jane Dawber (Appointed 3/13-9/16 by Hudgins) Term exp. 6/18	Women's Sports Alternate Representative		By Any Supervisor	At-Large

<b>BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)</b>
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<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

<b>BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS (4 years)</b>
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(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

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

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
Asim Elfaki (Appointed 5/18 by Bulova) Term exp. 12/18	At-Large #1 Representative		By Any Supervisor	At-Large
Noelle Maynard Holmes (Appointed 5/06- 12/08 by Connolly; 12/10-12/16 by L. Smyth) Term exp. 12/18	Professional #4 Representative		By Any Supervisor	At-Large
M. Yvonne Demory (Appointed 1/07-1/17 by Hudgins) Term exp. 12/18	Professional #5 Representative		By Any Supervisor	At-Large

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

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Grant Sitta; appointed 9/10-9/15 by Gross) Term exp. 9/19 <i>Resigned</i>	Mason District Representative		Gross	Mason

**CHILD CARE ADVISORY COUNCIL (2 years)**

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
Valerie Inman (Appointed 1/18 by Foust) Term exp. 9/18	Dranesville District Representative		Foust	Dranesville
Mercedes O. Dash (Appointed 3/15 by L. Smyth) Term exp. 9/17	Providence District Representative		L. Smyth	Providence

**CITIZEN CORPS COUNCIL, FAIRFAX COUNTY  
(2 years)**

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
Patrick J. Scott (Appointed 10/16 by Hudgins) Term exp. 5/18	Hunter Mill District Representative		Hudgins	Hunter Mill
Nicholas Ludlum (Appointed 1/17 by L. Smyth) Term exp. 5/18	Providence District Representative		L. Smyth	Providence

**CIVIL SERVICE COMMISSION (2 years)**

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

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

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Ronald Copeland; appointed 9/04-1/17 by Hudgins) Term exp. 12/18 <i>Resigned</i>	At-Large #2 Representative		By Any Supervisor	At-Large
Rosemarie Annunziata (Appointed 10/05-1/08 by Connolly; 12/09- 1/16 by Bulova) Term exp. 12/17	At-Large #3 Representative		By Any Supervisor	At-Large

**CONSUMER PROTECTION COMMISSION (3 years)**

<b><u>Incumbent History</u></b>	<b><u>Requirement</u></b>	<b><u>Nominee</u></b>	<b><u>Supervisor</u></b>	<b><u>District</u></b>
Mehmood S. Kazmi (Appointed 11/12-6/15 by Bulova) Term exp. 7/18	Fairfax County Resident #3 Representative		By Any Supervisor	At-Large
Umair Javed (Appointed 2/17 by L. Smyth) Term exp. 7/18	Fairfax County Resident #13 Representative		By Any Supervisor	At-Large

**CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)**

<b><u>Incumbent History</u></b>	<b><u>Requirement</u></b>	<b><u>Nominee</u></b>	<b><u>Supervisor</u></b>	<b><u>District</u></b>
VACANT (Formerly held by Robert Gehring; appointed 1/14-2/15 by Hudgins) Term exp. 2/18 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

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

<b><u>Incumbent History</u></b>	<b><u>Requirement</u></b>	<b><u>Nominee</u></b>	<b><u>Supervisor</u></b>	<b><u>District</u></b>
Thomas D. Fleury (Appointed 6/01-3/14 by L. Smyth) Term exp. 3/18	At-Large #5 Representative		By Any Supervisor	At-Large

<b>ECONOMIC ADVISORY COMMISSION (3 years)</b>
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<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Mark Silverwood; appointed 1/09-11/14 by Hudgins) Term exp. 12/17 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill
Robert Yuen-Pai Tsien (Appointed 4/16 by K. Smith) Term exp. 12/18	Sully District Representative		K. Smith	Sully

<b>ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)</b>
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<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Maya Huber; appointed 12/09-1/14 by Confirmation; 05/18 by Bulova) Term exp. 3/21	Citizen #4 Representative		By Any Supervisor	At-Large

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

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

<b><u>Incumbent History</u></b>	<b><u>Requirement</u></b>	<b><u>Nominee</u></b>	<b><u>Supervisor</u></b>	<b><u>District</u></b>
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
Tapan Banerjee (Appointed 2/07-3/16 by Foust) <i>Not eligible for reappointment</i>	Dranesville District Representative		Foust	Dranesville
Michele Hymer Blitz (Appointed 6/06-3/16 by Hudgins) Term exp. 11/18 <i>Not eligible for reappointment</i>	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Harriet Epstein; appointed 5/10-12/16 by L. Smyth) Term exp. 11/19 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Paul Luisada; appointed 4/13-9/13 by Hyland; 10/16 by Storck) Term exp. 6/19 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Dave Lucas (Appointed 12/10-9/15 by Hyland) Term exp. 6/18	Provider #2 Representative		By Any Supervisor	At-Large

**HISTORY COMMISSION (3 years)**

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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Sallie Lyons (Appointed 3/05-12/12 by Hyland; 3/16 by Storck) Term exp. 12/18 <i>Mount Vernon District Resident</i>	Citizen #2 Representative		By Any Supervisor	At-Large

**Continued on next page**

**HISTORY COMMISSION (3 years)**  
 continued

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
Deborah Robison (Appointed 5/07- 11/12 by Frey; 1/06 by K. Smith) Term exp. 12/18 <i>Sully District Resident</i>	Citizen #5 Representative		By Any Supervisor	At-Large
Michael Irwin (Appointed 12/05- 12/06 by Connolly; 1/10-4/15 by L. Smyth) Term exp. 12/18 <i>Providence District Resident</i>	Citizen #8 Representative		By Any Supervisor	At-Large
Anne M. Barnes (Appointed 9/03- 12/12 by Hyland; 3/16 By Storck) Term exp. 12/18 <i>Mount Vernon District</i>	Citizen/Minority Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Naomi D. Zeavin; appointed 1/95 by Trapnell; 1/96-11/13 by Gross) Term exp. 12/16 <i>Mason District Resident Resigned</i>	Historian #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Stephanie Sedgwick; appointed 1/18 by Term exp. 12/20 <i>Dranesville District Resident Resigned</i>	Historian #3 Representative		By Any Supervisor	At-Large

<b>HUMAN RIGHTS COMMISSION (3 years)</b>
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<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Vanessa G. Paul; appointed 11/16 by McKay) Term exp. 9/19 <i>Resigned</i>	At-Large #7 Representative		By Any Supervisor	At-Large
Daoud Khairallah (Appointed 11/05- 9/14 by Gross) Term exp. 9/17	At-Large #8 Representative		By Any Supervisor	At-Large

<b>HUMAN SERVICES COUNCIL (4 years)</b>
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<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Adrienne M. Walters; appointed 3/14 by L. Smyth) Term exp. 7/17 <i>Resigned</i>	Providence District #2 Representative		L. Smyth	Providence

<b>INFORMATION TECHNOLOGY POLICY ADVISORY COMMITTEE (ITPAC) (3 years)</b>
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<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
Bhaskar Kuppasamy (Appointed 9/11-1/16 by Hudgins) Term exp. 12/18	Hunter Mill District Representative		Hudgins	Hunter Mill

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

**PARK AUTHORITY (4 years)**

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
Linwood M. Gorham (Appointed 2/11- 11/14 by Hyland) Term exp. 12/18	Mount Vernon District Representative		Storck	Mount Vernon

**POLICE OFFICERS RETIREMENT SYSTEM BOARD OF TRUSTEES (4 years)**

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
Brendan D. Harold (Appointed 5/05- 11/14 by Hyland) Term exp. 12/18	Citizen At-Large #2 Representative		By Any Supervisor	At-Large

**RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD**

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

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Deloris Bailey; appointed 9/17 by Hudgins) Term exp. 9/21 <i>Resigned</i>	Hunter Mill District #2 Representative		Hudgins	Hunter Mill
NEW POSITION	Residential Owners and HOA/Civic Association #1 Representative		Foust or Hudgins	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #2 Representative		Foust or Hudgins	At-Large

Continued on next page

**RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD**  
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	Residential Owners and HOA/Civic Association #3 Representative		Foust or Hudgins	At-Large
VACANT (Formerly held by Tyler Aaron Hall; appointed 9/17 by Hudgins) Term exp. 9/21 <i>Resigned</i>	Apartment or Rental Owner Associations Representative		Hudgins	At-Large

**ROAD VIEWERS BOARD (1 year)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Joseph Bunnell; appointed 9/05-12/06 by McConnell; 2/08- 11/13 by Herrity) Term exp. 12/14 <i>Resigned</i>	At-Large #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by L. Smyth) Term exp. 12/12 <i>Resigned</i>	At-Large #4 Representative		By Any Supervisor	At-Large
Micah D. Himmel (Appointed 12/11- 1/18 by L. Smyth) Term exp. 12/18	At-Large #5 Representative		By Any Supervisor	At-Large

<b>SMALL BUSINESS COMMISSION, FAIRFAX COUNTY (3 years)</b>
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<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Claire L. Tse; appointed 9/16- 12/17 by Hudgins) Term exp. 12/20 <i>Resigned</i>	At-Large #2 Representative		By Any Supervisor	At-Large
Tracey Wood (Appointed 6/13- 3/16 by Bulova) Term exp. 12/18	At-Large #3 Representative		By Any Supervisor	At-Large
Elizabeth Novak (Appointed 10/05- 1/16 by Gross) Term exp. 12/18	Mason District Representative		Gross	Mason
VACANT (Formerly held by Eva Freund; appointed 11/14- 12/17 by L. Smyth) Term exp. 12/20 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence
Marvin Powell (Appointed 10/04- 11/12 by Frey; 1/16 by K. Smith) Term exp. 12/18	Sully District Representative		K. Smith	Sully

<b>SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)</b>
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<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
Emily Huaroco (Appointed 10/16 by Hudgins) Term exp. 3/18	Fairfax County #5 Representative		By Any Supervisor	At-Large

<b>TENANT LANDLORD COMMISSION (3 years)</b>
---

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></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
VACANT (Formerly held by Angelina Panettieri; appointed 6/11-1/15 by L. Smyth) Term exp. 1/18	Tenant Member #1 Representative		By Any Supervisor	At-Large

<b>TRANSPORTATION ADVISORY COMMISSION (2 years)</b>
---

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Micah Himmel; appointed 6/13-7/16 by L. Smyth) Term exp. 6/18 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

**TREE COMMISSION (3 years)**

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Thomas D. Fleury; appointed 1/17 by L. Smyth) Term exp. 10/17 Resigned	Providence District Representative		L. Smyth	Providence

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

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
VACANT (Formerly held by Molly Peacock; appointed 2/13-1/15 by L. Smyth) Term exp. 2/17 Resigned	Providence District Representative #2		L. Smyth	Providence

**WETLANDS BOARD (5 years)**

<u><b>Incumbent History</b></u>	<u><b>Requirement</b></u>	<u><b>Nominee</b></u>	<u><b>Supervisor</b></u>	<u><b>District</b></u>
Kimberly Vanness Larkin (Appointed 10/16 by Storck) Term exp. 12/18	At-Large #1 Representative		By Any Supervisor	At-Large

Board Agenda Item  
December 4, 2018

10:30 a.m.

Board Adoption of the 2019 Legislative Program for the Virginia General Assembly,  
Approval of the County's 116<sup>th</sup> Congress Federal Legislative Strategy and Principles

ISSUE:

Board adoption of a legislative program for the 2019 Session of the Virginia General Assembly and Board approval of federal legislative strategy and principles for the 116<sup>th</sup> Congress. An issue paper on human services needs is included as an addendum to the state legislative program.

TIMING:

On November 20, 2018, the Board of Supervisors held a public hearing on the 2019 Legislative Program. This program will be presented at the Board's work session with the members of the Fairfax County Delegation to the Virginia General Assembly on December 11, 2018. The General Assembly will convene January 9, 2019, and is scheduled to adjourn on February 23, 2019.

Board action is also requested at this time in order to formally adopt the County's federal strategy for action during the 116<sup>th</sup> Congress. County staff will also apply for federal grants based on the criteria adopted by the Board.

BACKGROUND:

The draft state legislative program has been developed over the past several months by the Legislative Committee of the Board. The program contains the Committee's recommended legislative positions for the County at the 2019 Session of the Virginia General Assembly; an issue paper on human services needs is included as an addendum to this program (at the Committee's direction, the issue paper has been condensed to reflect recommended County positions without lengthy background information, in order to ensure the document is concise). After adoption by the Board, final versions of these documents will be available at <https://www.fairfaxcounty.gov/boardofsupervisors/>. In preparing this package, the Committee has considered the County's legislative needs and opportunities and has endeavored to maintain a program of priority requests. The Legislative Committee will continue to meet, generally on a weekly basis, throughout the Session to monitor legislation and recommend positions for adoption at regular Board meetings.

Board Agenda Item  
December 4, 2018

Draft federal strategy and principles were also developed as part of the Legislative Committee process. Discussion took place at the October 23, 2018, and November 27, 2018, meetings. Staff recommendations presented to the Committee focused on areas determined to be of strategic importance to the County, including the federal budget, funding for transportation, federal agency relocation and consolidation, and the social safety net. Specifics on budget items, as well as federal funding opportunities, will be reported periodically to the Board. The federal strategies and principles contain the Legislative Committee's recommended positions for the County during the 116<sup>th</sup> Congressional session.

ENCLOSED DOCUMENTS:

Documents available online at <https://www.fairfaxcounty.gov/boardofsupervisors/>, under "Board Reports," by December 3, 2018.

Attachment 1 - Draft Fairfax County Legislative Program for the 2019 Virginia General Assembly

Attachment 2 – 2019 Draft Human Services Issue Paper

Attachment 3 – Draft 116<sup>th</sup> Congress Federal Legislative Strategy and Principles

STAFF:

Bryan J. Hill, County Executive

Claudia Arko, Legislative Director

Tom Biesiadny, Director, Department of Transportation

Board Agenda Item  
December 4, 2018

10:40 a.m.

Items Presented by the County Executive

Board Agenda Item  
December 4, 2018

ADMINISTRATIVE – 1

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights  
Necessary for the Construction of Telegraph Road Walkway Phase I - Rose Hill to Pike  
- ST-000036 (Lee District)

ISSUE:

Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Project ST-000036, County-Maintained Pedestrian Imp 2014, Fund 30050, Transportation Improvements.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for January 22, 2019, at 4:00 p.m.

TIMING:

Board action is requested on December 4, 2018, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:

This project consists of 1,235 linear feet of concrete sidewalks, American with Disabilities Act (ADA) compliant pedestrian curb ramps, curb and gutter, storm drainage improvements, and crosswalks from Rose Hill Drive to Pike Drive.

Land rights for these improvements are required on 26 properties, 22 of which have been acquired by the Land Acquisition Division (LAD). The construction of this project requires the acquisition of Dedication, Storm Drainage Easements, and Grading Agreement and Temporary Construction Easements.

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

Board Agenda Item  
December 4, 2018

FISCAL IMPACT:

Funding is available in Project ST-000036, County-Maintained Pedestrian Imp 2014, Fund 30050, Transportation Improvements. This project is included in the Adopted FY2019 - FY2023 Capital Improvement Program (with future Fiscal Years to FY2028). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

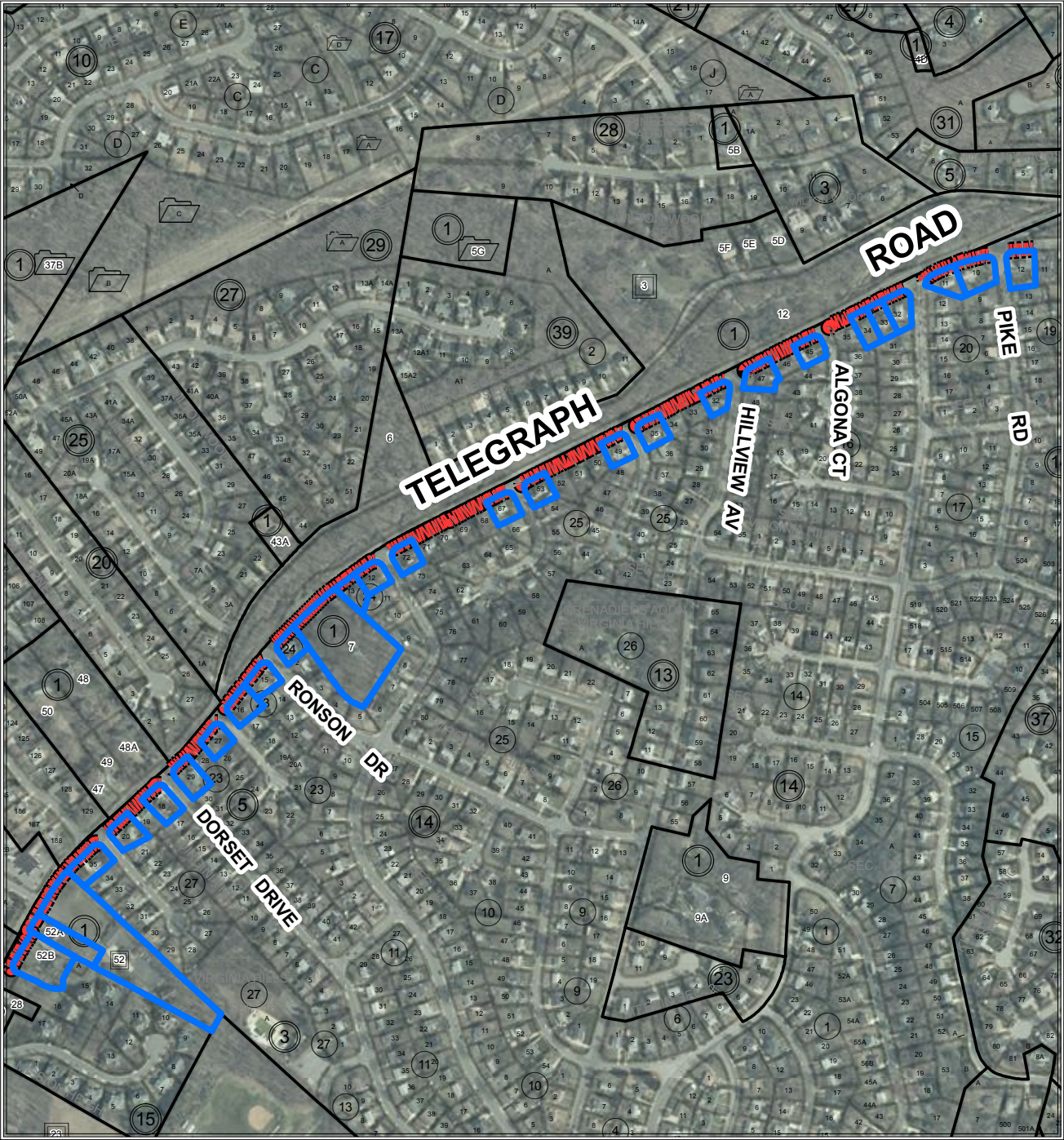
Attachment A - Project Location Map  
Attachment B - Listing of Affected Properties

STAFF:

Robert A. Stalzer, Deputy County Executive  
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)  
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:

Pamela K. Pelto, Assistant County Attorney, Office of the County Attorney



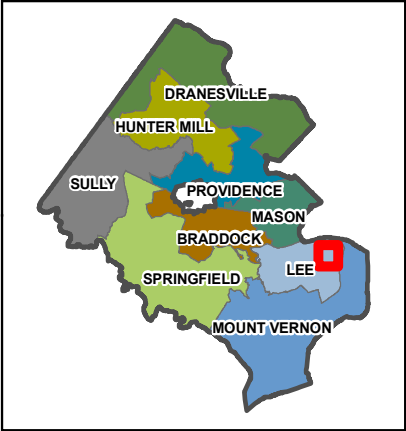
**TELEGRAPH RD WALKWAY PH 1-ROSE HILL TO PIKE**

**Project: ST-000036-014  
Lee District**

**Tax Map: 082-3 & 082-4**

**Affected Properties:** 

**Proposed Improvements:** 



LISTING OF AFFECTED PROPERTIES  
Project ST-000036-014  
Telegraph Road Walkway Phase I – Rose Hill to Pike  
(Lee District)

PROPERTY OWNER(S)

- |  |                  |
|--|------------------|
| 1. Duong Mui Hoang<br>Lan Mai Dong                             | 082-4-14-25-0053 |
| Address:<br>6143 Telegraph Road<br>Alexandria, Virginia 22310  |                  |
| 2. Colin Loughlin Wilkshire<br>Tien Tong Pongvichit            | 082-4-14-25-0032 |
| Address:<br>6120 Hillview Avenue<br>Alexandria, Virginia 22310 |                  |
| 3. Trustees of the Church of God of Prophecy                   | 082-3-01-0052    |
| Address:<br>6409 Telegraph Road<br>Alexandria, Virginia 22310  |                  |
| 4. Lighthouse Worship Center Church of God<br>of Prophecy      | 082-3-01-0052A   |
| Address:<br>6413 Telegraph Road<br>Alexandria, Virginia 22310  |                  |

ADMINISTRATIVE – 2

Extension of Review Period for 2232 Applications (Mason, Providence, and Springfield Districts)

ISSUE:

Extension of review period for 2232 applications 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 applications: FS-P18-23, 2232-M18-12, 2232-S18-13, 2232-P18-21, and 2232-P18-16.

TIMING:

Board action is required on December 4, 2018, to extend the review period of the applications noted above before their expiration date.

BACKGROUND:

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

The review period for the following applications should be extended:

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FS-P18-23	Sprint 8500 Leesburg Pike Vienna, VA Providence District Accepted June 25, 2018 Extend to May 22, 2019
2232-M18-12	Fairfax County Park Authority Bren Mar Park 5415 Colliers Lane Alexandria, VA Mason District Accepted October 1, 2018 Extend to July 1, 2019
2232-S18-13	DPWES, Solid Waste Management Program I-66 Transfer Station 4618 West Ox Road Fairfax, VA Springfield District Accepted October 8, 2018 Extend to July 8, 2019
2232-P18-21	DPWES 1766 Old Meadow Lane McLean, VA Providence District Accepted October 17, 2018 Extend to July 17, 2019
2232-P18-16	Sprint 1550 Westbranch Drive McLean, VA Providence District Accepted October 5, 2018 Extend to July 5, 2019

Board Agenda Item  
December 4, 2018

FISCAL IMPACT:  
None.

ENCLOSED DOCUMENTS:  
None.

STAFF:  
Robert A. Stalzer, Deputy County Executive  
Fred R. Selden, Director, Department of Planning and Zoning, DPZ  
Michelle K. Stahlhut, Chief, Facilities Planning Branch, Planning Division, DPZ  
Douglas W. Hansen, Senior Planner, Facilities Planning Branch, Planning Division, DPZ

Board Agenda Item  
December 4, 2018

ADMINISTRATIVE – 3

Streets into the Secondary System (Providence and Springfield Districts)

ISSUE:

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

RECOMMENDATION:

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

<u>Subdivision</u>	<u>District</u>	<u>Street</u>
Metrowest Parcel 2 – Vaden Drive Extended	Providence	Vaden Drive
Gambrill Pointe	Springfield	Glen Pointe Court

TIMING:

Routine

BACKGROUND:

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

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Street Acceptance Forms

STAFF:

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

# Street Acceptance Form For Board Of Supervisors Resolution - June 2005

<b>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</b> Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.		<b>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</b> REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM. <b>PLAN NUMBER:</b> 8342-PI-002 <b>SUBDIVISION PLAT NAME:</b> Metrowest Parcel 2 - Vaden Drive Extended <b>COUNTY MAGISTERIAL DISTRICT:</b> Providence	
<b>ENGINEERING MANAGER:</b> Houda A. Ali, PMP <b>BY:</b> <u>Nadia Alphonse</u>		<b>FOR OFFICIAL USE ONLY</b> <b>DATE OF VDOT INSPECTION APPROVAL:</b> <u>09/18/2018</u>	

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Vaden Drive	CL Lee Highway (Route 29) - 785' NE CL Circle Woods Drive (Route 5996)	2,948' NW to CL Saintsbury Drive	0.56
<b>NOTES:</b>			<b>TOTALS:</b> 0.56
8' Asphalt Trail on West Side and All Curb Ramps (CG-12) are Privately Maintained			

## Street Acceptance Form For Board Of Supervisors Resolution - June 2005

<b>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</b>  <b>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</b>		<b>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</b>  REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.  <b>PLAN NUMBER:</b> 24746-SD-001 <b>SUBDIVISION PLAT NAME:</b> Gambrill Pointe <b>COUNTY MAGISTERIAL DISTRICT:</b> Springfield	
<b>ENGINEERING MANAGER:</b> Houda A. Ali, PMP <b>BY:</b> <u>Nadia Alphonse</u>		<b>FOR OFFICIAL USE ONLY</b>  <b>DATE OF VDOT INSPECTION APPROVAL:</b> <u>09/18/2018</u>	

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Glen Pointe Court	CL Ridge Creek Way (Route 6997) - 350' SE CL Shepherd Ridge Court (Route 6999)	1,049' SE to End of Cul-de-Sac	0.20
<b>TOTALS:</b>			0.20
<b>NOTES:</b>			
5' Concrete Sidewalk on Both Sides to be maintained by VDOT.			

ADMINISTRATIVE - 4

Supplemental Appropriation Resolution AS 19128 for the Fairfax County Economic Development Authority to Accept Grant Funding from the Commonwealth of Virginia – Commonwealth Development Opportunity Fund (COF) for the College Entrance Examination Board

ISSUE:

Board of Supervisors' approval of Supplemental Appropriation Resolution AS 19128 for the Fairfax County Economic Development Authority (FCEDA) to accept grant funding in the amount of \$750,000 from the Commonwealth of Virginia as part of the Commonwealth's Development Opportunity Fund for the College Entrance Examination Board (College Board). This grant will assist the County with the expansion of the College Board's operation. No Local Cash Match is required. However, Fairfax County will provide transportation/walkway improvements scheduled in the Hunter Mill District.

RECOMMENDATION:

The County Executive recommends that the Board approve Supplemental Appropriation Resolution AS 19128 for the FCEDA to accept grant funding in the amount of \$750,000 to convey to the College Board as the state portion of the grant. No Local Cash Match is required. Fairfax County will provide transportation improvements in the Hunter Mill District. The transportation improvements identified for the COF match are already planned and funded within the Fairfax County Department of Transportation, and will not require any additional County funding.

TIMING:

Board approval is requested on December 4, 2018.

BACKGROUND:

Fairfax County competed with another jurisdiction for the expansion of this regional headquarters operation. As part of the negotiations, the Commonwealth of Virginia supported the expansion of the College Board's business units within Fairfax County, with a Commonwealth's Development Opportunity Fund grant. The grant is a Performance Grant and a performance agreement has been executed to ensure, on behalf of Fairfax County and the Commonwealth of Virginia that the projected growth occurs.

As part of the Commonwealth's Development Opportunity Fund grant, Fairfax County must provide a local match which will be in the form of the Bluemont Way sidewalk improvement project, an improvement which is already planned and funded in the

Board Agenda Item  
December 4, 2018

County budget. This walkway improvement was identified by coordinating with the Fairfax County Department of Transportation.

FISCAL IMPACT:

Funding in the amount of \$750,000 will be provided to Fairfax County to be made available to the College Board for the costs of the tenant build-out of its facility in Reston as permitted by Section 2.2-115(C) of the Virginia Code and as permitted by the current COF statute. There is no Local Cash Match required. However, Fairfax County must provide acceleration of the construction of the Bluemont Way sidewalk project. This improvement has already been identified, planned, and funded within the Fairfax County Department of Transportation. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards. A schedule of COF payments has been set forth in the Performance Agreement with metrics that have been agreed upon.

If the College Board does not achieve its performance metrics as described in the Performance Agreement executed between Fairfax County, the Commonwealth of Virginia and the College Board then the College Board is responsible for paying that portion of the grant that it did not achieve back to Fairfax County. Fairfax County, in turn, will then refund to the Commonwealth of Virginia, the funds it received from the College Board. Fairfax County will not be held responsible for the financial shortfalls associated with performance metrics not met. The FCEDA will monitor the performance metrics and will provide to the Office of the County Executive information annually on the number of jobs and capital investment achieved during that time.

CREATION OF NEW POSITIONS:

No positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1: Supplemental Appropriation Resolution AS 19128

Attachment 2: Commonwealth Development Opportunity Fund Performance Agreement

Attachment 3: Notification of COF Award from the Commonwealth of Virginia

STAFF:

Gerald L. Gordon, President, FCEDA

Rodney Lusk, Director National Marketing, FCEDA

**SUPPLEMENTAL APPROPRIATION RESOLUTION AS 19128**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax Virginia on December 4, 2018, 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 2019, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund: 500-C50000, Federal-State Grant Fund

Agency: E1616, Economic Development Authority \$750,000

Grant: 1160012-2019, College Entrance Examination Board

Reduce Appropriation to:

Agency: G8787, Unclassified Admin \$750,000

Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: Commonwealth of Virginia, \$750,000

A Copy - Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors

## COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

### PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** (this "Agreement") made and entered this 24 day of MAY, 2018, by and among the **COUNTY OF FAIRFAX, VIRGINIA** (the "Locality") a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), the **FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY** (the "Authority"), a political subdivision of the Commonwealth, and the **COLLEGE ENTRANCE EXAMINATION BOARD** (the "Company"), a New York corporation authorized to transact business in the Commonwealth.

#### WITNESSETH:

WHEREAS, the Locality has been awarded a grant of and expects to receive \$750,000 from the Commonwealth's Development Opportunity Fund (a "COF Grant") through the Virginia Economic Development Partnership Authority ("VEDP") for the purpose of inducing the Company to lease, improve, equip, and operate, or cause to be leased, improved, equipped or operated, an expansion of its facility in the Locality located at 11955 Democracy Drive, Reston, Virginia and further identified by Fairfax County Tax Map No. 0173 10 0015 (the "Facility"), thereby making or causing to be made a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are hereinafter defined;

WHEREAS, the Locality is willing to provide the funds to the Authority with the expectation that the Authority will provide the funds to or for the use of the Company, provided that the Company promises to meet certain criteria relating to Capital Investment and New Jobs;

WHEREAS, the Locality, the Authority, and the Company desire to set forth herein their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, the obligations of the Company regarding Capital Investment and New Jobs, and the repayment by the Company of all or part of the COF Grant under certain circumstances;

WHEREAS, it is anticipated that the leasing, improvement, equipping, and operation of the Facility related to the expansion will entail a capital expenditure by or on behalf of the Company of approximately \$15,400,270, an approximately third of which is expected to be invested in furniture, fixtures and equipment and the rest in leasehold improvements to a leased building;

WHEREAS, it is anticipated that the leasing, improvement, equipping, and operation of the Facility related to the expansion will further entail the creation and Maintenance of 120 New Jobs at the Facility; and

WHEREAS, the Locality has determined that stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid

public purpose for the expenditure of public funds and is the animating purpose for the COF Grant:

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

**Section 1. Definitions.**

For the purposes of this Agreement, the following terms shall have the following definitions:

“Average Annual Wage” means the average annual salary of full-time positions at the Facility determined by dividing total payroll (of a type included in W-2 compensation) provided to full-time positions at the Facility by the number of full-time positions at the Facility.

“Capital Investment” means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at or for the Facility. A capital expenditure related to a leasehold interest in real property will be considered to be made “on behalf of the Company” if a lease between a developer or lessor and the Company is a capital lease, or is an operating lease having a term of at least ten years, and the real property would not have been constructed or improved but for the Company’s interest in leasing some or all of the real property. Any and all tenant improvement allowance for the Facility given from the lessor to the Company will count as “Capital Investment”. Only the capital expenditures allocated to the portion of the real property leased by the Company will count as “Capital Investment.” The purchase or lease of machinery and tools or furniture, fixtures, and equipment, including under an operating lease, and expected building up-fit and tenant improvements by or on behalf of the Company will qualify as Capital Investment. The Capital Investment must be in addition to the capital improvements made at the Facility as of February 1, 2018.

“Maintain” means that employees are being hired (and replaced, if necessary) by the Company for the New Jobs without any material interruption from the date of creation through the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company’s employment levels (so long as there is active recruitment for open positions), (ii) temporary openings created by retirement, resignation or termination of employees hired for the New Jobs, which positions are being replaced pursuant to active recruitment efforts, (iii) strikes, and (iv) other temporary work stoppages (including, without limitation, short-term disabilities, family leave and military duties).

“New Job” means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are provided by the Company for the employee, and for which the Company pays an Average Annual Wage of at least \$113,651. Each New Job must require a minimum of either (i) 35 hours of an employee’s time per week for the entire normal year of the Company’s operations, which “normal year” must consist of at least 48 weeks,

or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs. The New Jobs must be in addition to the 638 full-time jobs at the Facility as of February 1, 2018.

“Performance Date” means September 30, 2022. If the Locality, in consultation with the Authority and VEDP, reasonably deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, the Locality may request an extension of the Performance Date by up to 15 months. Any extension of the Performance Date shall require the prior approval of the Board of Directors of VEDP. If the Performance Date is extended, the Locality shall send written notice of the extension to the Authority, the Company, and VEDP and the date to which the Performance Date has been extended shall thereafter be the “Performance Date” for the purposes of this Agreement.

“Virginia Code” means the Code of Virginia of 1950, as amended.

## **Section 2. Targets; Statutory Criteria.**

(a) *Targets:* The Company will lease, improve, equip, and operate the Facility in the Locality, make a Capital Investment of at least \$15,400,270, and create and Maintain at least 120 New Jobs at the Facility, all as of the Performance Date (such obligation, “Targets”).

(b) *Encouragement to Fill New Jobs with Residents of the Commonwealth:* The Locality and the Authority strongly encourage the Company to ensure that at least 30% of the New Jobs are offered to “Residents” of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in Virginia or natural persons who, for an aggregate of more than 183 days of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

(c) *Prevailing Wage; Unemployment and Poverty Rates:* The Average Annual Wage of the New Jobs of at least \$113,651 is more than the prevailing average annual wage in the Locality of \$83,706. The Locality is not a high-unemployment locality, with an unemployment rate for 2016, which is the last year for which such data is available, of 3.2% as compared to the 2016 statewide unemployment rate of 4.0%. The Locality is not a high-poverty locality, with a poverty rate for 2016, which is the last year for which such data is available, of 6.0% as compared to the 2016 statewide poverty rate of 11.0%.

(d) *Disclosure of Political Contributions:* The Company acknowledges that the name of the Company will be shared by VEDP with the Governor of Virginia, and any campaign committee or political action committee associated with the Governor. The Company acknowledges that within 18 months of the date of this Performance Agreement, the Governor, his campaign committee, and his political action committee will submit to the Virginia Conflict of Interest and Ethics Advisory Council a report listing any contribution, gift, or other item with a value greater than \$100 provided by the Company to the Governor, his campaign committee, or

his political action committee, respectively, during the period from the date of the Company's application for the COF Grant through the one-year period immediately after the date of this Agreement.

### **Section 3. Disbursement of COF Grant.**

(a) *Disbursement of the COF Grant:* By execution and delivery of this Agreement, the Locality requests that the COF Grant be disbursed to it from the Commonwealth.

The disbursement of the COF Grant proceeds to the Company will serve as an inducement to the Company to achieve the Targets at the Facility. After receipt of the COF Grant proceeds and upon request by the Authority, the Locality will disburse the COF Grant proceeds to the Authority. The Authority will disburse the COF Grant proceeds to the Company in one payment as follows:

The Company will provide notice and evidence reasonably satisfactory to the Locality, the Authority, and VEDP that it has made Capital Investments of at least \$8,000,000 and created and Maintained at least 60 New Jobs. Such evidence will be subject to prompt verification by the Locality, the Authority, and VEDP. Within 30 days of the verification, the Authority will disburse all \$750,000 of the COF Grant proceeds to the Company.

If any COF Grant proceeds have not been disbursed to the Company within 90 days after the Performance Date, the Locality shall return such proceeds to VEDP for redeposit to the Commonwealth's Development Opportunity Fund.

(b) *Use of the COF Grant Proceeds:* The Company will use the COF Grant proceeds to pay or reimburse for the costs of build-out at the Facility and training, as permitted by Section 2.2-115(D) of the Virginia Code.

### **Section 4. Break-Even Point; State and Local Incentives.**

(a) *State-Level Incentives:* VEDP has estimated that the Commonwealth will reach its "break-even point" by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth's expenditures on incentives, including but not limited to the COF Grant. With regard to the Facility, the Commonwealth expects to provide the following incentive in the following amount:

<u>Category of Incentive:</u>	<u>Total Amount</u>
COF Grant	\$750,000

The proceeds of the COF Grant shall be used for the purposes described in Section 3(b).

(b) *Locality-Level Incentives:* Provided that the Commonwealth pays the COF Grant to the Locality, the Locality shall provide the following incentive, as a matching grant or otherwise, for the Facility by the Performance Date:

<u>Category of Incentive:</u>	<u>Total Amount</u>
Acceleration of the Bluemont Way Sidewalk Improvements	\$750,000

The Company acknowledges and agrees that the acceleration of the construction of the Bluemont Way Sidewalk Improvements was an important factor in the Company's decision to lease, improve, equip, and operate the Facility in the Locality. The Locality believes that the acceleration of the construction of the Bluemont Way Sidewalk Improvements will provide increased connectivity for pedestrians and bicyclists between the Facility and surrounding residential apartment buildings and townhomes and the soon-to-be constructed Metro at Reston Town Center.

If, by the Performance Date, the funds disbursed or committed to be disbursed by the Locality associated with the acceleration of the construction of the Bluemont Way Sidewalk Improvements total less than the \$750,000 COF Grant local match requirement, the Locality, subject to appropriation, will make an additional non-cash grant in the nature of public infrastructure improvements, to or for the benefit of the Company, of the difference at the Performance Date, so long as the Company has met its Targets. Any changes to the Locality's incentives from the improvements described above will require the prior approval of the Company and VEDP.

## **Section 5. Company Reporting.**

(a) *Progress Reporting:* The Company shall submit, at the Company's expense, a report to the Locality, the Authority, and VEDP detailing the Company's progress on the Targets. Such progress reports will be provided annually, starting at December 1, 2019, and covering the period through the prior September 30. The form of such report is attached as Exhibit A and includes: (i) the amount of Capital Investment made; (ii) the number of New Jobs created and Maintained; (iii) the Average Annual Wage paid to those New Jobs; (iv) a statement that the standard fringe benefits were provided to the holders of the New Jobs; and (v) the amount of Virginia corporate income tax paid by the Company to the Commonwealth, or, as applicable, a copy of its Virginia income tax form filed with respect to its status as a pass-through entity.

If the Company wishes to count as Capital Investments the capital expenditures made on its behalf by a lessor of the Facility, the Company is responsible for assembling and distributing the documentation necessary to verify the capital expenditures made on behalf of the Company.

VEDP has represented to the Company that it considers the Company's Virginia corporate income tax information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such information will be used

by VEDP solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

The Company shall provide progress reports at such other times as the Locality or VEDP may reasonably require.

(b) *Final Report:* The Company shall provide, at the Company's expense, a report to the Locality, the Authority, and VEDP detailing the Company's achievement of the Targets. The final report shall be filed at December 1, 2022. The form of such report is attached as Exhibit B.

## **Section 6. Verification of Targets.**

(a) *Verification of Capital Investment:* The Company hereby authorizes the Locality's Department of Tax Administration to release to VEDP the Company's real estate tax, business personal property tax and machinery and tools tax information. Such information shall be marked, considered and treated confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the Capital Investment Target. If the Locality's Department of Tax Administration should require additional documentation or consents from the Company to access such information, the Company shall promptly provide, at the Company's expense, such additional documentation or consents as the Locality or VEDP may request. In accordance with Virginia Code Section 58.1-3122.3, VEDP is entitled to receive the Company's real estate tax, business personal property tax and machinery and tools tax information.

In addition to the verification data described above, in the sole discretion of the Locality or of VEDP, the Locality or VEDP, respectively, may require such other documentation, including invoices, or audits as may be required to properly verify the Capital Investment, which shall be marked, considered and treated as confidential and proprietary.

(b) *Verification of New Jobs and Wages:* The Company must submit a copy of its four most recent Employer's Quarterly Tax Reports (Form FC-20) with the Virginia Employment Commission with the final report. The forms shall be marked, considered and treated confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the New Jobs Target. In accordance with Virginia Code Section 60.2-114, VEDP is entitled to receive the Company's employment level and wage information from the Virginia Employment Commission.

The Company agrees that it will report to the Virginia Employment Commission with respect to its employees at a facility-level, rather than at the company-level.

In addition to the verification data described above, in the sole discretion of the Locality or of VEDP, the Locality or VEDP, respectively, may require such other documentation or audits as may be required to properly verify the New Jobs.

## **Section 7. Repayment Obligation.**

(a) *If Statutory Minimum Eligibility Requirements are Not Met:* Section 2.2-115 of the Virginia Code requires that the Company make a Capital Investment of at least \$5,000,000 in the Facility and create and Maintain at least 50 New Jobs at the Facility in order to be eligible for the COF Grant. Failure by the Company to meet either of these statutory minimum eligibility requirements by the Performance Date shall constitute a breach of this Agreement and the Company must repay to the Authority all of the COF Grant proceeds previously disbursed to the Company. In such event, the Locality will repay to VEDP all of the COF Grant proceeds not previously disbursed to the Company.

(b) *Allocation of COF Proceeds:* Solely for purposes of repayment under subsection (c), the COF Grant is to be allocated as 50% (\$375,000) for the Company's Capital Investment Target, and 50% (\$375,000) for the Company's New Jobs Target.

(c) *If Statutory Minimum Eligibility Requirements are Met:* The provisions of this subsection (c) shall become applicable only if the Company has met the statutory minimum eligibility requirements set forth in subsection (a).

If the Company has met at least ninety percent (90%) of both of the Targets at the Performance Date, then and thereafter the Company is no longer obligated to repay any portion the COF Grant. If the Company has not met at least ninety percent (90%) of either or both of its Targets as of the Performance Date, the Company shall repay to the Authority that part of the COF Grant previously disbursed to the Company that is proportional to the Target or Targets for which there is a shortfall. For example, if as of the Performance Date, the Company has received all \$750,000 of the COF Grant proceeds, but the Capital Investment is only \$10,780,189 (representing 70% of the Capital Investment Target) and only 90 New Jobs have been created and Maintained (representing 75% of the New Jobs Target), the Company shall repay to the Authority \$112,500 (30%) of the COF Grant proceeds that it received allocated to the Capital Investment Target and \$93,750 (25%) of the COF Grant proceeds that it received allocated to the New Jobs Target (i.e., the percentages of the shortfall from the expected amount of Capital Investment and expected number of New Jobs, each multiplied by the portion of the COF Grant proceeds that the Company received allocated to that Target). In such event, the Locality will repay to VEDP all of the COF Grant proceeds not previously disbursed to the Company.

(d) *Determination of Inability to Comply:* If the Locality or VEDP shall reasonably determine at any time prior to the Performance Date (a "Determination Date") that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, the Company must repay to the Authority all of the COF Grant proceeds previously disbursed to the Company. In such event, the Locality will repay to VEDP all of the COF Grant proceeds not previously disbursed to the Company. Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates the Company will be unable or is unwilling to satisfy the Targets for the COF Grant.

(e) *Repayment Dates:* Repayment pursuant to this Section 7 shall be due from the Company to the Locality within ninety days after (i) the Performance Date if required to be made pursuant to Section (a) or (c) above or (ii) the Determination Date if required to be made pursuant to Section (d) above. Any moneys repaid by the Company to the Authority hereunder shall be repaid by the Authority to the Locality and shall be repaid by the Locality promptly to VEDP for redeposit into the Commonwealth's Development Opportunity Fund. The Locality and the Authority shall use reasonable efforts to recover such funds, including legal action for breach of this Agreement. Neither the Locality nor the Authority shall have any responsibility for the repayment of any sums payable by the Company hereunder unless said sums have been received by the Locality or the Authority from the Company.

#### **Section 8. Notices.**

Formal notices and communications between the Parties shall be given either by (i) personal service, (ii) delivery by a reputable document delivery service that provides a receipt showing date and time of delivery, (iii) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, or (iv) delivery by facsimile or electronic mail (email) with transmittal confirmation and confirmation of delivery, addressed as noted below. Notices and communications personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices and communications mailed shall be deemed effective on the second business day following deposit in the United States mail. Notices and communications delivered by facsimile or email shall be deemed effective the next business day, not less than 24 hours, following the date of transmittal and confirmation of delivery to the intended recipient. Such written notices and communications shall be addressed to:

if to the Company, to:

with a copy to:

College Entrance Examination Board  
11955 Democracy Dr  
Reston, VA 20190  
Facsimile: 571-485-3664  
Email: [wmerrill@collegeboardl.org](mailto:wmerrill@collegeboardl.org)  
Attention: Wells Merrill, Associate Director,  
Strategic Sourcing

College Entrance Examination Board  
250 Vesey Street  
New York, NY 10281\_\_\_Attention: General  
Counsel

if to the Locality, to:

with a copy to:

County of Fairfax, Virginia  
12000 Government Center Parkway  
Suite 552  
Fairfax, Virginia 22035-0066  
Facsimile: 703.324.3956  
Email: Bryan.Hill@FairfaxCounty.gov  
Attention: Bryan J. Hill, County Executive

County of Fairfax, Virginia  
12000 Government Center Parkway  
Suite 552  
Fairfax, Virginia 22035-0066  
Facsimile: 703.324.2665  
Attention: County Attorney

if to the Authority, to

Fairfax County Economic Development  
Authority  
8300 Boone Boulevard  
Suite 450  
Tysons Corner, Virginia 22182  
Facsimile: 703.813.1269  
Email: ggordon@fceda.org  
Attention: Gerald L. Gordon, Ph. D., President  
and CEO

if to VEDP, to:

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Facsimile: 804.545.5611  
Email: moret@yesvirginia.org  
Attention: President and CEO

with a copy to:

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Facsimile: 804.545.5611  
Email: smcninch@yesvirginia.org  
Attention: General Counsel

**Section 8. Miscellaneous.**

(a) *Entire Agreement; Amendments:* This Agreement constitutes the entire agreement among the parties hereto as to the COF Grant and may not be amended or modified, except in writing, signed by each of the parties hereto and consented to by VEDP. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality, the Authority and VEDP.

(b) *Governing Law; Venue:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the County of Fairfax, and such litigation shall be brought only in such court. In the event of such litigation, the Locality shall notify the President and CEO of VEDP in writing.

(c) *Counterparts:* This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability:* If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

(e) *Attorney's Fees:* Attorney's fees shall be paid by the party incurring such fees.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement as of the date first written above.

**COUNTY OF FAIRFAX, VIRGINIA**

By [Signature]  
Name: Bryan J. Hill  
Title: County Executive  
Date: July 09, 2018

**COLLEGE ENTRANCE  
EXAMINATION BOARD**

By [Signature]  
Name: DAVID Coleman  
Title: CEO  
Date: May 24, 2018

**FAIRFAX COUNTY ECONOMIC  
DEVELOPMENT AUTHORITY**

By [Signature]  
Name: Gerald L. Gordon  
Title: President/CEO  
Date: 7/31/18

Exhibit A: Annual Progress Report Form

Exhibit B: Final Report Form

Exhibit A

## ANNUAL PROGRESS REPORT COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

**PROJECT SUMMARY:**

Project	
Location	
Amount of Grant	
Performance Reporting Period	
Performance Date	

**PROJECT PERFORMANCE:**

Performance Measurement	Target	As of _____	% Complete
<b>New Jobs</b> (over baseline) <sup>1</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Capital Investment</b> (provide breakdown below) <sup>2</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Average Annual Wage</b>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Standard Fringe Benefits</b>			
<b>Virginia Corporate Income Tax Paid in Prior Calendar Year</b> <sup>3</sup>	\$		

<sup>1</sup>Data will be verified using Virginia Employment Commission records.

<sup>2</sup>Data will be verified with locality records.

<sup>3</sup>This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA.

<b>Capital Investment Breakdown</b>	<b>Amount</b>
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation	\$
Production Machinery and Tools	\$
Other Furniture, Fixtures and Equipment	\$
<b>Total</b>	<b>\$</b>

### COMMENTS:

Discuss project status, including the current level of new jobs and capital investment, progress on the targets, changes or likely changes in the project's nature that may impact achievement of the targets, and other information relevant to the project performance. If the project is not on track to meet the targets, please provide an explanation.

### TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Please return to:

Kim Ellett, Incentives Coordinator, Virginia Economic Development Partnership, 804-545-5618, [kelleth@yesvirginia.org](mailto:kelleth@yesvirginia.org)

## FINAL REPORT COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

### PROJECT SUMMARY:

Project	
Location	
Amount of Grant	
Performance Date	
Subsequent Performance Date	If applicable

### PROJECT PERFORMANCE:<sup>1</sup>

Performance Measurement	Target	As of _____	% Complete
New Jobs (over __ baseline) <sup>2</sup>			
Capital Investment (provide breakdown below) <sup>3</sup>			
Average Annual Wage			
Standard Fringe Benefits (check one)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A
Virginia Corporate Income Tax Paid in Prior Calendar Year <sup>4</sup>	\$		

Capital Investment Breakdown	Amount
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Upfit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	
<b>Total</b>	<b>\$</b>

<sup>1</sup>Final, actual performance will be reported on VEDP's public reporting website.

<sup>2</sup> Attach the company's four most recent Quarterly Tax Reports (Form FC-20) filed with the Virginia Employment Commission.

<sup>3</sup> Data will be verified using records from the Commissioner of the Revenue and invoices.

<sup>4</sup>This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA.

**LOCAL MATCH:**

Committed	
Actual	

**COMMENTS:**

Discuss the project status or the importance of the project to the locality and the region.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Please return to:

Kim Ellett  
Incentives Coordinator  
Virginia Economic Development Partnership  
804-545-5618  
kellett@yesvirginia.org

September 12, 2018

Dr. Gerald Gordon  
President and Chief Executive Officer  
Fairfax County Economic Development Authority  
8300 Boone Boulevard, Suite 450  
Vienna, Virginia 22182

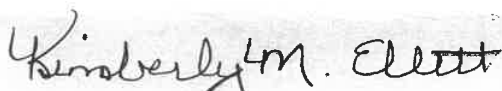
Dear Jerry:

Thank you for your efforts in bringing Appian and College Board to Fairfax County. The support of local economic developers, in cooperation with the Virginia Economic Development Partnership, is essential in bringing quality businesses to the Commonwealth.

Please find enclosed the \$4,000,000 and \$750,000 checks from the Commonwealth's Opportunity Fund to be used for Appian and College Board, respectively. As required by the performance agreements, Appian and College Board are required to submit annual progress reports on their employment and investment targets. The first of these reports for both companies are due December 1, 2019, covering the period through the prior September 30.

Your economic development team has done an outstanding job on these projects. We look forward to working with you again in the near future to bring business to Fairfax and the Commonwealth. Thank you again, and keep up the good work.

Sincerely,



Kimberly M. Ellett  
Incentives Coordinator

/kme

Enclosure

Board Agenda Item  
December 4, 2018

ADMINISTRATIVE - 5

Supplemental Appropriation Resolution AS 19127 for the Fairfax County Economic Development Authority to Accept Grant Funding from the Commonwealth of Virginia – Commonwealth Development Opportunity Fund (COF) for Appian Corporation

ISSUE:

Board of Supervisors' approval of Supplemental Appropriation Resolution AS 19127 for the Fairfax County Economic Development Authority (FCEDA) to accept grant funding in the amount of \$4,000,000 from the Commonwealth of Virginia as part of the Commonwealth's Development Opportunity Fund for Appian Corporation (Appian). This grant will assist the County with the expansion of Appian's operation. No Local Cash Match is required. However, Fairfax County will provide transportation improvements scheduled in the Providence District.

RECOMMENDATION:

The County Executive recommends that the Board approve Supplemental Appropriation Resolution AS 19127 for the FCEDA to accept the grant funding in the amount of \$4,000,000 to convey to Appian as the state portion of the grant. No Local Cash Match is required. Fairfax County will provide transportation improvements in the Providence District. The transportation improvements identified for the COF match are already planned and funded within the Fairfax County Department of Transportation, and will not require any additional County funding.

TIMING:

Board approval is requested on December 4, 2018.

BACKGROUND:

Fairfax County competed with another jurisdiction for the expansion of this headquarters operation. As part of the negotiations, the Commonwealth of Virginia supported the expansion of Appian's business units within Fairfax County, with a Commonwealth's Development Opportunity Fund grant. The grant is a Performance Grant and a performance agreement has been executed to ensure, on behalf of Fairfax County and the Commonwealth of Virginia that the projected growth occurs.

As part of the Commonwealth's Development Opportunity Fund grant, Fairfax County must provide a local match which will be in the form of the Lincoln Street project, a roadway improvement which is already planned and funded in the County budget. The road improvement was identified by coordinating with the Fairfax County Department of Transportation.

Board Agenda Item  
December 4, 2018

In addition, as stated in the Performance Agreement, the Commonwealth of Virginia will provide the following incentive. Please note that this does not pass through the County nor does it require a County match.

- Estimated funding of \$288,000 from the Virginia Jobs Investment Program (VJTIP)

FISCAL IMPACT:

Funding in the amount of \$4,000,000 will be provided to Fairfax County to be made available to Appian for the costs of the tenant build-out of its facility in Tysons as permitted by Section 2.2-115(C) of the Virginia Code and as permitted by the current COF statute. There is no Local Cash Match required. However, Fairfax County must provide acceleration of the construction of the Lincoln Street project. This improvement has already been identified, planned, and funded within the Fairfax County Department of Transportation. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards. A schedule of COF payment has been set forth in the Performance Agreement with metrics that have been agreed upon.

If Appian does not achieve its performance metrics as described in the Performance Agreement executed between Fairfax County, the Commonwealth of Virginia and Appian then Appian is responsible for paying that portion of the grant that it did not achieve back to Fairfax County. Fairfax County, in turn, will then refund to the Commonwealth of Virginia, the funds it received from Appian. Fairfax County will not be held responsible for the financial shortfalls associated with performance metrics not met. The FCEDA will monitor the performance metrics and will provide to the Office of the County Executive information annually on the number of jobs and capital investment achieved during that time.

CREATION OF NEW POSITIONS:

No positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1: Supplemental Appropriation Resolution AS 19127

Attachment 2: Commonwealth Development Opportunity Fund Performance Agreement

Attachment 3: Notification of COF Award from the Commonwealth of Virginia

STAFF:

Gerald L. Gordon, President, FCEDA

Rodney Lusk, Director National Marketing, FCEDA

**SUPPLEMENTAL APPROPRIATION RESOLUTION AS 19127**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax Virginia on December 4, 2018, 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 2019, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund: 500-C50000, Federal-State Grant Fund

Agency: E1616, Economic Development Authority \$4,000,000

Grant: 1160010-2019, Appian Corporation

Reduce Appropriation to:

Agency: G8787, Unclassified Admin \$4,000,000

Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: Commonwealth of Virginia, \$4,000,000

A Copy - Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors

**COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**  
**PERFORMANCE AGREEMENT**

This **PERFORMANCE AGREEMENT** (this "Agreement") made and entered this 30 day of April, 2018, by and among the **COUNTY OF FAIRFAX, VIRGINIA** (the "Locality"), a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), the **FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY** (the "Authority"), a political subdivision of the Commonwealth, and **APPIAN CORPORATION** (the "Company"), a Delaware corporation authorized to transact business in the Commonwealth.

**WITNESSETH:**

WHEREAS, the Locality has been awarded a grant of and expects to receive \$4,000,000 from the Commonwealth's Development Opportunity Fund (a "COF Grant") through the Virginia Economic Development Partnership Authority ("VEDP") for the purpose of inducing the Company to lease, improve, equip, and operate, or cause to be leased, improved, equipped or operated, a headquarters and software development facility in the Locality located to be at 7950 Jones Branch Drive, Tysons Corner, Virginia, and further identified by Fairfax County Tax Map No. 0292 15 01 (the "Facility"), thereby making or causing to be made a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are hereinafter defined;

WHEREAS, the Locality is willing to provide the funds to the Authority with the expectation that the Authority will provide the funds to or for the use of the Company, provided that the Company promises to meet certain criteria relating to Capital Investment and New Jobs;

WHEREAS, the Locality, the Authority, and the Company desire to set forth their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, the obligations of the Company regarding Capital Investment and New Jobs, and the repayment by the Company of all or part of the COF Grant under certain circumstances;

WHEREAS, it is anticipated that the leasing, improvement, equipping, and operation of the Facility related will entail a capital expenditure by or on behalf of the Company of approximately \$28,460,000, of which approximately \$4,760,000 will be invested in furniture, fixtures and equipment and approximately \$23,700,000 will be invested in leasehold improvements and other up-fits to a leased building;

WHEREAS, it is anticipated that the leasing, improvement, equipping, and operation of the Facility related will further entail the creation and Maintenance of 600 New Jobs at the Facility; and

WHEREAS, the Locality has determined that stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the COF Grant:

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

**Section 1. Definitions.**

For the purposes of this Agreement, the following terms shall have the following definitions:

“Average Annual Wage” means the average annual salary of full-time positions at the Facility determined by dividing total payroll (of a type included in W-2 compensation) provided to full-time positions at the Facility by the number of full-time positions at the Facility.

“Capital Investment” means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at the Facility. A capital expenditure related to a leasehold interest in real property will be considered to be made “on behalf of the Company” if a lease between a developer or lessor and the Company is a capital lease, or is an operating lease having a term of at least ten years, and the real property would not have been constructed or improved but for the Company’s interest in leasing some or all of the real property. Only the capital expenditures allocated to the portion of the real property leased by the Company will count as “Capital Investment.” The purchase or lease of machinery and tools or furniture, fixtures, and equipment, including under an operating lease, and expected building up-fit and tenant improvements by or on behalf of the Company will qualify as Capital Investment. The Capital Investment must be in addition to the capital improvements at the Facility as of April 1, 2018.

“Maintain” means that the New Jobs will continue without interruption from the date of creation through the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company’s employment levels (so long as there is active recruitment for open positions), (ii) strikes, and (iii) other temporary work stoppages.

“New Job” means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are provided by the Company for the employee, and for which the Company pays an Average Annual Wage of at least \$115,000. Each New Job must require a minimum of either (i) 35 hours of an employee’s time per week for the entire normal year of the Company’s operations, which “normal year” must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs. The New Jobs must be in addition to the Company’s 574 full-time jobs in the Locality as of April 1, 2018 that are expected to be moved by the Company into the Facility by June 1, 2019.

“Performance Date” means September 30, 2023. If the Locality, in consultation with the Authority and VEDP, deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, the Locality may request an extension of the Performance Date by up to 15 months. Any extension of the Performance Date shall require the prior approval of the Board of Directors of VEDP. If the Performance Date is extended, the Locality shall send written notice of the extension to the Authority, the Company, and VEDP and the date to which the Performance Date has been extended shall be the “Performance Date” for the purposes of this Agreement.

“Targets” means the Company’s obligations to make or cause to be made Capital Investments at the Facility of at least \$28,460,000 and to create and Maintain at least 600 New Jobs at the Facility, all as of the Performance Date.

“Virginia Code” means the Code of Virginia of 1950, as amended.

## **Section 2. Targets; Statutory Criteria.**

(a) *Targets:* The Company will lease, improve, equip, and operate the Facility in the Locality, make or cause to be made a Capital Investment of at least \$28,460,000, and create and Maintain at least 600 New Jobs at the Facility, all as of the Performance Date.

(b) *Encouragement to Fill New Jobs with Residents of the Commonwealth:* The Locality and the Authority strongly encourage the Company to ensure that at least 30% of the New Jobs are offered to “Residents” of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in Virginia or natural persons who, for an aggregate of more than 183 days of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

(c) *Prevailing Wage; Unemployment and Poverty Rates:* The Average Annual Wage of the New Jobs of at least \$115,000 is more than the prevailing average annual wage in the Locality of \$83,706. The Locality is not a high-unemployment locality, with an unemployment rate for 2016, which is the last year for which such data is available, of 3.2% as compared to the 2016 statewide unemployment rate of 4.0%. The Locality is not a high-poverty locality, with a poverty rate for 2016, which is the last year for which such data is available, of 6.0% as compared to the 2016 statewide poverty rate of 11.0%.

(d) *Disclosure of Political Contributions:* The Company acknowledges that the name of the Company will be shared by VEDP with the Governor of Virginia, and any campaign committee or political action committee associated with the Governor. The Company acknowledges that within 18 months of the date of this Performance Agreement, the Governor, his campaign committee, and his political action committee will submit to the Virginia Conflict of Interest and Ethics Advisory Council a report listing any contribution, gift, or other item with a value greater than \$100 provided by the Company to the Governor, his campaign committee, or his political action committee, respectively, during the period from the date of the Company’s application for the COF Grant through the one-year period immediately after the date of this Agreement.

### **Section 3. Disbursement of COF Grant.**

(a) *Disbursement of the COF Grant:* By execution and delivery of this Agreement, the Locality requests that the COF Grant be disbursed to it.

The disbursement of the COF Grant proceeds to the Company will serve as an inducement to the Company to achieve the Targets at the Facility. After receipt of the COF Grant proceeds and upon request by the Authority, the Locality will disburse the COF Grant proceeds to the Authority. The Authority will disburse the COF Grant proceeds to the Company in three payments, as follows:

*First Payment:* The Company will provide notice and evidence reasonably satisfactory to the Locality, the Authority, and VEDP that it has made or caused to be made Capital Investments of at least \$22,300,000 and created and Maintained at least 240 New Jobs. Such evidence will be subject to verification by the Locality, the Authority, and VEDP. Within 30 days of the verification, the Authority will disburse \$1,000,000 of the COF Grant proceeds to the Company.

*Second Payment:* The Company will provide notice and evidence reasonably satisfactory to the Locality, the Authority, and VEDP that it has made or caused to be made additional Capital Investments of at least \$3,100,000 (for an aggregate of \$25,400,000) and created and Maintained at least 120 additional New Jobs (for an aggregate of 360). Such evidence will be subject to verification by the Locality, the Authority, and VEDP. Within 30 days of the verification, the Authority will disburse another \$1,000,000 of the COF Grant proceeds to the Company.

*Third Payment:* The Company will provide notice and evidence reasonably satisfactory to the Locality, the Authority, and VEDP that it has made or caused to be made additional Capital Investments of at least \$3,060,000 (for an aggregate of \$28,460,000) and created and Maintained at least 120 additional New Jobs (for an aggregate of 480). Such evidence will be subject to verification by the Locality, the Authority, and VEDP. Within 30 days of the verification, the Authority will disburse the remaining \$2,000,000 of the COF Grant proceeds to the Company.

If any COF Grant proceeds have not been disbursed to the Company within 90 days after the Performance Date, the Locality shall return such proceeds to VEDP for redeposit to the Commonwealth's Development Opportunity Fund.

(b) *Use of the COF Grant Proceeds:* The Company will use the COF Grant proceeds to pay or reimburse for the costs of build-out at the Facility, as permitted by Section 2.2-115(D) of the Virginia Code.

#### **Section 4. Break-Even Point; State and Local Incentives.**

(a) *State-Level Incentives:* VEDP has estimated that the Commonwealth will reach its “break-even point” by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth’s expenditures on incentives, including but not limited to the COF Grant. With regard to the Facility, the Commonwealth expects to provide the following incentives in the following amounts:

<u>Category of Incentive:</u>	<u>Total Amount</u>
COF Grant	\$4,000,000
Virginia Jobs Investment Program (“VJIP”) (Estimated)	288,000

The proceeds of the COF Grant shall be used for the purposes described in Section 3(b). The VJIP grant proceeds shall be used by the Company to pay or reimburse itself for recruitment and training costs.

(b) *Locality-Level Incentives:* Provided that the Commonwealth pays the COF Grant to the Locality, the Locality shall provide the following incentive, as a matching grant or otherwise, for the Facility by the Performance Date:

<u>Category of Incentive:</u>	<u>Total Amount</u>
Acceleration of the Lincoln Street Project Improvements	\$4,000,000

The Company acknowledges and agrees that the acceleration of the construction of the Lincoln Street Project Improvements was an important factor in the Company’s decision to lease, improve, equip, and operate the Facility in the Locality. The Locality believes that the acceleration of the construction of the Lincoln Street Project Improvements will provide increased connectivity for automobile, pedestrian and bicycle traffic to and from the Facility and additional travel access for the surrounding area.

If, by the Performance Date, the funds disbursed or committed to be disbursed by the Locality associated with the Lincoln Street Project Improvements total less than the \$4,000,000 COF Grant local match requirement, the Locality, subject to appropriation, will make an additional non-cash grant in the nature of public infrastructure improvements, to or for the benefit of the Company, of the difference at the Performance Date, so long as the Company has met its Targets. Any changes to the Locality’s incentives from the improvements described above will require the prior approval of the Company and VEDP.

(c) *Other Incentives:* This Agreement relates solely to the COF Grant. The qualification for, and payment of all State-Level Incentives and Locality-Level Incentives, except for the COF Grant, will be governed by separate arrangements between the Company and the entities offering the other incentives.

## **Section 5. Company Reporting.**

(a) *Progress Reporting:* The Company shall submit, at the Company's expense, a report to the Locality, the Authority, and VEDP detailing the Company's progress on the Targets. Such progress reports will be provided annually, starting at December 1, 2019, and covering the period through the prior September 30. The form of such report is attached as Exhibit A and includes: (i) the amount of Capital Investment made; (ii) the number of New Jobs created and Maintained; (iii) the Average Annual Wage paid to those New Jobs; (iv) a statement that the standard fringe benefits were provided to the holders of the New Jobs; and (v) the amount of Virginia corporate income tax paid by the Company to the Commonwealth.

If the Company wishes to count as Capital Investments the capital expenditures made on its behalf by a developer or lessor of the Facility, the Company is responsible for assembling and distributing the documentation necessary to verify the capital expenditures made on behalf of the Company.

VEDP has represented to the Company that it considers the Company's Virginia corporate income tax information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such information will be used by VEDP solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

The Company shall provide progress reports at such other times as the Locality or VEDP may reasonably require.

(b) *Final Report:* The Company shall provide, at the Company's expense, a report to the Locality, the Authority, and VEDP detailing the Company's achievement of the Targets. The final report shall be filed at December 1, 2023. The form of such report is attached as Exhibit B.

## **Section 6. Verification of Targets.**

(a) *Verification of Capital Investment:* The Company hereby authorizes the Locality's Department of Tax Administration to release to VEDP the Company's real estate tax, business personal property tax and machinery and tools tax information. Such information shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the Capital Investment Target. If the Locality's Department of Tax Administration should require additional documentation or consents from the Company to access such information, the Company shall promptly provide, at the Company's expense, such additional documentation or consents as the Locality or VEDP may request. In accordance with Virginia Code Section 58.1-3122.3, VEDP is entitled to receive the Company's real estate tax, business personal property tax and machinery and tools tax information.

In addition to the verification data described above, in the sole discretion of the Locality or of VEDP, the Locality or VEDP, respectively, may require such other documentation, including invoices, or audits as may be required to properly verify the Capital Investment.

(b) *Verification of New Jobs and Wages:* The Company must submit a copy of its most recent Employer's Quarterly Tax Report (Form FC-20) with the Virginia Employment Commission with each progress report and the final report. The form shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the New Jobs Target. In accordance with Virginia Code Section 60.2-114, VEDP is entitled to receive the Company's employment level and wage information from the Virginia Employment Commission.

The Company agrees that it will report to the Virginia Employment Commission with respect to its employees at a facility-level, rather than at the company-level.

In addition to the verification data described above, in the sole discretion of the Locality or of VEDP, the Locality or VEDP, respectively, may require such other documentation or audits as may be required to properly verify the New Jobs.

#### **Section 7. Repayment Obligation.**

(a) *If Statutory Minimum Eligibility Requirements are Not Met:* Section 2.2-115 of the Virginia Code requires that the Company make or cause to be made a Capital Investment of at least \$5,000,000 in the Facility and create and Maintain at least 50 New Jobs at the Facility in order to be eligible for the COF Grant. Failure by the Company to meet either of these statutory minimum eligibility requirements by the Performance Date shall constitute a breach of this Agreement and the Company must repay to the Authority all of the COF Grant proceeds previously disbursed to the Company. In such event, the Locality will repay to VEDP all of the COF Grant proceeds not previously disbursed to the Company.

(b) *Allocation of COF Proceeds:* Solely for purposes of repayment under subsection (c), the COF Grant is to be allocated as 50% (\$2,000,000) for the Company's Capital Investment Target, and 50% (\$2,000,000) for the Company's New Jobs Target.

(c) *If Statutory Minimum Eligibility Requirements are Met:* The provisions of this subsection (c) shall become applicable only if the Company has met the statutory minimum eligibility requirements set forth in subsection (a).

If the Company has met at least ninety percent (90%) of both of the Targets at the Performance Date, then and thereafter the Company is no longer obligated to repay any portion the COF Grant. If the Company has not met at least ninety percent (90%) of either or both of its Targets as of the Performance Date, the Company shall repay to the Authority that part of the COF Grant previously disbursed to the Company that is proportional to the Target or Targets for which there is a shortfall. For example, if as of the Performance Date, the Company has received all \$4,000,000 of the COF Grant proceeds, but the Capital Investment is only \$21,345,000 (representing 75% of the Capital Investment Target) and only 300 New Jobs have been created and Maintained (representing 50% of the New Jobs Target), the Company shall repay to the Authority \$500,000 (25%) of the COF Grant proceeds that it received allocated to the Capital Investment Target and \$1,000,000 (50%) of the COF Grant proceeds that it received

allocated to the New Jobs Target (i.e., the percentages of the shortfall from the expected amount of Capital Investment and expected number of New Jobs, each multiplied by the portion of the COF Grant proceeds that the Company received allocated to that Target). In such event, the Locality will repay to VEDP all of the COF Grant proceeds not previously disbursed to the Company.

(d) *Determination of Inability to Comply:* If the Locality or VEDP shall determine at any time prior to the Performance Date (a "Determination Date") that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, the Company must repay to the Authority all of the COF Grant proceeds previously disbursed to the Company. In such event, the Locality will repay to VEDP all of the COF Grant proceeds not previously disbursed to the Company. Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates the Company will be unable or is unwilling to satisfy the Targets for the COF Grant.

(e) *Repayment Dates:* Repayment pursuant to this Section 7 shall be due from the Company to the Locality within ninety days after (i) the Performance Date if required to be made pursuant to subsection (a) or (c) above or (ii) the Determination Date if required to be made pursuant to subsection (d) above. Any moneys repaid by the Company to the Authority hereunder shall be repaid by the Authority to the Locality and shall be repaid by the Locality promptly to VEDP for redeposit into the Commonwealth's Development Opportunity Fund. The Locality and the Authority shall use reasonable efforts to recover such funds, including legal action for breach of this Agreement. Neither the Locality nor the Authority shall have any responsibility for the repayment of any sums payable by the Company hereunder unless said sums have been received by the Locality or the Authority from the Company.

## **Section 8. Notices.**

Formal notices and communications between the Parties shall be given either by (i) personal service, (ii) delivery by a reputable document delivery service that provides a receipt showing date and time of delivery, (iii) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, or (iv) delivery by facsimile or electronic mail (email) with transmittal confirmation and confirmation of delivery, addressed as noted below. Notices and communications personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices and communications mailed shall be deemed effective on the second business day following deposit in the United States mail. Notices and communications delivered by facsimile or email shall be deemed effective the next business day, not less than 24 hours, following the date of transmittal and confirmation of delivery to the intended recipient. Such written notices and communications shall be addressed to:

if to the Company, to:

with a copy to:

Appian Corporation  
Chief Financial Officer  
11955 Democracy Drive  
Reston, VA 20190\*  
Facsimile: \_\_\_\_\_  
Email: mark.lynch@appian.com  
Attention: Mark Lynch

\*After June 1, 2019:  
Appian Corporation  
Chief Financial Officer  
7950 Jones Branch  
McLean, Virginia  
Facsimile: \_\_\_\_\_  
Email: mark.lynch@appian.com  
Attention: Mark Lynch

Appian Corporation  
General Counsel  
11955 Democracy Drive  
Reston, VA 20190\*  
Facsimile: \_\_\_\_\_  
Email: chris.winters@appian.com  
Attention: Christopher Winters

\*After June 1, 2019:  
Appian Corporation  
General Counsel  
7950 Jones Branch  
McLean, Virginia  
Facsimile: \_\_\_\_\_  
Email: chris.winters@appian.com  
Attention: Christopher Winters

if to the Locality, to:

County of Fairfax, Virginia  
12000 Government Center Parkway  
Suite 552  
Fairfax, Virginia 22035-0066  
Facsimile: 703.324.3956  
Email: Bryan.Hill@FairfaxCounty.gov  
Attention: Bryan J. Hill, County Executive

with a copy to:

County of Fairfax, Virginia  
12000 Government Center Parkway  
Suite 552  
Fairfax, Virginia 22035-0066  
Facsimile: 703.324.2665  
Attention: County Attorney

if to the Authority, to

Fairfax County Economic Development  
Authority  
8300 Boone Boulevard  
Suite 450  
Tysons Corner, Virginia 22182  
Facsimile: 703.813.1269  
Email: ggordon@fceda.org  
Attention: Gerald L. Gordon, Ph. D., President  
and CEO

if to VEDP, to:

with a copy to:

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Facsimile: 804.545.5611  
Email: moret@yesvirginia.org  
Attention: President and CEO

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Facsimile: 804.545.5611  
Email: smcninch@yesvirginia.org  
Attention: General Counsel

**Section 8. Miscellaneous.**

(a) *Entire Agreement; Amendments:* This Agreement constitutes the entire agreement among the parties hereto as to the COF Grant and may not be amended or modified, except in writing, signed by each of the parties hereto and consented to by VEDP. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality, the Authority and VEDP.

(b) *Governing Law; Venue:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the County of Fairfax, and such litigation shall be brought only in such court. In the event of such litigation, the Locality shall notify the President and CEO of VEDP in writing.

(c) *Counterparts:* This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability:* If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

(e) *Attorney's Fees:* Attorney's fees shall be paid by the party incurring such fees.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement as of the date first written above.

**COUNTY OF FAIRFAX, VIRGINIA**

By J Hill  
Name: Bryan J. Hill  
Title: County Executive  
Date: July 09, 2018

**APPIAN CORPORATION**

By M. K. Lyne  
Name: M. K. Lyne  
Title: CEO  
Date: 7/30/18

**FAIRFAX COUNTY ECONOMIC  
DEVELOPMENT AUTHORITY**

By Donald L. Gordon  
Name: Donald L. Gordon  
Title: President/CEO  
Date: 7/31/18

Exhibit A: Annual Progress Report Form

Exhibit B: Final Report Form

**COMMENTS:**

Discuss project status, including the current level of new jobs and capital investment, progress on the targets, changes or likely changes in the project's nature that may impact achievement of the targets, and other information relevant to the project performance. If the project is not on track to meet the targets, please provide an explanation.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Please return to:

Kim Ellett  
Incentives Coordinator  
Virginia Economic Development Partnership  
804-545-5618  
kellett@yesvirginia.org

## FINAL REPORT COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

### PROJECT SUMMARY:

Project	
Location	
Amount of Grant	
Performance Date	
Subsequent Performance Date	If applicable

### PROJECT PERFORMANCE:<sup>1</sup>

Performance Measurement	Target	As of _____	% Complete
New Jobs (over ___ baseline) <sup>2</sup>			
Capital Investment (provide breakdown below) <sup>3</sup>			
Average Annual Wage			N/A
Standard Fringe Benefits (check one)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A
Virginia Corporate Income Tax Paid in Prior Calendar Year <sup>4</sup>	\$		

Capital Investment Breakdown	Amount
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Upfit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	
<b>Total</b>	<b>\$</b>

<sup>1</sup>Final, actual performance will be reported on VEDP's public reporting website.

<sup>2</sup> Attach the company's four most recent Quarterly Tax Reports (Form FC-20) filed with the Virginia Employment Commission.

<sup>3</sup> Data will be verified using records from the Commissioner of the Revenue and any invoices which may be required to evidence the capital investment.

<sup>4</sup>This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA.

**LOCAL MATCH:**

Committed	
Actual	

**COMMENTS:**

Discuss the project status or the importance of the project to the locality and the region.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Please return to:

Kim Ellett  
Incentives Coordinator  
Virginia Economic Development Partnership  
804-545-5618  
kellett@yesvirginia.org



September 12, 2018

Dr. Gerald Gordon  
President and Chief Executive Officer  
Fairfax County Economic Development Authority  
8300 Boone Boulevard, Suite 450  
Vienna, Virginia 22182

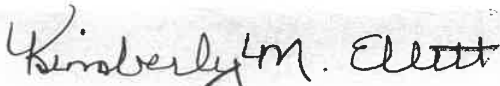
Dear Jerry:

Thank you for your efforts in bringing Appian and College Board to Fairfax County. The support of local economic developers, in cooperation with the Virginia Economic Development Partnership, is essential in bringing quality businesses to the Commonwealth.

Please find enclosed the \$4,000,000 and \$750,000 checks from the Commonwealth's Opportunity Fund to be used for Appian and College Board, respectively. As required by the performance agreements, Appian and College Board are required to submit annual progress reports on their employment and investment targets. The first of these reports for both companies are due December 1, 2019, covering the period through the prior September 30.

Your economic development team has done an outstanding job on these projects. We look forward to working with you again in the near future to bring business to Fairfax and the Commonwealth. Thank you again, and keep up the good work.

Sincerely,



Kimberly M. Ellett  
Incentives Coordinator

/kme

Enclosure

Board Agenda Item  
December 4, 2018

ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing to Lease County-Owned Property at 5645 Revercomb Court to NCWPCS MPL 27 – Year Sites Tower Holdings LLC (Springfield District)

ISSUE:

Authorization to advertise a public hearing to lease County-owned property to NCWPCS MPL 27 – Year Sites Tower Holdings LLC at the police firing range at 5645 Revercomb Court for the provision of telecommunications services for public use.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing to be held on February 5, 2019, at 4:00 p.m.

TIMING:

Board action is requested on December 4, 2018, to provide sufficient time to advertise the proposed public hearing on February 5, 2019, at 4:00 p.m.

BACKGROUND:

The Board of Supervisors is the owner of a 33-acre parcel located at 5645 Revercomb Court and identified as Tax Map Number 0674 01 0022A. The property is improved with a 1,300-square-foot building that is used by the Fairfax County Police Department as a firing range and a 150-foot telecommunications monopole owned by NCWPCS MPL 27 – Year Sites Tower Holdings LLC (Lessee). Lessee has leased a 2,500-square foot ground compound at the firing range from the County to house the monopole and the equipment cabinets. Three other network providers sublease from Lessee space on the monopole and in the compound for their telecommunications equipment: Verizon, T-Mobile and Cox Communications.

Crown Castle, the property manager for Lessee, has approached the County about Lessee's desire to continue to use this site for the provision of telecommunications services and has negotiated a new lease with the County. The initial term will be five (5) years, with five 5-year options to extend the lease, for a total possible term of thirty (30) years. Lessee will pay approximately \$40,000 as the annual rental fee for its equipment during the first year, with scheduled rent increases of three percent (3%) per year thereafter. Lessee will also continue to provide thirty percent (30%) of the rental payments from the sublessees to the County as additional rent owed under the lease. Total revenue from these subleases amounted to approximately \$30,000 in FY 2018.

Virginia Code Ann. § 15.2-1800 requires a locality to hold a public hearing before it may lease its real property.

Board Agenda Item  
December 4, 2018

FISCAL IMPACT:

The lease will generate approximately \$75,000 in revenue during the first year of the extension. An administrative fee of \$2,000 will be paid within thirty (30) days of execution of the lease. All revenue will be deposited into the General Fund.

ENCLOSED DOCUMENTS:

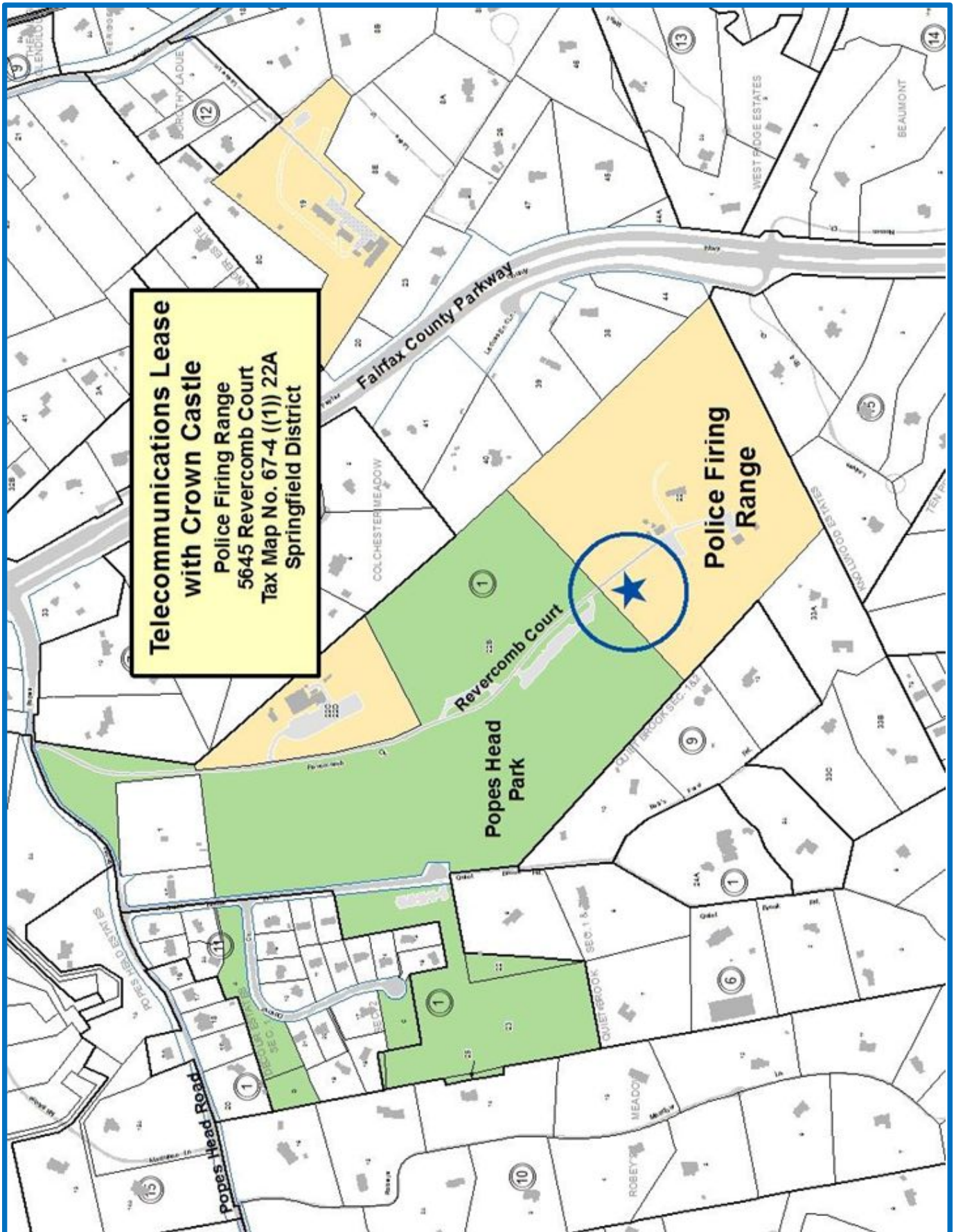
Attachment 1 – Location Map 0674 01 0022A

STAFF:

Joseph M. Mondoro, Chief Financial Officer  
José A. Comayagua, Jr., Director, Facilities Management Department  
Mike Lambert, Assistant Director, Facilities Management Department

ASSIGNED COUNSEL:

Dan Robinson, Assistant County Attorney



Board Agenda Item  
December 4, 2018

ADMINISTRATIVE - 7

Authorization to Advertise a Public Hearing to Lease County-Owned Property at 12111 Braddock Road to STC THREE, LLC (Springfield District)

ISSUE:

Authorization to advertise a public hearing to lease County-owned property to STC THREE, LLC at the Mott Community Center located at 12111 Braddock Road for the provision of telecommunications services for public use.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing to be held on February 5, 2019, at 4:00 p.m.

TIMING:

Board action is requested on December 4, 2018, to provide sufficient time to advertise the proposed public hearing on February 5, 2019, at 4:00 p.m.

BACKGROUND:

The Board of Supervisors is the owner of a nine-acre parcel located at 12111 Braddock Road and identified as Tax Map Number 0671 01 0035. The property is improved with a 6,300-square-foot building that is operated as the Mott Community Center and a 182-foot telecommunications monopole owned by STC THREE, LLC (Lessee). Since 1999, Lessee has leased from the County a 2,500-square foot ground compound on the property to house the monopole and the equipment cabinets. Four other network providers sublease from Lessee space on the monopole and in the compound for their telecommunications equipment: Cingular, Nextel, Verizon and Clearwire.

Crown Castle, the property manager for Lessee, has approached the County about Lessee's desire to continue to use this site for the provision of telecommunications services and has negotiated a new lease with the County. The initial term will be five (5) years, with five 5-year options to extend the lease, for a total possible term of thirty (30) years. Lessee will pay approximately \$42,000 as the annual rental fee for its equipment during the first year, with scheduled rent increases of three percent (3%) per year thereafter. Lessee will also continue to provide thirty percent (30%) of the rental payments from the sublessees to the County as additional rent owed under the lease. Total revenue from these subleases amounted to approximately \$50,000 in FY 2018.

Virginia Code Ann. § 15.2-1800 requires a locality to hold a public hearing before it may lease its real property.

Board Agenda Item  
December 4, 2018

FISCAL IMPACT:

The lease will generate approximately \$95,000 in revenue during the first year of the extension. An administrative fee of \$2,000 will be paid within thirty (30) days of execution of the lease. All revenue will be deposited into the General Fund.

ENCLOSED DOCUMENTS:

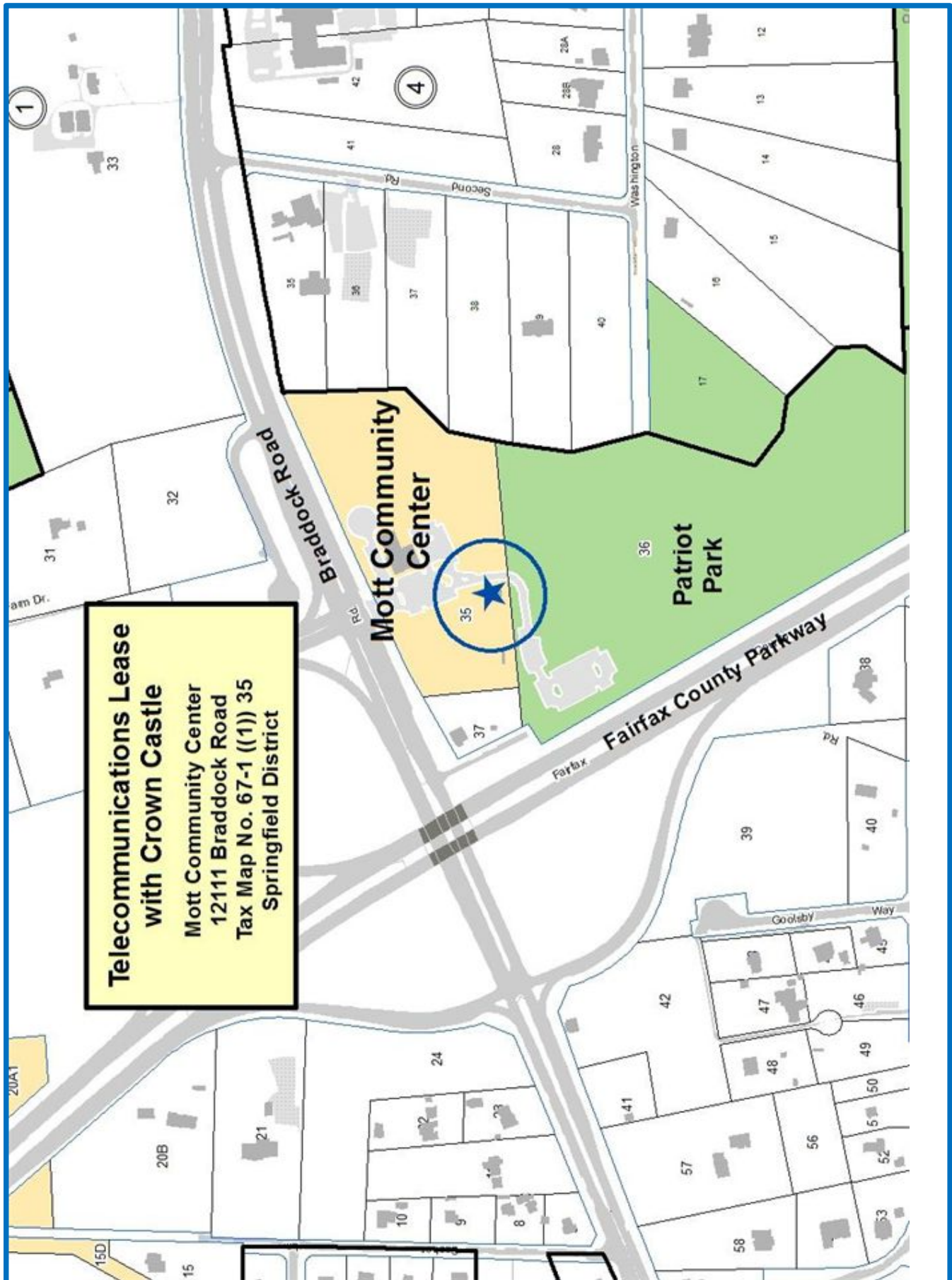
Attachment 1 – Location Map 0671 01 0035

STAFF:

Joseph M. Mondoro, Chief Financial Officer  
José A. Comayagua, Jr., Director, Facilities Management Department  
Mike Lambert, Assistant Director, Facilities Management Department

ASSIGNED COUNSEL:

Dan Robinson, Assistant County Attorney



ADMINISTRATIVE - 8

Authorization to Advertise a Public Hearing to Amend Chapter 82 of the Code of the County of Fairfax Related to Mobile Food Vending within Virginia Department of Transportation Rights-of-Way (Dranesville and Mount Vernon Districts)

ISSUE:

Board authorization to advertise a public hearing to amend Section 82-1-30 of the County Code to designate two new mobile food vending zones that would allow for mobile food vending from authorized public streets within the Dranesville and Mount Vernon Supervisor Districts, in accordance with a valid Food Establishment Permit for mobile food vending, the Virginia Department of Transportation's (VDOT's) Land Use Permit for Mobile Food Vending, and with rules and regulations adopted by the Board of Supervisors.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing to consider an amendment (Attachment I) to Section 82-1-30 of *The Code of the County of Fairfax, Virginia (Code)* to designate two new mobile food vending zones that would allow mobile food vending from authorized public streets within the Dranesville and Mount Vernon Supervisor Districts.

TIMING:

The Board of Supervisors should act on December 4, 2018, to provide sufficient time for advertisement of the public hearing on February 5, 2019, at 4:00 p.m.

BACKGROUND:

In 2015, the General Assembly passed legislation directing the Commonwealth Transportation Board (CTB) to amend its regulations to permit mobile food vending on state highway rights-of-way. In accordance with that legislation, the CTB amended its regulations to allow "localities to administer mobile food vending on nonlimited access highways, where the vending operations are regulated by local ordinances, operated consistent with such ordinances, and in accordance with the Commonwealth Transportation Board's regulations and policies." 24 VAC 30-151-670(2)(c).

In accordance with state regulation, VDOT developed a Land Use Permit for Mobile Food Vending (LUP-MFV). The Fairfax County Department of Transportation (FCDOT) executed a LUP-MFV to allow the County to administer a mobile food vending program on nonlimited access highways in the County. Through this LUP-MFV, VDOT has imposed numerous requirements and restrictions on the County's mobile food vending

Board Agenda Item  
December 4, 2018

program. These requirements are incorporated by reference into Chapter 82-1-30(a), which was amended on July 12, 2016, to allow mobile food vending from the public right-of-way.

As part of its July 2016 action, the Board designated a mobile food vending zone in Tysons, and mobile food vending was authorized on several streets within that zone. At that time, staff informed the Board that additional zones and streets would be proposed in the future to expand vending opportunities for mobile food businesses in the County, subject to CTB and VDOT limitations on where such vending may occur.

FCDOT staff has since analyzed additional roadways throughout the County to determine their appropriateness for mobile food vending, and has identified two additional roadways that meet the criteria set forth by VDOT and CTB: Dulles Technology Drive in, the Dranesville District, and Corporate Court in, the Mount Vernon District. To allow mobile food vending on those streets, the amendment proposes a change to Section 82-1-30 to designate Dranesville and Mount Vernon as new mobile food vending zones. One additional revision clarifies that VDOT has issued a land use permit for mobile food vending to Fairfax County.

Staff recommends that the Board authorize advertisement of the proposed amendment to Fairfax County Code Section 82-1-30.

FISCAL IMPACT:

The cost of sign installation to mark new zones, estimated at \$400, will be paid out of Fairfax County Department of Transportation funds (100-C10001).

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to *The Code of the County of Fairfax, Virginia*

Attachment II: Map Indicating Street in Dranesville District where Mobile Food Vending would be Permissible.

Attachment III: Map Indicating Street in Mount Vernon District where Mobile Food Vending would be Permissible.

STAFF:

Robert A. Stalzer, Deputy County Executive

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

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

Neil Freschman, Chief, Transportation Engineering Section, FCDOT

ASSIGNED COUNSEL:

Laura S. Gori, Senior Assistant County Attorney, Office of the County Attorney

**AN ORDINANCE AMENDING  
CHAPTER 82, ARTICLE 5 OF THE FAIRFAX COUNTY CODE, RELATING TO  
VEHICLES AND TRAFFIC, STOPPING STANDING AND PARKING**

**AN ORDINANCE** to amend the Fairfax County Code by amending and readopting Chapter 82, Article 5 relating to stopping, standing, and parking.

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

**1. That Chapter 82, Article 5 is amended and readopted as follows:**

Section 82-1-30. - Sale of merchandise from vehicles on road rights of way.

(a) It shall be unlawful for any person to park any automobile, truck or any other automotive equipment on or along the roads, highways and streets of the County, or within the rights of way of such roads, highways, and streets for the purpose of selling or soliciting the sale of or otherwise displaying or offering for sale any goods, wares or other merchandise in or from such vehicles, except in accordance with the provisions of this Section and with all conditions, rules, and regulations of a valid food establishment permit issued pursuant to Chapter 43.1 of this Code and Fairfax County Health Department Regulations, and in accordance with the terms and conditions of the Virginia Department of Transportation (VDOT) Land Use Permit for Mobile Food Vending (LUP-MFV), issued to Fairfax County, Virginia. ~~(LUP-MFV), once such permit has been issued to the County.~~ All other sales of goods or services from any vehicle parked upon any street or other right of way used for transportation purposes is prohibited.

- 1) For the purpose of this Section, a food establishment permit shall mean the document issued pursuant to Chapter 43.1 of this Code that authorizes a person to operate a food establishment to include a mobile food establishment. In addition to all other applicable enforcement mechanisms, violations of this Section may result in enforcement, including revocation, of a food establishment permit by the Health Department.
- 2) Mobile food vendors may only engage in mobile food vending within zones where authorized by the County Executive. The County Executive or his designee has authority to determine where vending may occur within zone(s), once such zone(s) are approved by the Board of Supervisors, subject to the requirements of the LUP-MFV and the provisions set forth below:

- A) Mobile food vending shall be permitted only within areas zoned for commercial or industrial use or in any planned zoning district allowing for mixed use. Mobile food vending within any residential neighborhood or within 500 feet of any residentially zoned area is prohibited;
- B) The County Executive or his designee may mark or sign streets within zones where mobile food vending is authorized or, until such streets and locations are marked or signed, the County Executive may provide electronic notice of such locations to permittees;
- C) The County Executive or his designee may temporarily or permanently suspend any mobile food vending operations within a designated zone to protect the public health, safety, or welfare. In such event, notice shall be provided electronically to permittees to the electronic mail address they have on file with the County, or by removal of signs that designated the location as an authorized location for mobile food vending operations; and
- D) The County Executive may add streets or portions of streets that meet all of these requirements and may remove streets or portions of streets at any time from zone(s) in the interest of the public health, safety, or welfare.

3) ~~The Tysons area of Fairfax County is a zone. Mobile food vending zones are designated as follows:~~

Tysons Zone

Dranesville Zone

Mount Vernon Zone

The Board may create additional zones or eliminate existing zone(s), in its discretion, in the future.

(b) This Section shall not apply to any huckster, peddler or other person who may travel in any vehicle upon the highways and streets for the purpose of selling goods, wares, merchandise or services from house to house and who shall stop his vehicle only for the purpose of making such house-to-house sales.

(c) Any person who violates any provision of this Section shall be deemed guilty of a misdemeanor and, upon conviction, punished in accordance with the provisions of Section 46.2-113 of the *Virginia Code*. (7-5-61; 3-13-63; 1961 Code, § 16-29; 37-76-82; 30-89-82; 24-16-82.)

**2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the**

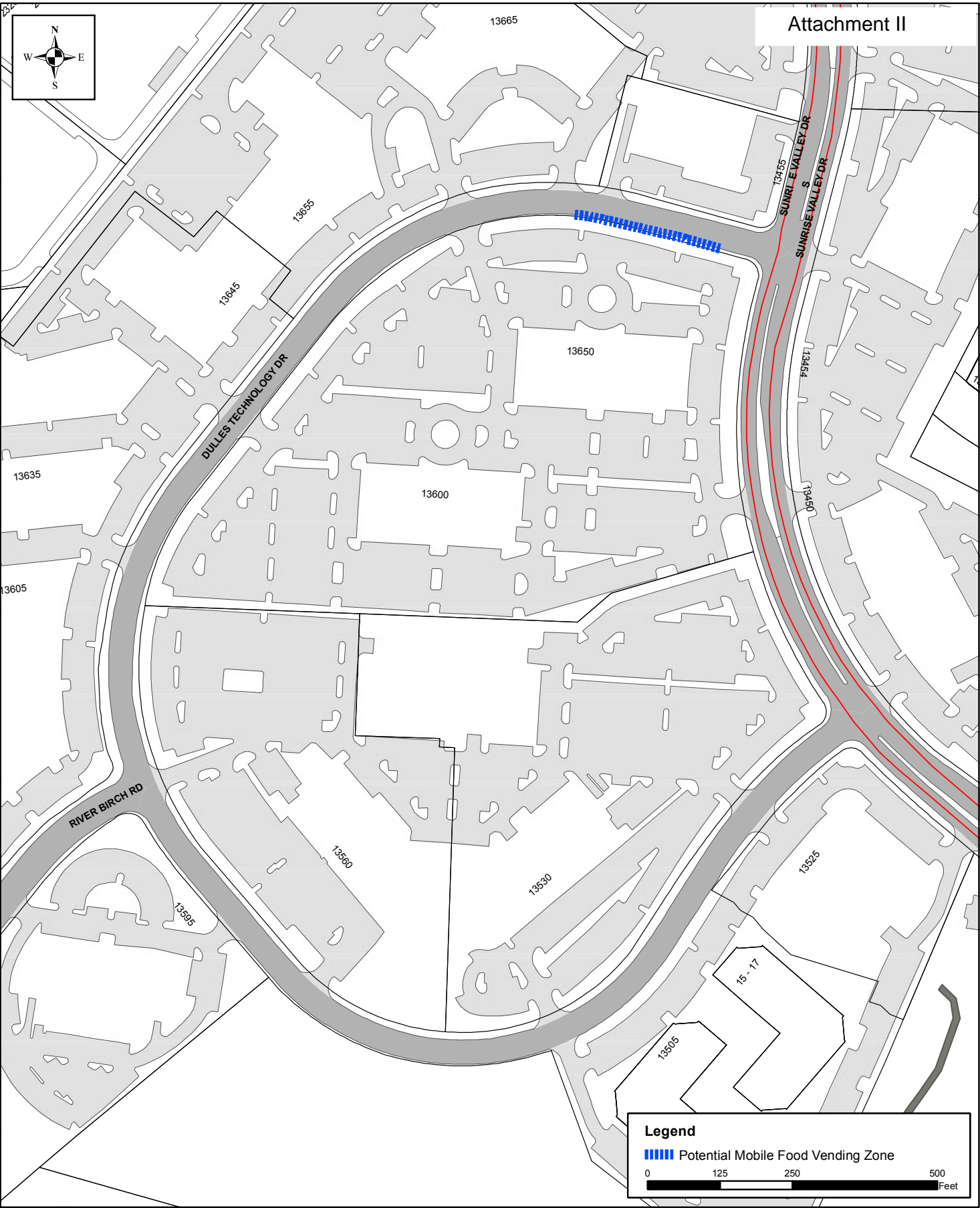
**other provisions or applications of this ordinance that can be given effect without the invalid provision or application.**

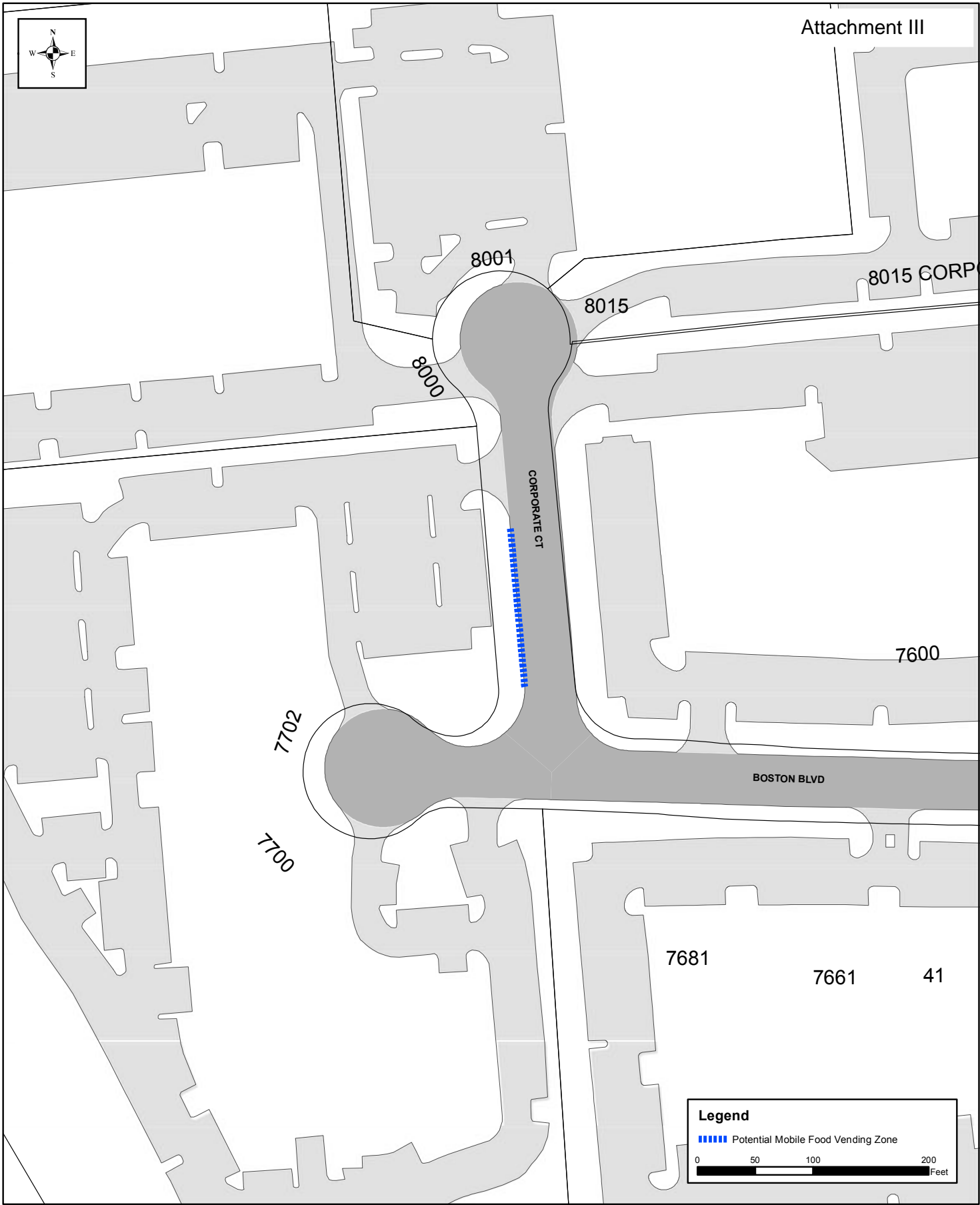
**3. That the provisions of this ordinance shall take effect on February 5, 2019.**

GIVEN under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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Clerk to the Board of Supervisors





**FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION  
POTENTIAL MOBILE FOOD VENDING ZONE  
CORPORATE COURT  
MOUNT VERNON DISTRICT**



ADMINISTRATIVE – 9

Authorization of a Public Hearing on a Proposal to Abandon a Portion of Cinder Bed Road (Mount Vernon District)

ISSUE:

Authorization of a public hearing on a proposal to abandon a portion of Cinder Bed Road.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing to consider the abandonment of the subject right-of-way.

TIMING:

The Board should take action on December 4, 2018, to provide sufficient time to advertise the public hearing for January 22, 2019, at 4:30 p.m.

BACKGROUND:

The Fairfax County Department of Transportation (FCDOT) requests that a portion of Cinder Bed Road be abandoned under Virginia Code § 33.2-909, in order to pursue the completion of Project Number 5G25-054-000, the realignment of Cinder Bed Road at its intersection with Newington Road. The subject right-of-way is located east of the Newington Road railroad underpass and adjacent to the overlap of Cinder Bed Road and Newington Road. This right-of-way is part of the Virginia Department of Transportation (VDOT) State Secondary System (Route 637).

FCDOT is making this request for abandonment as part of the County's project to realign the northern intersection of Cinder Bed Road and Newington Road. The previous acute-angle intersection has been replaced with a new right-angle intersection to the north. Abandonment of the disused right-of-way will assist in the acceptance of the new intersection into the Virginia Department of Transportation's Secondary System of State Highways.

All of the land subject to this abandonment will be owned by the Board of Supervisors. Although sections "B" and "C" on the abandonment plat (Attachment IV) are prescriptive right-of-way, the Board owns the property to which the prescriptive right-of-way will attach.

Board Agenda Item  
December 4, 2018

Traffic Circulation and Access

The abandonment will have no long-term impact on pedestrian, transit, or vehicle circulation and access. The new alignment of Cinder Bed Road is in service and performs all functions of the previous alignment.

Easements

The project manager has certified that all easement requirements for the project have been met (Attachment VI).

During design and construction of this project, the proposal to abandon this right-of-way was circulated to the following public agencies and utility companies for review: Office of the County Attorney, Department of Public Works and Environmental Services, Fairfax County Department of Transportation, Department of Planning and Zoning, Fairfax County Park Authority, Fairfax County Water Authority, Fairfax County School Board, Fairfax County Fire and Rescue Department, Virginia Department of Transportation, Dominion Virginia Power, Washington Gas Light Company, and Verizon. None of these indicated any opposition to the proposal.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Application Memo  
Attachment II: Notice of Intent  
Attachment III: Order of Abandonment  
Attachment IV: Abandonment Plat  
Attachment V: Metes and Bounds Description  
Attachment VI: Utility Certification  
Attachment VII: Vicinity Map

STAFF:

Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Gregg Steverson, Chief, Site Analysis and Transportation Planning Division, FCDOT  
Donald Stephens, FCDOT



## County of Fairfax, Virginia

## MEMORANDUM

**DATE:** August 22, 2018

**TO:** Jeff Herman, Chief  
Site Analysis Section  
Transportation Planning Division

**FROM:** Robert Ayers, Project Manager  
Transportation Design Division *Robert Ayers*

**SUBJECT:** Project No. 5G25-054-000, Cinder Bed Road Realignment;  
Abandonment of Cinder Bed Road (Route 637)

This memorandum is to request the initiation of the abandonment of a portion of Cinder Bed Road (Route 637) associated with Project No. 5G25-054-000, Cinder Bed Road Realignment.

These actions are required since the subject project improvements involved a realignment of existing Cinder Bed Road, which resulted in a portions of the existing right-of-way no longer being utilized for public street purposes and in comprehensive revised roadway maintenance miles. The construction of the project improvements are complete and FCDOT is currently processing the Street Acceptance package with the Virginia Department of Transportation (VDOT). The project was funded from the November 2007 Transportation Bond Referendum.

Abandonment of a total of 33,782 square feet is being requested. In addition, utility easements are to be recorded upon abandonment of the portion of Cinder Bed Road. The following are submitted in support of the request for abandonment and discontinuance application:

1. Project #5G25-054-000 is to be utilized for processing any fees associated with this request
2. Abandonment plat for TM# 99-2((15))-1, TM# 99-4-((1))-17, and TM# 99-2-((1))-53 (Original)
3. Metes & Bounds legal descriptions for areas to be abandoned; TM# 99-2((15))-1, TM# 99-4-((1))-17, and TM# 99-2-((1))-53 (Original)
4. Notice of Intent to Abandon
5. Order Of Abandonment
6. Vicinity Map
7. Project Plan Sheets 3-5
8. Executed Utility Deed(s) of Easement (i.e. Cox, Dominion Energy, Fairfax Water, and Verizon) to be recorded subsequent to recordation of Abandonment (Originals)

Fairfax County Department of Transportation  
4050 Legato Road, Suite 400  
Fairfax, VA 22033-2895  
Phone: (703) 877-5600 TTY: 711  
Fax: (703) 877-5723  
[www.fairfaxcounty.gov/fcdot](http://www.fairfaxcounty.gov/fcdot)



Project No. 5G25-054-000, Cinder Bed Road Realignment;  
Abandonment Cinder Bed Road (Route 637)  
August 22, 2018  
Page 2 of 2

Since VDOT Permits, as part of the Street Acceptance process, requires draft copies of the board resolutions for the proposed abandonment, we would appreciate your feedback as to the procedure and associated timeline to satisfy the outstanding item.

Please contact me at 703-877-5735, if you should have any questions or require additional information

cc: Todd Minnix, Chief, Transportation Design Division  
Fereshteh Khorashadi, Section Chief, Transportation Design Division  
Christina Dodge, Technical Support Coordinator

NOTICE OF INTENT TO ABANDON

CINDER BED ROAD  
(Route 637)

MOUNT VERNON DISTRICT,  
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on January 22, 2019, at 4:30 PM during its regular meeting in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, VA, pursuant to Virginia Code Ann. § 15.2-2204 on the proposed abandonment of public road known as Cinder Bed Road, comprising a total area of 33,782 square feet, pursuant to Virginia Code § 33.2-909. The road is located on Tax Maps 99-2 and 99-4, and is described and shown on the metes and bounds schedule dated October 29, 2018, and plat dated March 6, 2018, both prepared by Fairfax County Land Surveys Branch, and both of which are on file with the Fairfax County Department of Transportation, 4050 Legato Road, Suite 400, Fairfax, Virginia 22033, Telephone Number (703) 877-5600.

MOUNT VERNON DISTRICT.

§ 33.2-909

ORDER OF ABANDONMENT

CINDER BED ROAD  
(Route 637)

MOUNT VERNON DISTRICT  
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held this 22nd day of January, 2019, it was duly moved and seconded that:

WHEREAS, after conducting a public hearing pursuant to notice as required by Virginia Code §33.2-909, and after giving due consideration to the historic value, if any, of such road, the Board has determined that no public necessity exists for continuance of this road as a public road, and that the safety and welfare of the public will be served best by an abandonment,

WHEREFORE, BE IT ORDERED:

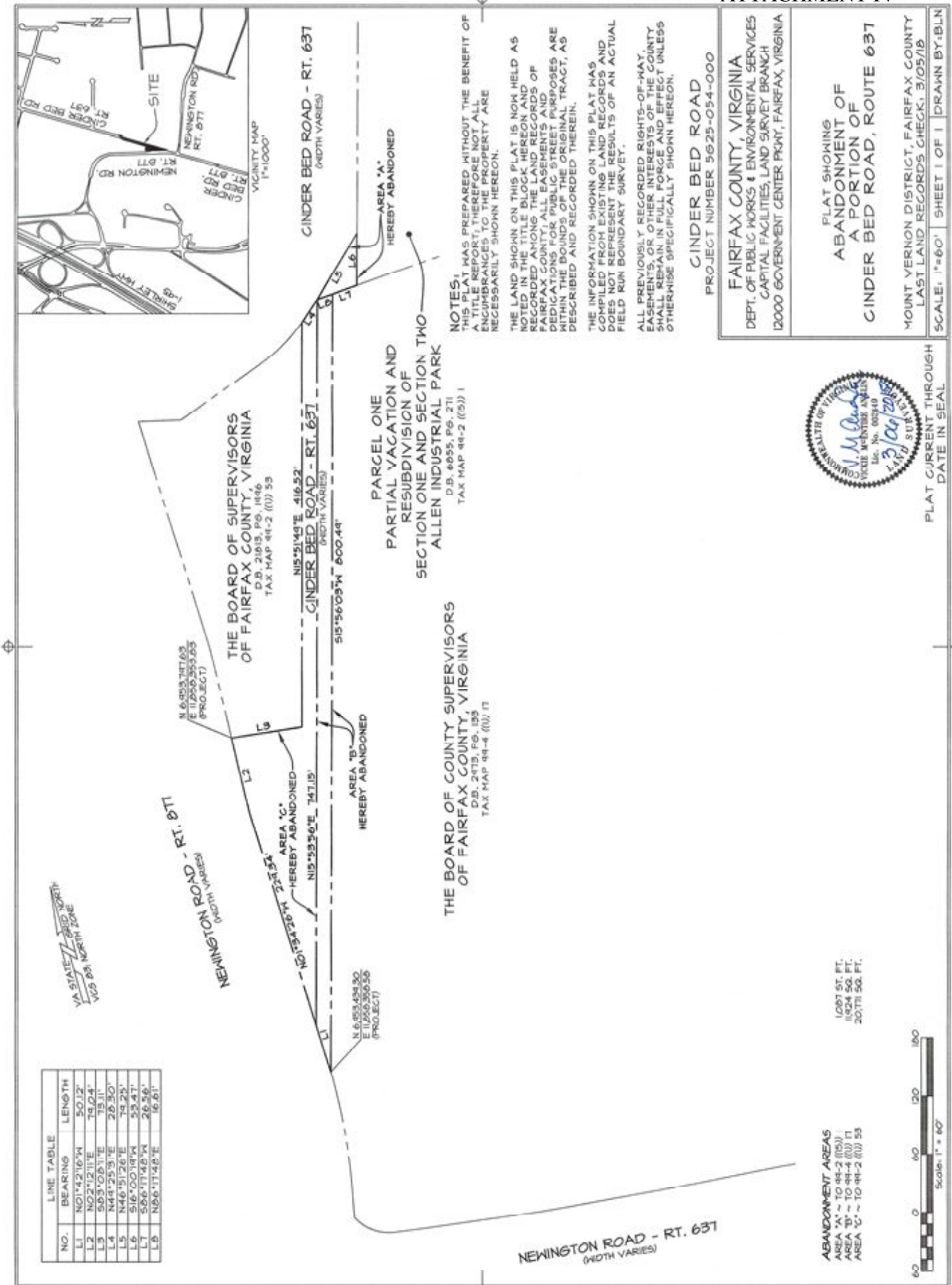
That Cinder Bed Road, comprising a total area of 33,782 square feet, located on Tax Maps 99-2 and 99-4, and described on the plat dated March 6, 2018, and metes and bounds schedule dated October 29, 2018, both prepared by Fairfax County Land Survey Branch dated March 6, 2018, which are attached hereto and incorporated herein, be and the same is hereby abandoned as a public road pursuant to Virginia Code §33.2-909.

This abandonment is subject to any right, privilege, permit, license, easement in favor of any public service company, utility, or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either currently in use or of record, including the right to operate, maintain, replace, alter, extend, increase or decrease in size any facilities in the abandoned roadway, without any permission of the landowner(s).

A Copy Teste:

Catherine Chianese  
Clerk to the Board

§33.2-909





## County of Fairfax, Virginia

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

### METES AND BOUNDS DESCRIPTION

of ABANDONED PORTIONS OF CINDER BED ROAD, ROUTE 637,  
as shown on a plat dated 3/06/2018, prepared by Fairfax County, DPWES

#### ABANDONMENT AREA "A" (formerly Cinder Bed Road):

Beginning at the southwest corner to Parcel One, Partial Vacation and Resubdivision of Section One and Section Two, Allen Industrial Park, D.B. 6855, PG. 271, Tax Map 99-2 ((15)) 1, and lying on the northerly line of property of The Board of Supervisors of Fairfax County, Virginia, D.B. 2973, PG. 133, Tax Map 99-4 ((1)) 17;

Thence departing Parcel One, Partial Vacation and Resubdivision of Section One and Section Two, Allen Industrial Park, D.B. 6855, PG. 271 and coincident with the northerly line of property of The Board of Supervisors of Fairfax County, Virginia, D.B. 2973, PG. 133, S86°17'48"W 26.56' to the northwesterly corner of property of The Board of Supervisors of Fairfax County, Virginia, D.B. 2973, PG. 133 and being the northeasterly corner of ABANDONMENT AREA "B";

Thence departing property of The Board of Supervisors of Fairfax County, Virginia, D.B. 2973, PG. 133 and coincident with the northerly line of ABANDONMENT AREA "B" S86°17'48"W 16.61' to the new southerly right-of-way line of Cinder Bed Road, Route 637 and the northeasterly corner of ABANDONMENT AREA "C";

Thence coincident with the new southerly right-of-way of Cinder Bed Road, Route 637 N46°51'26"E 79.25' to the westerly line of Parcel One, Partial Vacation and Resubdivision of Section One and Section Two, Allen Industrial Park, D.B. 6855, PG. 271;

Thence coincident with the westerly line of Parcel One, Partial Vacation and Resubdivision of Section One and Section Two, Allen Industrial Park, D.B. 6855, PG. 271, S16°00'19"W 53.47';

Department of Public Works and Environmental Services  
Capital Facilities, Utilities Design and Construction Division, Land Survey Branch  
12000 Government Center Parkway, Suite 147  
Fairfax, VA 22035  
Phone: 703-324-5111, TTY: 1-800-828-1120, Fax: 703-653-9570  
[www.fairfaxcounty.gov/dpwes](http://www.fairfaxcounty.gov/dpwes)



Abandonment Cinder Bed Road  
Metes and Bounds Description

2

To the Point of Beginning containing 1,087 SQ. FT. or 0.025 acres. All bearings based on VCS 83, North Zone.

ABANDONMENT AREA "B" (formerly Cinder Bed Road):

Beginning on the dedicated southerly right-of-way line of Cinder Bed Road, Route 637, D.B. 25152, PG. 32 lying northeasterly 648' from the intersection of the southerly dedicated right-of-way of Cinder Bed Road, Route 637, D.B. 25152, PG. 32 and the easterly right-of-way of Newington Road, route 877 and being the southmost corner to ABANDONMENT AREA "C";

Thence departing the new easterly right-of-way line of Newington Road and coincident with the easterly line of ABANDONMENT AREA "C" N15°53'56"E 747.15' to the new southerly right-of-way line of Cinder Bed Road, Route 637 and being the westernmost corner of ABANDONMENT AREA "A";

Thence departing the new southerly right-of-way line of Cinder Bed Road, Route 637 and coincident with the southerly line of ABANDONMENT AREA "A" N86°17'48"E 16.61' to the westerly line of property of The Board of Supervisors of Fairfax County, Virginia, D.B. 2973, PG. 133, Tax Map 99-4 ((1)) 17;

Thence departing the southerly line of ABANDONMENT AREA "B" and coincident with the westerly line of property of The Board of Supervisors of Fairfax County, Virginia, D.B. 2973, PG. 133, S15°56'03"W 800.49' to the easterly right-of-way line of Newington Road, Route 877;

Thence departing the westerly line of the property of The Board of Supervisors of Fairfax County, Virginia, D.B. 2973, PG. 133, Tax Map 99-4 ((1)) 17 and coincident with the new easterly right-of-way line of Newington Road, Route 877, N01°42'16"W 50.12';

To the Point of Beginning containing 11,924 SQ. FT. or 0.274 acres. All bearings based on VCS 83, North Zone.

Abandonment Cinder Bed Road  
Metes and Bounds Description

3

ABANDONMENT AREA "C" (formerly Cinder Bed Road):

Beginning on the easterly right-of-way line of Newington Road, Route 877, lying south 339' from the intersection of the southerly right-of-way of Newington Road, Route 877 and the southerly dedicated right-of-way of Cinder Bed Road, Route 637, D.B. 25152, PG. 32;

Thence departing the easterly right-of-way of Newington Road, Route 877 and running S83°08'11"E 73.11' and N15°51'49"E 416.52' to the new southerly right-of-way of Cinder Bed Road, Route 637;

Thence coincident with the new southerly right-of-way line of Cinder Bed Road, Route 637 N49°25'31"E 28.30' to a corner of ABANDONMENT AREA "B";

Thence departing the new southerly right-of-way of Cinder Bed Road, Route 637 and coincident with ABANDONMENT AREA "B" S15°53'56"W 747.15' to the easterly right-of-way of Newington Road, Route 877;

Thence coincident with the easterly right-of-way line of Newington Road, Route 877, N01°34'26"W 229.34' and N02°12'11"E 79.04';

To the Point of Beginning containing 20,771 SQ. FT. or 0.477 acres. All bearings based on VCS 83, North Zone.



**Stephens, Donald E.**

---

**From:** Nguyen, Tan  
**Sent:** Wednesday, August 29, 2018 3:58 PM  
**To:** Stephens, Donald E.  
**Cc:** Ayers, Robert R.; Dodge, Christina Y.; Khorashadi, Fereshteh  
**Subject:** Cinder Bed Road - Utility & Easement Certification

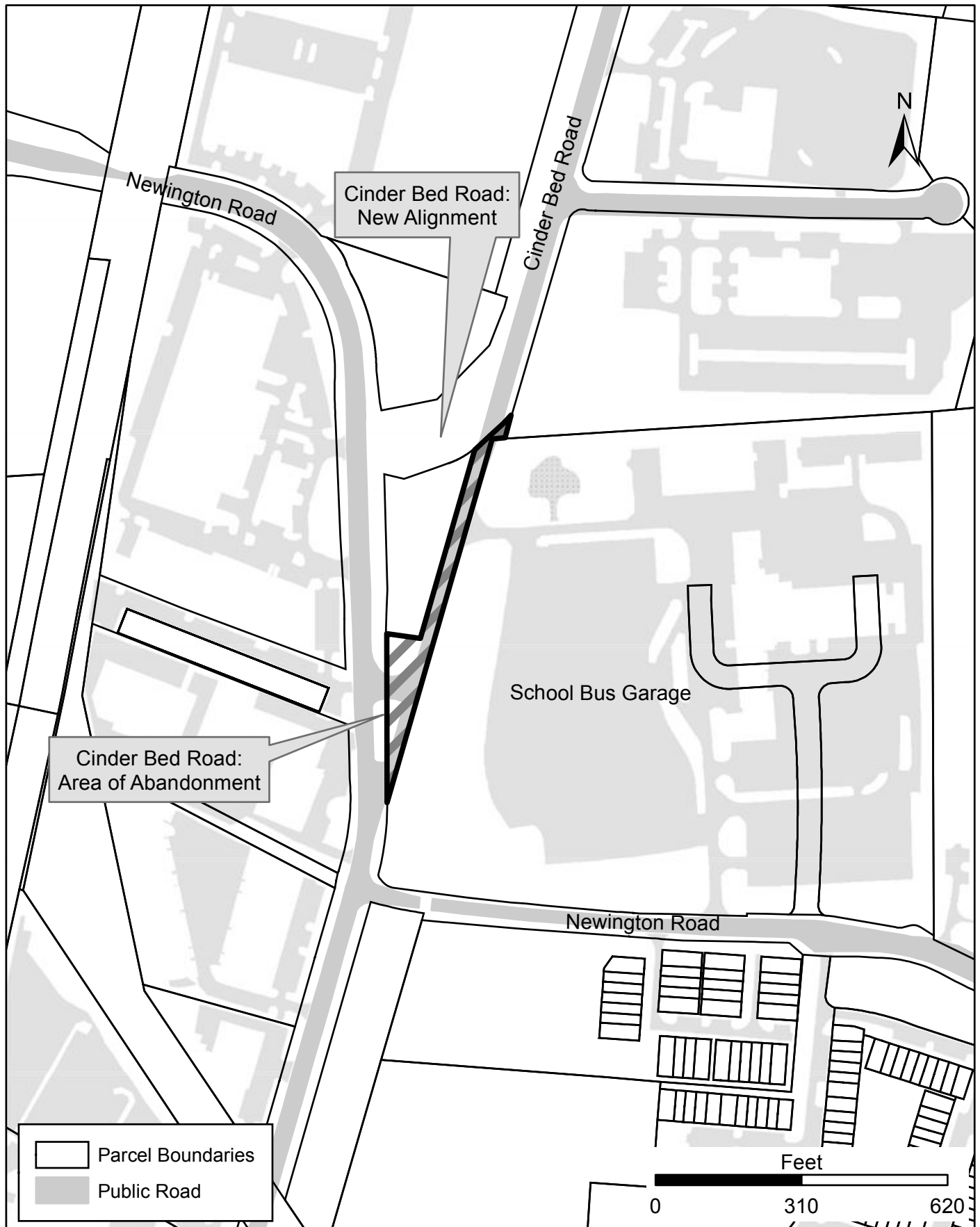
Hi Donald,

The utility coordination for Project 5G25-054-000, Cinder Bed Road Improvement has been completed, requiring no further action. All utility and permanent easements within the areas to be abandoned have been accounted for and easement needs have been identified and provided for recordation.

Please let us know if you have any questions or need additional information.

Tan Nguyen, Utility Team Leader  
Utilities Engineering & Coordination  
Transportation Design Division  
Fairfax County Department of Transportation  
(703) 877-5734 Direct  
(703) 877-5776 Fax  
[tan.nguyen@fairfaxcounty.gov](mailto:tan.nguyen@fairfaxcounty.gov)

Vicinity Map - Tax Map 99-4



ADMINISTRATIVE - 10

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

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board endorse the traffic calming plan for Muirfield Lane (Attachment I) consisting of the following:

- One speed hump on Muirfield Lane (Sully District)

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

TIMING:

Board action is requested on December 4, 2018.

BACKGROUND:

As part of RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, or traffic circles to reduce the speed of traffic on a residential street. Staff performed engineering studies documenting the attainment of qualifying criteria. Staff worked with the local Supervisor's office and community to determine the viability of the requested traffic calming measure to reduce the speed of traffic. Once the plan for the road under review is approved and adopted by staff, that plan is then submitted for approval to the residents within the ballot area in the adjacent community. On October 3, 2018, FCDOT received verification from the local Supervisor's office confirming community support for the above referenced traffic calming plan (Sully District).

Board Agenda Item  
December 4, 2018

FISCAL IMPACT:

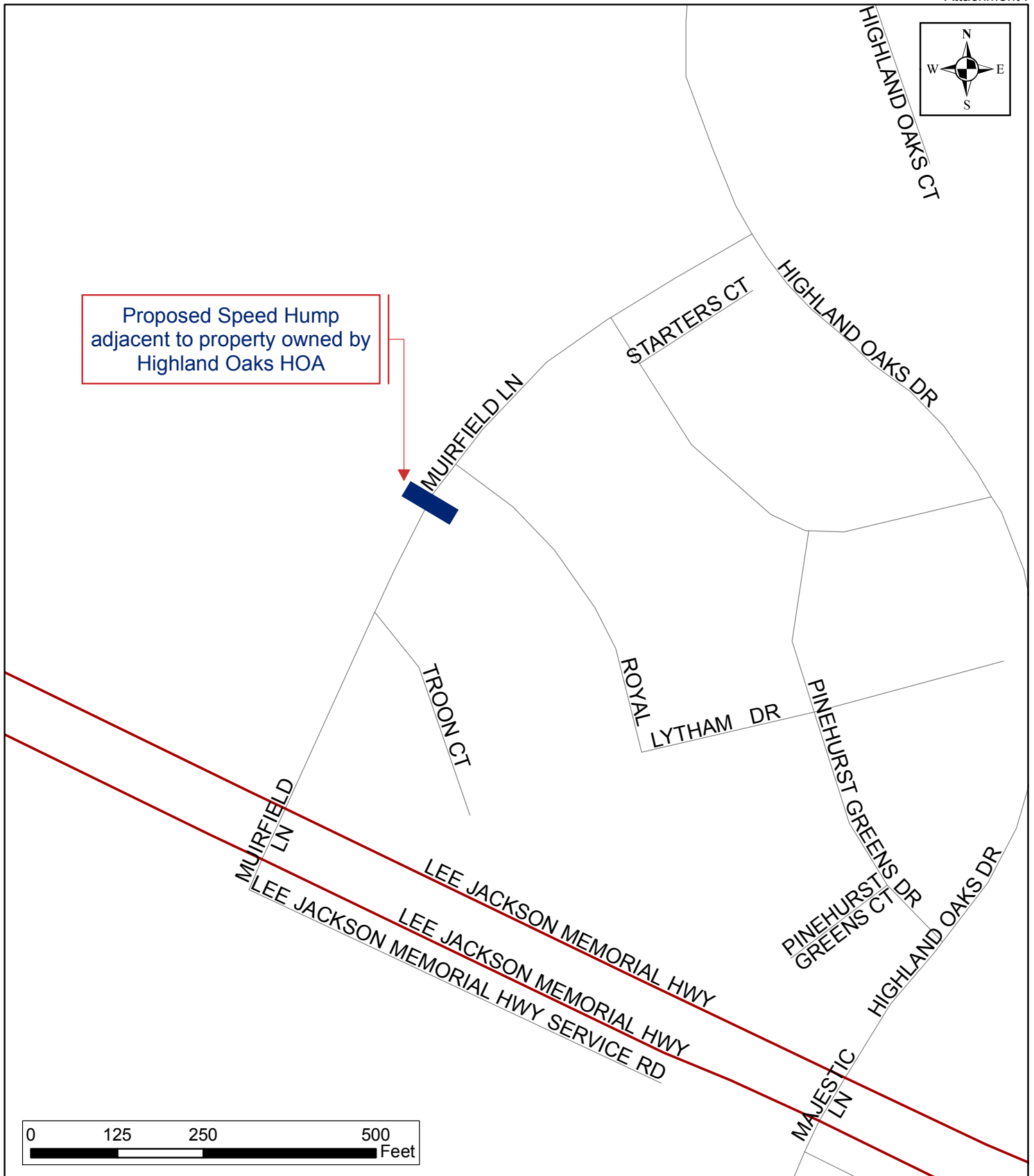
Funding in the amount of \$8,500 for the traffic calming measures associated with the Muirfield Lane project is available in Fund 2G25-076-000, General Fund, under Job Number 40TTCP.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Plan for Muirfield Lane

STAFF:

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



Tax Map: 45-1, 45-2

November 2018



A Fairfax Co. Va., Publication

**Fairfax County Department of Transportation**  
**Residential Traffic Administration Program (RTAP)**  
**PROPOSED TRAFFIC CALMING PLAN**  
**MUIRFIELD LANE**  
**Sully District**



ADMINISTRATIVE – 11

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance  
Amendment Re: Article 6 – Density Provisions for the Reston PRC District

ISSUE:

The purpose of the proposed Zoning Ordinance amendment is to implement the updated Reston Master Plan. This amendment proposes changes to the density provisions set forth in Sect. 6-308 of the Zoning Ordinance, specifically for the Reston PRC District. The amendment proposes an increase in the maximum overall density permitted in the Reston PRC District to a number between the current 13 persons/acre up to 15 persons/acre. The amendment would also allow the Board to approve residential development up to 70 dwelling units per acre for certain high density residentially designated properties in the Reston PRC District that are located within the transit station areas (TSAs) and planned for “Mixed Use,” if the proposal is in accordance with the adopted Comprehensive Plan. In addition, other editorial revisions would be made to Sect. 6-308 for clarification and plain language.

RECOMMENDATION:

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

TIMING:

Board action is requested on December 4, 2018, to provide sufficient time to advertise the proposed Planning Commission public hearing on January 23, 2019, at 7:30 p.m., and the proposed Board public hearing on March 5, 2019, at 4:30 p.m.

BACKGROUND:

To facilitate implementation of the updated Reston Master Plan, the proposed amendment is listed on the adopted 2018 Zoning Ordinance Amendment Work Program and proposes changes that would increase the maximum allowable persons per acre and residential densities in the transit station areas (TSAs) of the Reston PRC District, the only PRC District containing any TSA. The Reston Master Plan Special Study was initiated in 2009, in recognition of the changing pattern of land use and development over time in Reston, facilitated in large part by the planned arrival of Metrorail. The study concluded in 2015 and resulted in the Reston Master Plan being amended in two phases in 2014 and 2015. While not a central focus during the Special Study process, it has been periodically noted since 2007 that an amendment to the density provisions of the Reston PRC District in the Zoning Ordinance would be required to accommodate

the long-term planned residential growth. Development in the Reston PRC District is quickly approaching the Zoning Ordinance's density limit of 13 persons/acre.

In addition, without the capability to develop over 50 dwelling units per acre in areas designated for high density residential development, certain properties located in the TSAs would be impeded from developing in accordance with the Reston Master Plan. The density amendment for the Reston PRC District has appeared on the Zoning Ordinance Amendment Work Program as a Priority 1 item since 2010.

Staff has conducted significant public outreach beginning in May of 2017 through the present, which including multiple public meetings, informational handouts and responses to inquiries, and the creation of a dedicated website.

Specifically, the changes include:

- 1) Increasing the maximum overall density permitted in the Reston PRC District from 13 up to 15 persons per acre of gross residential and commercial areas. The amendment will be advertised to allow the Board to consider any number between 13 and 15 persons/acre.
- 2) Allowing the Board to approve residential development above the current 50 dwelling units per acre for properties designated for high density on an approved development plan and located in a transit station area planned for mixed use within the Reston PRC District, if a proposal is in accordance with the adopted Comprehensive Plan, up to 70 dwelling units/acre.
- 3) Updating language throughout Sect. 6-308 to change terms such as "shall" to "must" and "shall not" to "may not" for clarification.

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

REGULATORY IMPACT:

The proposed Zoning Ordinance amendment would help implement recent changes to the Comprehensive Plan. It would allow the Board to continue to evaluate PRC applications that seek to implement the redevelopment options in the adopted Reston Master Plan. The proposed amendment would apply only to the Reston PRC District and would not impact the other existing PRC Districts in Burke Centre and Cardinal Forest, which contain no transit station areas.

FISCAL IMPACT:

None.

Board Agenda Item  
December 4, 2018

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution  
Attachment 2 – Staff Report

STAFF:

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

ASSIGNED COUNSEL:

T. David Stoner, Deputy County Attorney, Office of the County Attorney  
Laura Gori, Senior Assistant County Attorney, Office of the County Attorney

## RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center Building, Fairfax, Virginia, on December 4, 2018, which meeting a quorum was present and voting, and the following resolution was adopted:

WHEREAS, the Board of Supervisors adopted a two-phased update to the Reston Master Plan in 2014 and 2015 that anticipates future residential growth in recognition of the changing pattern of land use and development over time in Reston, facilitated in large part by the planned arrival of Metrorail; and

WHEREAS, before and throughout the Reston Master Plan Special Study process, it was recognized that implementation of these adopted changes to the Comprehensive Plan would require amending the PRC District provisions in the Zoning Ordinance; and

WHEREAS, under the current Zoning Ordinance provisions for the PRC District there is a limitation on the overall density in a PRC District of 13 persons per acre; and a maximum permitted density of 50 dwelling units per acre in any one area designated high density residential; and

WHEREAS, the Reston PRC District includes multiple transit station areas and is the only PRC District with any such areas; and

WHEREAS, it may be appropriate to increase the limitation on the overall density in the Reston PRC District from 13 persons per acre to not more than 15 persons per acre to implement the Comprehensive Plan recommendations; and

WHEREAS, it may be appropriate in high density residential areas within the transit station areas of the Reston PRC District that are planned for mixed use to allow the Board to approve development at a density in excess of 50 dwelling units per acre when the proposed development is implementing recommendations in the Comprehensive Plan to not more than 70 dwelling units per acre; and

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

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

Given under my hand this 4<sup>th</sup> day of December, 2018.

A Copy Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors



**FAIRFAX  
COUNTY**

# **STAFF REPORT**

**V I R G I N I A**

## **PROPOSED ZONING ORDINANCE AMENDMENT**

**Article 6 - Density Provisions for the Reston PRC District**

### **PUBLIC HEARING DATES**

**Planning Commission**

January 23, 2019 at 7:30 p.m.

**Board of Supervisors**

March 5, 2019 at time tbd

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

December 4, 2018

CSB



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

## **STAFF COMMENT**

The proposed Zoning Ordinance Amendment is listed on the adopted 2018 Zoning Ordinance Amendment Work Program (ZOAWP), for the Board to consider revisions to the maximum allowable persons per acre (persons/acre) and residential densities in the Planned Residential Community (PRC) District, specific to Reston, only; to facilitate the implementation of the updated Reston Master Plan. Reston is unique from the other PRC Districts in the County because it is served by Metrorail. The Reston Master Plan Special Study was initiated in 2009 and concluded in 2015. Phase I of the Special Study resulted in the adoption of a Comprehensive Plan Amendment in 2014 that focused the greatest proportion of Reston's future development potential in the Transit Station Areas (TSAs) along the Dulles Toll Road. Phase II of the Reston Master Plan Special Study resulted in the adoption of a Comprehensive Plan Amendment in 2015 that identified opportunities for limited additional residential development outside of the Reston TSAs. While not a central focus during the Special Study process, it has been periodically noted since 2007 that an amendment to the density provisions of the PRC District in the Zoning Ordinance would be required to accommodate planned residential growth near the Reston Metro Stations. The density amendment for the Reston PRC District has appeared on the Zoning Ordinance Amendment Work Program as a Priority 1 item since 2010.

For reasons discussed below, the proposed changes to the Zoning Ordinance would be specific to the Reston PRC District only, and would not apply to the other existing PRC Districts in the County, which include Burke Centre and Cardinal Forest—neither of which includes a Metro station. This amendment proposes an increase in the maximum permitted overall residential density limit for the Reston PRC District. In addition, for properties designated on a development plan for high density residential development—specifically mixed use—in the Reston PRC District that are located within the TSAs, the proposal would allow the Board to consider approval of residential development above the limit of 50 dwelling units/acre up to 70 dwelling units/acre under specific, limited conditions.

### **Background**

In 1962, the Board adopted an amendment to the Zoning Ordinance to create a Residential Planned Community (RPC) District to guide the development of the then new planned community of Reston. The district was later renamed the Planned Residential Community (PRC) District. The primary purpose and intent of this new zoning district was to provide the flexibility and incentive for a single developer to create a large planned community that demonstrates excellence in physical, social, and economic planning and provides integration of a variety of uses throughout the district. The PRC District at the time of its establishment was distinct from other, more traditional zoning districts in that the provisions used population density to govern the overall size and character of the community required that the district be established under a single ownership or control; and afforded flexibility to the single master developer to transfer unused density from one development to another within the PRC District, subject to the population factors set forth in the PRC zoning provisions. The PRC District establishes a maximum overall density of 13 persons/acre for each of the three established PRC communities, including Reston, Burke Center and Cardinal Forest. The Zoning Ordinance

assigns a “persons per dwelling unit factor” for each type of dwelling unit. The number of persons per each dwelling unit type are then added together and divided by the total number of acres within the PRC, which then establishes the overall density within the particular PRC community.

There has been a significant change in circumstances over the years in the three PRC communities. There is no longer a single developer for any of the three PRC communities, because over time each single developer conveyed ownership of land within the PRC community to others. The PRC District provisions provided little guidance on how to manage development with multiple property owners, many with approved zonings seeking to redevelop their respective properties under the 13 persons/acre limitation applicable to the entire PRC, and there was little, if any, undeveloped property remaining within the three PRC communities to support residential growth.

As a result, in 2007, the Zoning Ordinance was amended to revise the population factors used in computing population density within the PRC Districts, as well as to change the process for approving a PRC Plan from an administrative approval to a legislative action by the Board of Supervisors. At that time, the population factors for single family detached, single family attached, and multiple family dwelling units were adjusted to more closely align with the average household size based on the most recent Census data. The revisions to the population factors—which are currently 3.0 persons per single family detached unit, 2.7 persons for single family attached units and 2.1 persons per multiple family dwelling unit—resulted in a modest increase in the amount of remaining residential development capacity under the maximum density of 13 persons/acre. It was understood at that time, however, that the County was anticipating additional future residential growth—particularly in Reston where additional high density residential development could be appropriate in Reston’s Town Center, along the Dulles Corridor and in areas associated with future transit stations as part of the Silver Line Metrorail expansion—and that a future Plan amendment and corresponding Zoning Ordinance amendment would be needed to accommodate this growth.

With respect to the Burke Center and Cardinal Forest PRC Districts, each of these areas was generally rezoned at one time and are subject to detailed development plans that specifically set forth the dwelling unit type and density of residential development to occur in the various portions of these communities, whereas the Reston PRC District consists of multiple rezoning applications, many of which have approved development plans that were more vague in the designation of numbers and types of dwelling units. Unlike Reston, Burke Center and Cardinal Forest do not include any Metro stations and are not planned for the associated high density residential development associated with Metro stations. Therefore, the proposed changes to the PRC District in this amendment apply only to the Reston PRC District.

It is important to note that certain areas identified as part of the larger community of Reston are not zoned PRC, and they are therefore not subject to this proposed Zoning Ordinance Amendment or to the calculations of residential density that apply to the PRC District. The central portion of Reston running east-west along the Dulles Toll Road includes areas zoned for commercial and industrial uses, known collectively as the Reston Center for Industry and Government (RCIG). In 2001, transit-related development options, including the addition of residential opportunities, were added to the Comprehensive Plan for this area in expectation of the planned extension of Metrorail. Later this area was redefined as three separate but contiguous TSAs. A map showing the location of Reston PRC and non-PRC Land, including the TSAs, can be found at:

[https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning%20ordinance/proposed%20amendments/restonprcdistrict/reston\\_prc\\_and\\_nonprc\\_land\\_map\\_600dpi.pdf](https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning%20ordinance/proposed%20amendments/restonprcdistrict/reston_prc_and_nonprc_land_map_600dpi.pdf)

### *Reston Master Plan Special Study*

In recognition of the changing pattern of land use and development over time in Reston, facilitated in large part by the planned arrival of the Metrorail, the Reston Master Plan Special Study was initiated by the Board in 2009 and continued until 2015. County staff conducted extensive public outreach for the study over those six years. Outreach included notifying representatives of Reston's 150+ clusters, condominiums, and apartments; holding a "Reston Land Use College," which was a 4-session series of classes offered to the public to learn about the development process; establishing a Community Task Force consisting of residents and landowners, which held 200+ public meetings; holding nearly a dozen additional public community meetings and smaller staff meetings with residents and stakeholder organizations; creating a robust website for each phase of the study; and publishing weekly listserv announcements.

Phase I of the Special Study resulted in a Comprehensive Plan Amendment adopted in 2014 that focused the greatest proportion of Reston's future residential development potential in the three TSAs along the Dulles Toll Road: the existing Wiehle-Reston East Station area; the planned Reston Town Center Station area; and the planned Herndon Station area. Transit-oriented development or "TOD" is envisioned for these areas within walking distance of the Metrorail stations, which is generally considered to be about ½ mile. TOD integrates land use and transportation to create a vibrant and intense mix of uses that are more accessible to and convenient for pedestrians and bicyclists, as it is centered around significant public transit.

Phase II of the Reston Master Plan Special Study resulted in adopting a Comprehensive Plan Amendment in 2015 that identified opportunities for limited additional residential development outside of the Reston TSAs. Phase II contained a new Land Use Plan Map that maintained established residential neighborhoods and added text discouraging the consolidation of neighborhoods for redevelopment that is not in keeping with the Land Use Map. The stable residential neighborhoods and clusters within the Reston PRC District are envisioned to remain at their existing scale as recommended by the Reston Master Plan, and with a few limited exceptions, these areas were re-planned at a lower density designation than was previously shown on the Reston Master Plan to match how they were built. The revised plan also identifies several opportunities for limited additional residential development outside of the Reston TSAs. These areas are primarily within and proximate to the Village Centers. The Village Centers are currently planned for a mix of uses and are designated for high density residential. With the Phase II amendment the high density residential designation did not change, but the Plan states that the focus of any redevelopment within the Village Center should be in the non-residential mixed use area of the Village Centers. Before and throughout the Reston Master Plan Special Study process, it was known and understood that implementing these adopted changes to the Reston Master Plan would require amending the Reston PRC District provisions in the Zoning Ordinance, particularly the 13 persons/acre maximum density limitation.

### **Current Zoning Ordinance Provisions and Proposed Amendment**

Regulating and tracking population as a zoning tool presents inherent implementation difficulties. An added complexity is that the calculation of persons/acre is based on a formula contained in the Zoning Ordinance, consisting of household size for each housing type multiplied by the number of housing units, which numbers are not directly related to actual population counts or to population estimates reported by the U.S. Census. While the household size factors by housing unit type were reviewed and updated in the Zoning Ordinance amendment approved by the Board in 2007 to reflect more current data, the use of this Zoning Ordinance formula to determine Reston's population for PRC District density purposes continues to create misunderstanding and confusion, because it is not a true representation of the current total population of Reston. In addition, it does not reflect the population of all areas of Reston, nor is it intended to. Sect. 6-308 of the Zoning Ordinance contains the Maximum Density regulations for the PRC District. Par. 1 states *"(t)he overall density for a PRC District shall not exceed thirteen (13) persons per acre of gross residential and associated commercial areas."*

Par. 2 of Sect. 6-308 contains the multiplier factors used to calculate the residential density based on unit type. They include a factor of 3.0 persons for single family detached dwellings, 2.7 persons for single family attached (townhouse) dwellings, and 2.1 persons for multiple family dwellings (apartments or condominiums). These multipliers were amended in 2007 to more closely align with Census data, and are not proposed to be revised with this amendment.

Par. 3 of Sect. 6-308 identifies the three types of residential areas to be identified on the development plans, including low, medium, or high density.

- For low density residential areas, the overall density within the entire area of a PRC District that is designated for low density is not permitted to exceed 3.8 persons/acre, and the density in any one low density area is not permitted to exceed 5 dwelling units/acre.
- For medium density residential areas, the overall density within the entire area of a PRC District that is designated for medium density is not permitted to exceed 14 persons/acre, and the density in any one medium density area is not permitted to exceed 20 dwelling units/acre.
- For high density residential areas, the overall density within the entire area of a PRC District that is designated for high density is not permitted to exceed 60 persons/acre, and the density in any one high density area is not permitted to exceed 50 dwelling units/acre.

Within the Reston Master Plan, there are now six categories of residential land uses to indicate desired residential unit types. But for purposes of calculating the maximum persons/acre in the PRC-zoned areas, all development plans must designate either low, medium, or high density. These maximum density limitations do not apply to the additional ("bonus") dwelling units above the maximum that may be allowed by the affordable and/or workforce dwelling unit provisions in the Zoning Ordinance. This is not unique to the PRC District as the bonus density attributed to the provision of affordable and workforce dwelling units is excluded from maximum density/intensity provisions in all residential zoning districts.

With the overall residential density in the PRC District limited to 13 persons/acre currently, this equates to a maximum “population” of 81,195 persons (6,245.8 acres in the Reston PRC District x 13 persons). Using the method for calculating population density as set forth in Sect. 6-308 of the Ordinance, the total number of dwelling units existing, under construction, or approved on a PRC Plan as shown on the chart below would yield a calculated population of 77,833 persons or approximately **12.46 persons/acre currently**.

2018 Reston PRC Zoning Ordinance Population Calculation:

<i>Unit type</i>	<i># Existing &amp; Approved Units*</i>	<i>Factor</i>	<i>Total</i>
Single family detached	4,247	3.0	12,741
Single family attached	8,537	2.7	23,050
Multiple family	20,020	2.1	42,042
*Excludes bonus units per Z.O.			<b>77,833</b>

This results in a remaining capacity of approximately 3,362 persons (81,195 maximum persons – 77,833 persons in existing/approved units); that figure is the equivalent of approximately **1,601 multiple family dwelling units remaining** under the 13 persons/acre maximum (3,362 persons divided by a population factor of 2.1 for multiple family units).

Based on the potential growth anticipated by the Reston Master Plan, staff estimates that the additional residential development potential in the PRC District, which is projected to occur gradually over the next 30 to 40 years, will exceed the current 13 persons/acre residential density limit. Staff had previously analyzed the land use recommendations in the updated Reston Master Plan, and then subsequently adjusted those calculations based on revised assumptions, as described further below. The resultant analysis projects an estimated additional growth potential in the near term of approximately **4,018 multiple family residential dwelling units** above the 1,601 multiple family residential dwelling units remaining within the current 13 persons/acre limit. Details on these calculations are available in a table and accompanying map entitled “Reston PRC Land and Planned Residential Growth,” which are included as Appendix 1.

The methodology and revised assumptions used by staff to estimate the future potential residential growth anticipated by the land use recommendations in the Reston Master Plan vary by location. Within TSAs that are zoned PRC, residential growth potential was initially calculated based upon the planned floor area ratios (FAR) and the recommended mix of uses. In areas where a range of FARs is recommended, the residential potential was calculated using the mid-point of the FAR range. In the cases where recent development applications have already been approved in Reston’s TSAs, staff used the maximum number of residential units approved rather than rely on estimates. Staff further revised the estimates for those near-term proposed and likely to occur residential

development, based on either applications submitted or pre-application meetings held. The additional residential development potential for Lake Anne Village Center and Tall Oaks Village Center was calculated using the existing zoning approvals and Reston Master Plan guidance. The additional residential potential for the remaining Village Centers (North Point, South Lakes and Hunters Woods) was initially based on the entire area of the Village Center multiplied by the existing 50 dwelling units/acre currently permitted for these areas under the high density designation. However, based on questions raised by the community regarding Village Center redevelopment and the intent of the Reston Plan, the density potential for the remaining Village Centers was recalculated based only on the non-residential acreage of the Village Centers since the Plan's Guidelines for Village Center Redevelopment indicate that "the focus of redevelopment should be in the non-residential mixed-use area." This has resulted in an overall reduction of 886 multiple family units from the estimated future development potential. The residential development potential for areas outside the TSAs and Village Centers was calculated from existing zoning approvals or specific Reston Master Plan guidance. This includes areas such as St. John's Woods, Charter Oaks, Fairways, and the Baron Cameron North retail area.

Based on the revised assumptions noted above, staff proposes advertising an increase in the maximum persons/acre to a number between 13 and 15 persons/acre, rather than the 16 persons/acre previously proposed. While this may not fully accommodate the development potential of the Plan over the next 30 to 40-year horizon, it would add sufficient flexibility for the proposal of anticipated growth, particularly in the TSAs, in a shorter timeframe. An increase to 14 persons/acre would accommodate an additional 4,575 multiple family units above the remaining 1,601 units under the current limit; while an increase to 15 persons per/acre would accommodate an additional 7,550 multiple family units above the remaining units under the current limit. Based on the revised assumptions for expected near-term development within the TSAs and outside of the Village Centers of an additional 5,619 multiple family units, an increase to at least 14 persons/acre would be needed. However, the amendment will be advertised to provide the Board flexibility to consider a number anywhere between 13 and 15 persons/acre.

There has also been much discussion in the community about the potential for redevelopment of the two existing golf courses within Reston and whether redevelopment of one or both of the golf courses could be accommodated within the proposed increase in persons per/acre. The land area of the golf courses was not included in staff's initial or revised estimates of the potential future residential growth anticipated by the Reston Master Plan. Any redevelopment proposed for the golf courses would require a specific amendment to the Comprehensive Plan as the golf courses are currently identified on the Reston Master Plan as golf courses and are not currently planned for residential development. If there were to be a proposal to amend the Reston Master Plan to accommodate residential development on some or all of the existing golf courses, that amendment, if approved, would presumably necessitate a corresponding amendment to the PRC District to increase the maximum persons/acre population density.

Due to the higher densities planned for land zoned PRC in the TSAs, staff also proposes an amendment allowing the Board to approve residential development over the limit of 50 dwelling units/acre for properties designated on a development plan for high density in the Reston PRC District that are located within the TSAs and are more specifically planned for mixed use, as long as the specific development proposal is in accordance with the adopted Comprehensive Plan. Only a

small number of properties meet these provisions and would be eligible to request such an increase from the Board. Based on an analysis of the Reston Master Plan recommendations for those properties and feedback from the community expressing a desire to have a maximum specified in the ordinance, staff recommends that the maximum dwelling units/acre be increased from 50 to 70 dwelling units/acre only for those areas that are located within a TSA specifically identified in the Reston Master Plan for mixed use.

### Community Outreach

In May 2017, staff began the process of community engagement on this proposed Zoning Ordinance amendment. Several outreach sessions were held in an effort to describe and provide the rationale for the proposed change. In addition, a detailed webpage specific to this Zoning Ordinance Amendment was created where information related to the amendment is posted. The webpage includes links to presentations, FAQs, fact sheets, responses to stakeholders and other relevant material. The webpage is available through the following link:

<https://www.fairfaxcounty.gov/planning-zoning/zoning-ordinance/reston-prc-zoning-ordinance-amendment> The largest community meeting held on October 23, 2017, was simulcast on Cable Channel 16. At these outreach meetings, a few key areas of recurring public concern were raised. In general, most of the attendees at the community meetings were vocally opposed to any increase in the maximum density limitation above the current maximum of 13 persons/acre. Many expressed concern that any increase in population above the current maximum would have a significant negative impact on the Reston community as a whole—particularly with regard to the existing transportation network, schools, parks and other infrastructure needs—and disagreed with the vision for future growth recommended in the recently adopted Reston Master Plan.

At the request of Hunter Mill District Supervisor Cathy Hudgins, staff met with representatives of the Coalition for a Planned Reston (CPR, a voluntary group of residents from the Reston Citizens Association, Reclaim Reston and Reston 20/20 organizations) and Reston Association, to discuss their concerns and to respond to requests for changes to the Reston Master Plan which were outlined in memoranda dated November 17, 2017, from Reston Association and January 31, 2018, from CPR. The request would in essence leave the 13 persons/acre overall density limit in place by replanning certain areas, particularly the Village Centers, to a maximum of 30 dwelling units/acre, despite the fact that these areas have been planned for 50 dwelling units/acre for well over 40 years. Staff responded to these requests via a letter to Supervisor Hudgins on March 28, 2018, which is included as Appendix 2.

The adopted Reston Master Plan strategically focuses growth in the TSAs, in the Reston Town Center, and to a lesser extent in the Village Centers. The Reston Master Plan now protects existing residential neighborhoods in several ways that the previous Reston Master Plan did not. Almost all neighborhoods in Reston that could have redeveloped under previous Reston Master Plan guidance were re-planned to retain their existing density and character. Further, residential land use categories, which help define neighborhood land use density, were expanded from their original three broad categories to six more detailed land use categories in large part to aid in protecting established neighborhoods. In many cases, the previous Plan's broader categories allowed more latitude for redeveloping at higher densities, while the new detailed categories limit redevelopment (in most

cases) to existing built densities. In the event a proposal is submitted to redevelop an existing neighborhood, criteria have been established to guide the review of these proposals.

Citizens voiced concerns regarding the initial proposal to allow an increase in the 50 dwelling units/acre limitation for high density areas within TSAs that have site-specific language in the Reston Master Plan anticipating additional density as determined by the Board in conjunction with the approval of a development plan. In response to those concerns, the proposed amendment has been revised to limit the maximum density permitted in the TSAs located within the Reston PRC District up to a maximum of 70 dwelling units/acre as determined by the Board in conjunction with the approval of a development plan that is in conformance with the Reston Master Plan, only for those properties in the TSAs which are specifically planned for mixed use. The original proposal by staff was to leave this determination to the discretion of the Board based on the guidance in the Reston Master Plan.

Questions were also raised about the methodology used to calculate the existing and projected residential density in Reston. Multiple factors contribute to this confusion, including the facts that the Zoning Ordinance limit on population in Reston applies only to those areas zoned PRC, that the calculations are based on a formula using multipliers for unit types instead of actual population counts, and that certain bonus density units are not counted. Because this number doesn't reflect the number of actual persons living in all of Reston, there was concern that the supporting transportation, schools, parks, and other infrastructure needs would be incorrectly based on these numbers. Staff has made it clear that these proposed population numbers are merely a zoning regulatory calculation and are not used for any other criteria. The Reston Master Plan reflects the collective vision of the many stakeholders who contributed to its development. Further, this amendment does not approve any additional dwelling units. All development proposals must go through a rigorous staff evaluation process for conformance with the Reston Master Plan and the Zoning Ordinance as well as required community review and public hearings before the Planning Commission and Board of Supervisors.

In an attempt to further address the questions and concerns of the community expressed by Reston Association and CPR, a subsequent series of subject matter-specific meetings were held in a public setting in July 2018. Hosted jointly by Reston Association and CPR, the meetings included subject matter experts from the County and Schools, as well as representatives from the Community. All the meetings were televised (or taped), and are still available for viewing online. A total of four meetings were held, focusing on transportation (July 17, 2018), parks and recreation (July 18, 2018), schools (July 24, 2018), and the land use recommendations of the Comprehensive Plan (July 30, 2018). At the conclusion of each of these meetings, common ground and some additional information requests were identified. Since the meetings, staff has provided responses to the requests for additional information regarding the topic areas, which is posted on the website at <https://www.fairfaxcounty.gov/planning-zoning/zoning-ordinance/reston-prc-zoning-ordinance-amendment>. In addition, staff supports an editorial amendment to the Comprehensive Plan that would add an overall maximum population target, provide for periodic Comprehensive Plan monitoring, and include clarifying language regarding the potential for future redevelopment of the Village Centers.

Staff believes that the additional dialogue with community representatives has been productive, but the Reston PRC District regulations do need to be amended to implement the Plan. Staff is willing to work with the community on proposing amendments to the Reston Master Plan which are editorial in nature and which do not conflict with the spirit and long-term goals established by the Plan as amended.

#### *What if We Do Nothing?*

As development approaches the existing limit of 13 persons/acre in the Reston PRC District, staff has analyzed the logical question of what would happen if the existing limit were not changed and the maximum was reached? As discussed above, the Reston Master Plan anticipates additional future residential growth, concentrated in specific areas. With the identified remaining number of dwelling units under the limit of 1,601 multiple family units, there are several pending and anticipated near-term applications for developments that, taken together, would exceed that number. If any upcoming development applications were unable to be approved in the Reston PRC District—whether due to the current limit of 13 persons/acre or the high density limit of 50 du/ac for properties planned for mixed use at a higher density in the TSAs—staff anticipates that affected landowners may seek to rezone out of the PRC District to another planned development district, such as the PDC or PRM District. There is nothing that would prevent a property owner from seeking to use these other districts to implement the recommendations in the Reston Master Plan.

Removal of property from the Reston PRC District could further exacerbate the 13 persons/acre limit, because the acreage of the district would be reduced. This may result in a gradual erosion of the effectiveness of the PRC District as a whole, while not necessarily impeding development. Rather, the other tenets of the PRC District could be lost with the conversion of the Reston PRC District to other planned development districts. As a result, Reston could lose its unique zoning designation that has helped to shape the community for the past 50 years.

#### **Conclusion and Staff Recommendation**

Changes in Reston's land development pattern was anticipated with the arrival of Metrorail and is reflected in the Reston Master Plan, which was developed with extensive public input and outreach over a five-year period. This Plan follows the county's overall, long-term strategy to support Transit Oriented Development which concentrates growth around transit stations in mixed-use activity centers. The Reston Master Plan was developed in anticipation that most growth would occur over the next 30 to 40 years in these transit station areas as well as in the existing Village Centers. The proposed Zoning Ordinance amendment is a key step toward the implementation of this long term vision for Reston. Therefore, staff recommends amending the density provisions set forth in Sect. 6-308 of the Zoning Ordinance with an effective date of 12:01 a.m. on the day following adoption.

## PROPOSED AMENDMENT

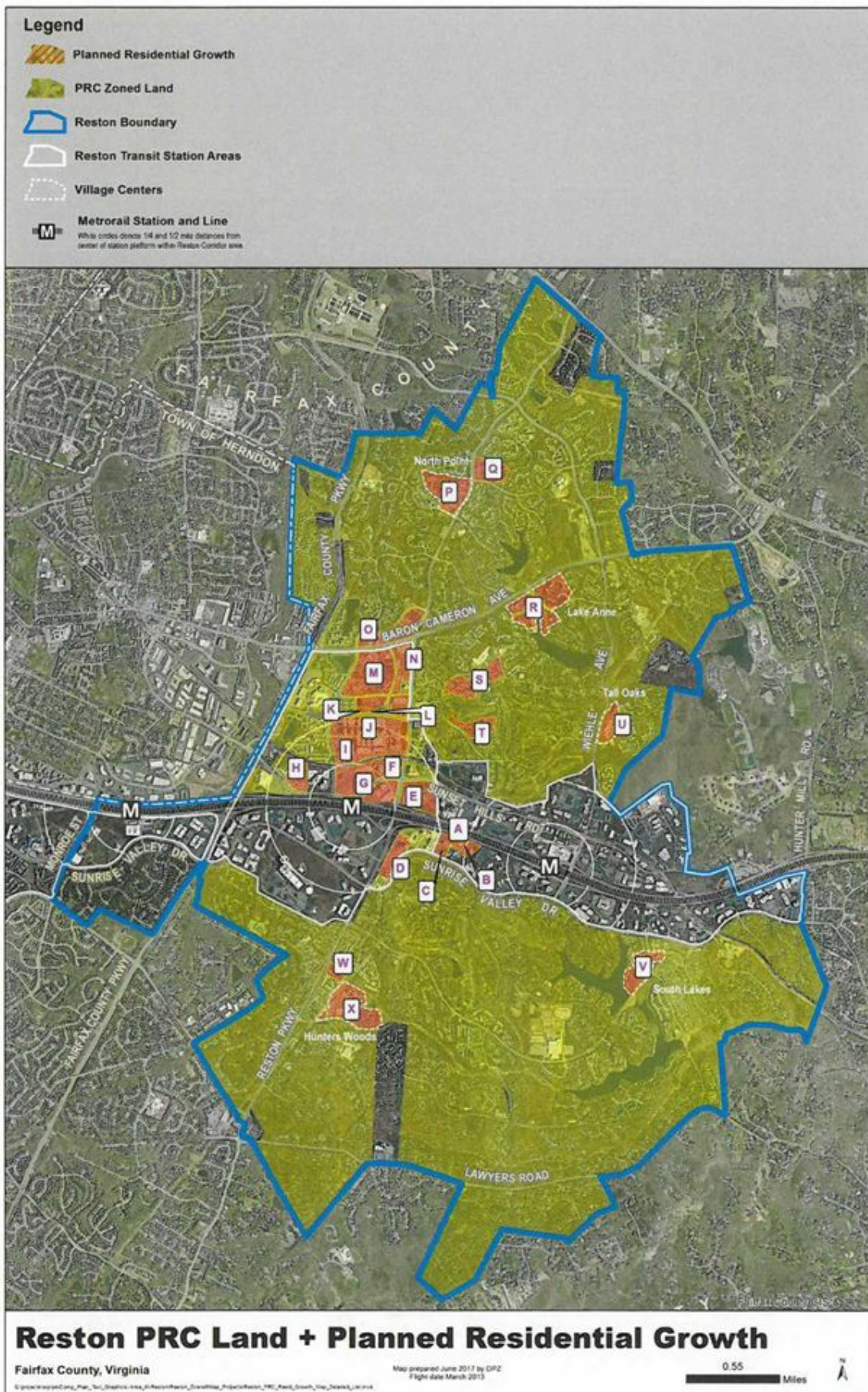
*This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of December 4, 2018, and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.*

1 Amend Article 6, Planned Development District Regulations, to amend Part 3, PRC-Planned  
2 Residential Community District, by amending Par. 1 through 5 of Sect. 6-308, Maximum  
3 Density, to read as follows:  
4

- 5 1. The overall density for a PRC District ~~shall not~~ may not exceed thirteen (13) persons per acre of  
6 gross residential and associated commercial areas; except that within the Reston PRC District,  
7 which includes a Transit Station Area planned for Mixed Use, the overall density may not exceed  
8 (advertised to allow any number between 13 up to 15) persons per acre.  
9
- 10 2. In computing density, a factor of 3.0 persons ~~shall~~ will be used per single family detached  
11 dwelling; 2.7 persons per single family attached dwelling; and 2.1 persons per multiple family  
12 dwelling.  
13
- 14 3. Residential densities in a PRC District ~~shall~~ will be designated low, medium or high on the  
15 approved development plan.  
16
  - 17 A. Low: The overall density within the entire area of a PRC District that is designated for low  
18 density ~~shall not~~ may not exceed 3.8 persons per acre of gross residential area. Further, the  
19 density in any one low density area ~~shall not~~ may not exceed five (5) dwelling units per acre.  
20
  - 21 B. Medium: The overall density within the entire area of a PRC District that is designated for  
22 medium density ~~shall not~~ may not exceed 14 persons per acre of gross residential area.  
23 Further, the density in any one medium density area ~~shall not~~ may not exceed twenty (20)  
24 dwelling units per acre.  
25
  - 26 C. High: The overall density within the entire area of a PRC District that is designated for high  
27 density ~~shall not~~ may not exceed 60 persons per acre of gross residential area. Further, the  
28 density in any one high density area ~~shall not~~ may not exceed fifty (50) dwelling units per  
29 acre. However, for developments located in a Transit Station Area planned for Mixed Use  
30 within the Reston PRC District, the Board, in conjunction with the approval of a  
31 Development Plan, may approve a density up to (advertised to allow any number from 50 up  
32 to 70) dwelling units per acre, when the proposed development is implementing the site-  
33 specific density and other recommendations contained in the adopted comprehensive plan.

1  
2 For the purposes of this district, density area ~~shall~~ means a development unit within an area  
3 designated on the approved development plan for low, medium, or high density.  
4

- 5 4. In computing average density on any development plan, subsequent PRC plan or final plat of a  
6 part of a PRC District, any excess in land area over that required to support an average density of  
7 thirteen (13) persons per acre or (advertised to allow any number from 13 up to 15) persons per  
8 acre within the Reston PRC District in any final plat previously recorded may be included. As  
9 each plan and subsequent final plat is submitted, the overall density of all areas shown on  
10 recorded final plats within the PRC District ~~shall will~~ be recomputed so that the average density  
11 within the recorded plats of sections of the PRC District ~~shall never at any time in the history of~~  
12 ~~the development does not~~ exceed a density of thirteen (13) persons per acre or (advertised to  
13 allow any number between 13 up to 15) persons per acre within the Reston PRC District.  
14
- 15 5. The provisions of Paragraphs 1, 3 and 4 above ~~shall do~~ not apply to affordable and market rate  
16 dwelling units which comprise the increased density pursuant to Part 8 of Article 2 or to  
17 proffered bonus market rate units and/or bonus floor area, any of which is associated with the  
18 provision of workforce dwelling units, as applicable.



Reston PRC Planned Dwelling Unit Growth							
Map Identifier	Site Name	Existing & Approved Units*	Revised Planned Units**	Revised Total Units	TSA, Village Center, or Other	Revised Planned Units Totals	
A	1941 & 1950 Roland Clark	-	263	263	T	TSA:	2,701
B	Pond Office Building Site	-	300	300	T	Other:	2,918
C	RP 11720, LC (Sekas West)	54	-	54	O	VCs:	3,145
D	Reston Heights	498	-	498	O		
E	Oracle	457	-	457	O	Total TSAs and Other Only:	
F, G	Residential/Transit Station Mixed Use	1,688	-	1,688	T	<b>5,619</b>	
H	Dwoskin	-	469	469	T		
I, J	Urban Core South, North	1,717	1,619	3,336	T		
K	Winwood Childcare	125	-	125	O		
L	South of Library	-	50	50	T		
M	Reston Town Center North	30	2,370	2,400	O		
N	Spectrum	1,422	-	1,422	O		
O	Baron Cameron Retail	-	-	-	O		
P	North Point Village Center	154	1,212	1,366	V		
Q	St Johns Wood	250	188	438	O		
R	Lake Anne Village Center	1,466	-	1,466	V		
S	Fairway	804	-	804	O		
T	Charter Oaks	261	360	621	O		
U	Tall Oaks Village Center	156	-	156	V		
V	South Lakes Village Center	235	724	959	V		
W	Colts Neck	91	-	91	O		
X	Hunters Woods Village Center	494	1,209	1,703	V		
Y	Four Seasons	11	-	11	O		
<b>TOTAL DWELLING UNITS</b>		<b>9,913</b>	<b>8,764</b>	<b>18,677</b>			

\*These units have been included in the overall PRC District residential density calculation of 12.46 persons per acre.

\* \*These are the estimated number of dwelling units recommended by the Comprehensive Plan within Reston's PRC zoned land, for those areas where growth is recommended to occur.  
As adjusted in 2018 for changed assumptions to more precisely reflect known or likely nearer term proposals.  
The overall available Comprehensive Plan capacity did **not** change from our previous assessment, and **still remains**.



## County of Fairfax, Virginia

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

March 27, 2018

Ms. Catherine M. Hudgins  
Hunter Mill District Supervisor  
12000 Bowman Towne Drive  
Reston, VA 20190

Supervisor Hudgins,

As you requested, planning staff has reviewed the letters from the Reston Association (RA) and the Coalition for a Planned Reston (CPR) that request changes to the Comprehensive Plan for Reston (hereafter referred to as the Reston Master Plan) and actions regarding its implementation. The proposed changes and actions are outlined in the letter from RA dated November 17, 2017 (Attachment 1) and the letter and attachment from CPR dated February 5, 2018 and January 31, 2018, respectively (Attachment 2).

Many of the concerns raised by RA and CPR are associated with their desire that you (and the Board of Supervisors) initiate an amendment to the newly adopted Reston Master Plan. As you know the Reston Master Plan was the result of a six year planning study that started with a first phase that evaluated land use changes in the areas around the three new Silver Line Metrorail stations in Reston (Wiehle-Reston East, Reston Town Center and Herndon). That phase was guided by a 50 member Task Force (including alternates) appointed by the Board of Supervisors. The task force was comprised of community residents and representatives of community organizations, landowners and businesses. The task force met from 2010 to 2014 in almost 200 meetings. All meetings were open to and attended by members of the public. Each meeting included an open comment period that allowed anyone in the community an opportunity to direct questions and comments to the Task Force and staff. There were also several communitywide meetings that focused on topical issues like the future of the transit station areas and provided updates on the proposed plan recommendations under development. The second phase of the Reston planning process began in 2014 and was organized around community meetings that solicited ideas and comments on the desired future of Reston's neighborhoods and village centers. Drafts of the newly proposed plan language were openly discussed, and posted on line for broad community input and participation. All interested parties were given the opportunity to review and provide comments prior to consideration and action by the Planning Commission and Board of Supervisors.

Excellence \* Innovation \* Stewardship  
Integrity \* Teamwork \* Public Service

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Recognizing the time, energy and community commitment that go into our major multi-year land use studies, it has long been the county's practice not to amend these new plans within the first five years of their adoption. The current North County Site Specific Plan Amendment Process, which includes the Hunter Mill District, excludes Reston for this reason. Staff continues to support this practice and cannot support changes to land use, density or intensity recommendations in the Reston Master Plan for the Transit Station Areas until after 2019 and for Reston's neighborhoods and village centers until after 2020. Staff is open to considering changes to the Reston Master Plan that clarify recommendations, correct oversights or are editorial in nature.

This letter is organized around the nine points raised by RA followed by the points raised by CPR. Some of the changes proposed by RA and CPR are similar, so where a similar response is appropriate, it is so noted.

RA Point 1 – Amend the Reston Master Plan to add back a population cap.

The original Land Use Plan Map for Reston included a table "Population Data" that referenced population ranges for portions of Reston and a total "not to exceed" 78,000 people. Staff can support the inclusion of a future population target as part of the vision for Reston as was done in the plan for Tysons. In our view this target should not be referred to as a cap, but as an articulation of the future vision for Reston's growth.

The monitoring of Reston's population growth should be based on information from the U.S. Census, rather than using the formulas in the PRC provisions of the Zoning Ordinance. This will more accurately reflect the actual population in Reston by using a widely accepted standard of measurement.

RA Point 2 – Provide a statement that the Reston Village Centers are planned to reflect land uses that are there today and that redevelopment should only be considered in the context of a future amendment to the Comprehensive Plan.

Each of Reston's village centers (with the exception of Lake Anne) has a "baseline" recommendation that is meant to reflect the existing development. This recommendation is for neighborhood serving retail and service uses up to .25 FAR, integrated with office, institutional uses and residential development. In addition, these village centers have the opportunity to redevelop according to the "Guidelines for Village Center Redevelopment" set forth in the Reston Master Plan. These guidelines outline the process and planning objectives that should be achieved when considering proposals to redevelop Reston's village centers. The guidelines indicate that any property owner contemplating redevelopment will "need to work with the community and Fairfax County to create a detailed plan for the property."

Staff believes these guidelines refer to the submission of a development plan associated with a zoning application and need not trigger an amendment to the Reston Master Plan. The village centers are currently planned for a mix of uses and are designated for high density

residential. A development plan that shows how the proposed future redevelopment will achieve the planning objectives for Reston's village centers satisfies the documentation needed for staff, stakeholder and legislative review.

One area where the plan for the village centers could be clarified is to more explicitly state that redevelopment is recommended to occur in the existing non-residential or mixed-use areas. As written the plan indicates that "Each of the Village Centers consists of a non-residential mixed use area and adjacent residential uses. The focus of redevelopment should be in the non-residential mixed use area." The adjacent residential uses are stable residential neighborhoods and are not targets for future redevelopment. While this is implied by the current text, the guidance could be strengthened and clarified to indicate that these areas are not the focus of redevelopment and that the residential density allowed with redevelopment should be calculated on the area subject to redevelopment and not the entire village center.

RA Point 3 – Similar to the Tysons Plan, initiate an amendment to the Reston Plan that requires periodic Plan updates.

The update process for the Tysons Plan was established as one of the follow-on motions at the time the plan was adopted. Staff has been monitoring the implementation of the Reston Plan and is prepared to provide a similar progress report which can report on such things as:

- existing development;
- land use changes over time;
- rezoning actions and development activity;
- growth in population and jobs;
- affordable/workforce housing;
- transportation improvements and funding;
- Silver Line rail service;
- transit service;
- pedestrian and bike enhancements;
- green buildings and energy and resource conservation; and,
- public facilities and parks.

RA Point 4 – Request that the Reston Network Advisory Group fully review the current Reston Transportation Network Analysis assumptions and methodology, addressing questions raised by the Reston community.

County staff and the Reston community engaged in the Reston Transportation Network Analysis for over two years. The assumptions made for trip generation were discussed with both the Advisory Group and with the Stakeholders Group, and are consistent with the guidance in the Comprehensive Plan. The methodology was well vetted, was transparent, and was presented to the Advisory Group and Stakeholders at all decision making points. Staff is currently working

on the Final Report, and does not believe that there are any outstanding aspects of the analysis not already vetted with the Advisory Group. However, if members of the community have questions, or if the information provided in the Final Report is unclear, county staff is willing to meet with the community to answer any questions.

RA Point 5 – Implement a collaborative mechanism for a continued dialogue to establish a realistic and detailed plan to increase the number and capacity of recreational facilities within Reston.

Each new development in Reston is evaluated as part of the development review process to determine how each project can address the park and recreation recommendations in the Reston Master Plan. Through this process the county has secured commitments for on-site urban park spaces as well as monetary contributions to Fairfax County that can be used to upgrade recreational facilities in the Reston area. The plan sets a goal of 12 new athletic fields to serve Reston and staff is committed to working with applicants and the community to achieve this goal.

The plan recognizes that several entities provide park and recreation facilities and amenities including the Fairfax County Park Authority, the Reston Association, the Reston Community Center, and the Northern Virginia Regional Park Authority. County staff is open to working collectively with all of these groups and the Reston community to plan for how best to meet future park and recreation needs. We would suggest that the Hunter Mill District Planning Commissioner and Park Authority Board Member be a part of these discussions.

RA Point 6 – Initiate an amendment to the Reston Plan to add assertive statements that infrastructure capacity must be increased at the same time as new development occurs.

The plan currently has language which indicates that the provision of future facilities will need to be coordinated with the rate at which planned development occurs. It also calls for the development of a phasing plan linking future development with specific improvements with the stated goal of balancing projected development with infrastructure and public facilities over time.

We feel that this plan guidance is appropriate and that what is needed at this time is the development of the phasing plan referenced in the adopted plan. This action is in line with the points in the letter calling for collaboration and actions regarding the provision of future park/recreation, schools and transportation facilities.

RA Point 7 – Direct staff to collaborate with public schools staff and the Reston community to establish a realistic plan for the provision of increased school capacity in Reston.

Staff supports this recommendation and is willing to partner with Fairfax County Public Schools staff and the Reston community to look at future development and how this growth will be accommodated.

RA Point 8 – Initiate an amendment to the Reston Master Plan to remove the road connection between American Dream Way and Isaac Newton Square.

Staff believes the proposed future roadway is important to provide needed connectivity for planned redevelopment of the Isaac Newton Square area, and will provide congestion relief by serving as an alternative route to Sunset Hills Road. If built, the connection could reduce congestion at the Sunset Hills/Wichle Avenue intersection. This future road connection has not been designed, so its exact configuration or potential impacts to the golf course or environmentally sensitive land in the area is not known. The County has no immediate plans to initiate design work on this road because there are other higher priority transportation network improvement projects that we are advancing. However, in the event that this road connection is advanced to the design stage, either as part of private redevelopment or as part of a public project, there will be many opportunities for the community to have input into the process and provide feedback. As with any new roadway design the County will work to minimize negative impacts on existing uses (such as the golf course) and the environment. In our view, the planned road being shown as part of the conceptual street network does not negatively affect the viability of the Hidden Creek Golf Course.

RA Point 9 - Initiate an amendment to the Reston Plan to change the high density multi-family land use map category from 50+ du/ac (i.e. unlimited) to the maximum necessary to accommodate the two properties shown with this designation.

Staff acknowledges that the land use map category 50+ might be viewed as allowing unlimited development on the sites with this designation, although this was not the intent. Staff is willing to look at how best to amend the plan to clarify the limits of this category.

CPR - Affordable Housing

The objectives of the Coalition with respect to affordable housing are: making sure that 20% of all new housing is affordable; assuring that affordable units called for in the plan are built in Reston; and, creating a Reston Housing Trust Fund to facilitate financing of affordable housing. To achieve this 20 percent objective, the Coalition would like to incorporate plan text that was adopted for Tysons and apply it to Reston. The adopted Reston Master Plan calls for the provision of affordable and workforce housing in the Transit Station Areas based on a sliding scale tied to the intensity of development as determined by its maximum Floor Area Ratio (FAR). At a 1.0 FAR the percentage of affordable/workforce housing to be provided is 12 percent, increasing to 18 percent at 4.0 FAR. Intensity above 4.0 FAR would need to provide 20 percent affordable/workforce units. This approach to Reston was developed recognizing that development in Tysons has the opportunity for much higher intensities as the plan for Tysons sets no maximum intensity within a quarter mile of the station and approvals in these areas have

ranged as high as 8.0 FAR. In addition, the Reston Master Plan has a provision for a \$3.00 per square foot contribution to affordable housing for all non-residential development. This is the same as Tysons and will help fund affordable housing in Reston.

To change from the sliding scale that was adopted to a flat 20 percent affordable housing requirement would be a significant change to the land use recommendations for Reston's Transit Station Areas and, as such, is not supported by staff. The sliding scale approach was developed to recognize that the ability to provide affordable and workforce housing is linked to the density/intensity that is planned.

Reston has a long history of being an inclusive community and as such is one of the most critical areas in the county for preserving as well as creating new affordable housing opportunities. However, the CPR recommendation to create a separate Reston Housing Trust Fund is not supported as it could have the unintended consequence of putting the county at a disadvantage when faced with opportunities to provide affordable housing. Should there be an opportunity in the future to preserve affordable housing in Reston, as was done with the Crescent Apartments at Lake Anne, there could be pressure to limit funding to whatever is available in the Reston housing fund and not bring other sources to bear because of the implication that to do so would be at the expense of other areas of the county. The county's ability to provide affordable housing is directly linked to its ability to tap a variety of funding sources when needed and having separate pots of money for different areas of the county will hamper this needed flexibility. Therefore, staff does not support the idea of establishing a separate Reston Housing Trust Fund.

#### CPR – Land Use Designations and Residential Land Use Categories

The Coalition would like to delete unlimited density potential of the high density category; lower the planned density in all categories; and set overall maximum Reston population at 120,000. Staff supports the concept of clarifying the long term vision of Reston by including a future population estimate or target for future growth. This was an element of the previous Reston Land Use Plan and we believe this should be corrected. We are not prepared at this time to say what the population figure should be, but we are prepared to work with the community on this type of amendment should it be authorized.

The proposal to lower the maximum density of the Medium-density Multi-family category from 50 to 30 dwelling units per acre (DU/AC) is a significant change in the land use density recommendations of the adopted plan and is not supported by staff. However, we do recognize that the High-density category, which is characterized as 50+ on the Land Use Map may need to be clarified as this category was never meant to convey a recommendation for unlimited density. Staff is willing to work with the community to see how this element of the plan might best be clarified.

#### CPR - Guidelines for Village Center Redevelopment

The Coalition's objectives for village center redevelopment include: keeping redevelopment to neighborhood scale; keeping redevelopment in mixed-use areas only; continuing the planned involvement of the community in any redevelopment; and, sustaining the economic viability of the remaining three village centers. To achieve the neighborhood scale objective, the Coalition proposes to limit redevelopment to Medium-density Multi-family, at a density range of 21-30 DU/AC. This is a significant departure from the High-density Multi-family designation at a maximum density of 50 DU/AC density that is recommended for the village centers and is not supported by staff. The village centers have long had this high density designation and maximum density, and there is little justification provided to support revising it other than maintaining that this would be more reflective of the "neighborhood scale" referenced in the plan. There is also a Coalition recommendation that any redevelopment of the village centers should result in 25 percent open space based on the acreage of the mixed use area of the village center, which is also a significant change to the land use recommendations for village centers and is not supported by staff.

The Coalition would limit redevelopment to the existing mixed use areas of the village centers. As stated in the response to RA Point 2, this is an area where the Reston Master Plan might need to be clarified. The adjacent residential areas while part of the village center are stable residential neighborhoods and are not targets for future redevelopment. Staff supports looking at the residential areas within each village center for the purpose of better defining the area that is subject to redevelopment and clarifying that the residential density allowed with redevelopment should be calculated on the area subject to redevelopment and not the entire village center.

#### CPR - Implementation - Monitoring, Regulation, Partnerships and Phasing

With respect to implementation of the Reston Master Plan the Coalition wants assurance that development is tracked and that infrastructure occurs with the availability of new development. Staff has been monitoring the implementation of the Reston Plan and will commit to providing a progress report for Reston similar to the report that is compiled for Tysons in October/November of 2018. In addition, we will work with the Reston community in identifying when new public facilities are needed and how these facility needs might best be addressed through the Capital Improvement Program (CIP) for schools and other public facilities.

#### CPR Phasing Transportation and Public Facilities Development

The plan currently has language that indicates that the provision of future facilities will need to be coordinated with the rate at which planned development occurs. It also calls for the development of a phasing plan linking future development with specific improvements with the stated goal of balancing projected development with infrastructure and public facilities over time.

Letter to Supervisor Hudgins  
March 27, 2018  
Page 8

We feel that this plan guidance is appropriate, and that what is needed at this time is the development of the phasing plan referenced in the adopted Reston Master Plan. This action is in line with the points in the RA and CPR letters calling for collaboration and actions regarding the provision of future park/recreation, schools and transportation facilities.

CPR - Parks, Recreation and Cultural Facilities

See response to RA Point 5.

CPR - Reston Neighborhoods

The Coalition has expressed the desire to delete current language that provides a redevelopment option for St. Johns Wood. This multi-family development was designated high density residential on the previous Reston Master Plan and the property owners submitted a nomination to keep that designation as part of the master plan update. Their nomination was considered during that process and the option in the adopted plan reflects support for redevelopment under certain conditions outlined in the plan. A development application to implement this redevelopment option has been filed and has been reviewed by staff and the Reston community. The application is currently in a deferred status at the request of the applicant.

To delete the redevelopment option for St Johns Wood apartments as requested by the Coalition would represent a change in land use density and is not supported by staff.

CPR - Mapped Road Across Hidden Creek Country Club

See response to RA Point 8.

In summary, staff is open to clarifying several areas in the Reston Master Plan as noted in our response and continuing to work with the Reston community to address their concerns about the future. However, staff does not support the proposed changes to the Reston Master Plan that would affect land use, density or intensity recommendations.

Please feel free to contact me at 703-324-1110 if you have any questions. We are available to meet with you and representatives of the Reston community, including RA and CPR, to work through issues and concerns and to continue the collaborative and cooperative working relationship that we have had with you and the Reston community over the years.

Sincerely,



Fred R. Selden Director,  
Department of Planning and Zoning

Letter to Supervisor Hudgins  
March 27, 2018  
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cc: Sharon Bulova, Chairman, Fairfax County Board of Supervisors  
John Carter, Hunter Mill Planning Commissioner  
James Hart, At-Large Planning Commissioner  
Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, FCDOIT  
Leslie Johnson, Zoning Administrator, DPZ  
Marianne Gardner, Planning Division Director, DPZ  
Cathy Belgin, Deputy Zoning Administrator, DPZ  
Regina Coyle, Special Projects Coordinator, DPZ

ADMINISTRATIVE - 12

Authorization to Advertise a Public Hearing to Consider the Adoption of Amendments to Chapter 41.1 of the Fairfax County Code Relating to Wild or Exotic Animals

ISSUE:

Authorization to advertise a public hearing to consider amendments to Chapter 41.1 of the Fairfax County Code, Animal Control and Care. The proposed amendment to County Code Section 41.1-1-1 will add hedgehogs and chinchillas to the list of exceptions to the definition of wild and exotic animal, thus allowing hedgehogs to be lawfully kept in the County and clarifying that chinchillas may be lawfully kept in the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing to consider the proposed amendments to County Code Chapter 41.1.

TIMING:

Board action is requested on December 4, 2018, to provide sufficient time to advertise the proposed public hearing on January 22, 2019, at 4:00 p.m. If approved by the Board, these provisions will become effective immediately.

BACKGROUND:

In connection with a proposed Zoning Ordinance amendment directed by the Board and with a public hearing date also set for January 22, 2019, the proposed amendment to Section 41.1-1-1 revises the definition of wild and exotic animal to add hedgehogs and chinchillas to the list of exceptions to that definition. This amendment will allow hedgehogs to be lawfully kept in the County and will also clarify that chinchillas may be lawfully kept in the County. If enacted along with the proposed Zoning Ordinance amendment, hedgehogs and chinchillas will be legal to own in the County and will not require special permit approval.

Under the existing definition, chinchillas have been determined not to be wild or exotic despite not being listed as an exception. This amendment explicitly adds chinchillas to the list of exceptions, thus clarifying that they are not wild or exotic. In contrast, hedgehogs have been determined to be wild or exotic under the existing definition and thus illegal to own. This amendment adds hedgehogs to the list of exceptions to the definition, thus allowing them to be lawfully kept in the County.

Department of Animal Sheltering (DAS) staff does not recommend legalizing hedgehogs in Fairfax County. DAS staff believes that unconditional legal acceptance of hedgehogs as pets in our community will encourage the pet industry to flood the market, fostering a

fad in the County. Similar to the fad for ferrets in the 1990s and early 2000s, many of these hedgehogs will suffer from poor husbandry, resulting in health issues and poor quality of life. Many will live in environments that deprive them of the ability to express behavior natural to their species such as sleeping during the day and being active at night.

At its meeting on November 8, 2018, the Animal Services Advisory Commission (ASAC) expressed opposition to legalizing hedgehogs in the County. ASAC reiterated its concerns about irresponsible care for these animals expressed in connection with the proposed Zoning Ordinance amendment classifying hedgehogs as commonly accepted pets.

FISCAL IMPACT:  
None.

ENCLOSED DOCUMENTS  
Attachment 1 – Proposed Amendments to Chapter 41.1, Animal Control and Care (markup)

STAFF:  
David M. Rohrer, Deputy County Executive  
Edwin C. Roessler, Chief of Police  
Karen Diviney, Director, Department of Animal Sheltering  
Captain Paul Norton, Commander, Animal Services Division

ASSIGNED COUNSEL:  
John W. Burton, Assistant County Attorney

**AN ORDINANCE AMENDING  
CHAPTER 41.1 OF THE FAIRFAX COUNTY CODE, RELATING TO  
ANIMAL CONTROL AND CARE**

**Draft of November 26, 2018**

**AN ORDINANCE** to amend the Fairfax County Code by amending and readopting Section 41.1-1-1, relating to wild and exotic animals.

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

- 1. That Section 41.1-1-1 of the Fairfax County Code is amended and reenacted as follows:**

**Section 41.1-1-1. - Definitions.**

For the purpose of this Chapter, the following words and phrases have the following meanings unless otherwise defined within this Chapter:

*Adequate feed* means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

*Adequate shelter* means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Shelters whose wire, grid, or slat floors permit the animals' feet to pass through the openings, sag under the animals' weight or otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

*Adequate space* means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position

1 for the animal and (ii) interact safely with other animals in the enclosure. When an animal  
2 is tethered, adequate space means a tether that permits the above actions and is  
3 appropriate to the age and size of the animal; is attached to the animal by a properly  
4 applied collar, halter, or harness configured so as to protect the animal from injury and  
5 prevent the animal or tether from becoming entangled with other objects or animals, or  
6 from extending over an object or edge that could result in the strangulation or injury of the  
7 animal; and is at least three times the length of the animal, as measured from the tip of  
8 its nose to the base of its tail, except when the animal is being walked on a leash or is  
9 attached by a tether to a lead line. When freedom of movement would endanger the  
10 animal, temporarily and appropriately restricting movement of the animal according to  
11 professionally accepted standards for the species is considered provision of adequate  
12 space.

13 *Adequate water* means provision of and access to clean, fresh, potable water of a  
14 drinkable temperature that is provided in a suitable manner, in sufficient volume, and at  
15 suitable intervals, to maintain normal hydration for the age, species, condition, size and  
16 type of each animal, except as prescribed by a veterinarian or as dictated by naturally  
17 occurring states of hibernation or fasting normal for the species; and is provided in clean,  
18 durable receptacles that are accessible to each animal and are placed so as to minimize  
19 contamination of the water by excrement and pests or an alternative source of hydration  
20 consistent with generally accepted husbandry practices.

21 *Animal* means any nonhuman vertebrate species except fish.

22 *Animal control officer* means a person appointed as the animal control officer or a deputy  
23 animal control officer pursuant to Virginia law to enforce the Virginia Comprehensive  
24 Animal Laws, this Chapter, and all laws for the protection of domestic animals.

25 *Animal Shelter* means the Fairfax County Animal Shelter which is operated by as a pound  
26 as is defined in Virginia Code § 3.2-6500.

27 *Animal Services Division* means the Animal Services Division of the Fairfax County Police  
28 Department. References to the Commander of the Animal Services Division mean the  
29 Commander or his or her agent.

30 *Certified service animal* means a monkey that is used or is in training to be used solely to  
31 assist disabled persons and which use is certified by officials of a generally recognized  
32 scientific or educational institution, provided that such certified service animal has been  
33 bred in a closed breeding environment located in the United States.

34 *Circus* means any commercial variety show featuring animal acts for public entertainment.

35 *Companion animal* means any domestic or feral dog, domestic or feral cat, non-human  
36 primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native  
37 animal, reptile, exotic or native bird, or any feral animal or any animal under the care,  
38 custody, or ownership of a person or any animal that is bought, sold, traded, or bartered  
39 by any person. Agricultural animals, game species, or any animals regulated under

1 federal law as research animals shall not be considered companion animals for the  
2 purpose of this chapter.

3 *Director of Health* means the Director of the Fairfax County Health Department or his or  
4 her designee.

5 *Director of Tax Administration* means the Director of the Department of Tax  
6 Administration or his or her designee. For purposes of issuing dog licenses, the Animal  
7 Services Division is a designee of the Director of Tax Administration.

8 *Horse* means and includes horse, mule, donkey, and ass.

9 *Kennel* means any place in or at which five or more dogs or cats or hybrids of either are  
10 kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or  
11 showing.

12 *Livestock* includes all domestic or domesticated: bovine animals; equine animals; ovine  
13 animals; porcine animals; cervidae animals; caprae animals; animals of the genus  
14 Lama; ratites; fish or shellfish in aquaculture facilities, as defined in state law; enclosed  
15 domesticated rabbits or hares raised for human food or fiber; or any other individual  
16 animal specifically raised for food or fiber, except companion animals.

17 *Owner* means any person, firm, partnership, corporation, association, or other legal entity,  
18 who has a right of property in an animal, keeps or harbors an animal, has an animal in  
19 his, her or its care, or acts as a custodian of an animal, including operators or managers  
20 of stables, kennels, pet shops, or other animal establishments.

21 *Primary enclosure* means any structure used to immediately restrict an animal to a limited  
22 amount of space, such as a room, tank, pen, cage, compartment or hutch. For tethered  
23 animals, the term includes the shelter and the area within reach of the tether.

24 *Releasing agency* means a pound, animal shelter, humane society, animal welfare  
25 organization, society for the prevention of cruelty to animals, or other similar entity or  
26 home-based rescue that releases a companion animal for adoption, including the Fairfax  
27 County Animal Shelter.

28 *Rightful owner* means a person with a right of property in the animal.

29 *Service animal* means any dog or miniature horse that is individually trained to do work  
30 or perform tasks for the benefit of an individual with a disability, including a physical,  
31 sensory, psychiatric, intellectual, or other mental disability. Other species of animals,  
32 whether wild or domestic, trained or untrained, are not service animals for the purposes  
33 of this definition. The work or tasks performed by a service animal must be directly related  
34 to the handler's disability. Examples of work or tasks include, but are not limited to,  
35 assisting individuals who are blind or have low vision with navigation and other tasks,  
36 alerting individuals who are deaf or hard of hearing to the presence of people or sounds,  
37 providing non-violent protection or rescue work, pulling a wheelchair, assisting an  
38 individual during a seizure, alerting individuals to the presence of allergens, retrieving  
39 items such as medicine or the telephone, providing physical support and assistance with  
40 balance and stability to individuals with mobility disabilities, and helping persons with

psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

*Traveling animal exhibition* means any spectacle, display, act or event, including circuses and carnivals, where animals are maintained, whether or not the animals actually perform, the owners or operators of which do not have their principal place of business in Fairfax County, Virginia, and that are required to obtain a temporary special permit pursuant to the Zoning Ordinance. Notwithstanding the foregoing, a horse or pony ride is not a traveling animal exhibition.

*Unrestricted* means not under the control of the owner or his agent either by leash, cord, chain, or primary enclosure when off the property or premises of the owner or custodian. An electronic device does not qualify as a leash, cord or chain.

*Vicious animal* means any animal or animals that constitute a physical threat to human beings or other animals, not to include vicious dogs, which are addressed separately within this Chapter.

*Wild or exotic animal* means any live monkey (non-human primate), raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal, poisonous snake or tarantula that can normally be found in the wild state or any other member of a crocodilian, including but not limited to alligators, crocodiles, caimans, and gavials. Ferrets, hedgehogs, chinchillas, non-poisonous snakes, rabbits, and laboratory rats that have been bred in captivity and that have never known the wild are excluded from this definition.

**2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.**

**3. That the provisions of this ordinance shall take effect upon adoption.**

GIVEN under my hand this 22<sup>nd</sup> day of January, 2019.

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Clerk to the Board of Supervisors

ADMINISTRATIVE – 13

Supplemental Appropriation Resolution AS 19067 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 19067 in the amount of \$9,728,162 for Fairfax County to accept Department of Homeland Security (DHS) FY 2018 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 2018 subgrant awards is September 1, 2018 through December 31, 2019, May 31, 2020 or June 30, 2020, depending on the award. No Local Cash Match is required. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

The Metropolitan Washington Council of Governments (MWCOG) has informed the region that there may be changes in UASI funding allocations beginning with the UASI FY 2019 awards (County FY 2020). Staff is working with MWCOG and regional partners on this issue. The Board of Supervisors was notified via memo on November 26, 2018 of MWCOG's recommendations regarding UASI funding. Please refer to the memo for additional information.

RECOMMENDATION:

The County Executive recommends that the Board approve Supplemental Appropriation Resolution AS 19067 in the amount of \$9,728,162. 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 4/4.0 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. The County

Board Agenda Item  
December 4, 2018

Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:

Board approval is requested on December 4, 2018.

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

Board Agenda Item  
December 4, 2018

along with a synopsis for each project. Individual awards are also attached to support requested acceptance.

FISCAL IMPACT:

Grant funding in the amount of \$9,728,162 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 2019. Indirect costs are recoverable for some of these awards. No Local Cash Match is required.

CREATION OF NEW POSITIONS:

Grant funding will continue to support 4/4.0 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 19067

STAFF:

David Rohrer, Deputy County Executive  
Seamus Mooney, Coordinator, Office of Emergency Management  
John S. Butler, 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

Project Title	Program Year	Award Amount	Award Status	Award Type	Implementing County Agency	Program Manager	Positions	Begin Date	End Date	Project Synopsis
<b>FY 2018 UASI AWARDS AND APPLICATIONS</b>										
1 Radio Cache (Continuation)	FY2018	189,419.00	Received	Continuation	Fire and Rescue Department	Greg Hunter	0.0 FTE	9/1/2018	5/31/2020	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 (Continuation)	FY2018	272,000.00	Received	Continuation	Fire and Rescue Department	Daryl Louder	0.0 FTE	9/1/2018	5/31/2020	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 Regional Preparedness Program (Continuation)	FY2018	416,908.00	Received	Continuation	Office of Emergency Management	Andrew Sullivan	3.0 FTE	9/1/2018	12/31/2019	The National Capital Region (NCR) seeks to enhance regional preparedness and facilitate increased coordination capabilities among jurisdictions in the State of Maryland, the Commonwealth of Virginia and the District of Columbia. These enhancements can only occur by establishing a systematic program to integrate regional preparedness efforts, through targeted engagement of NCR Regional Emergency Support Function (RESF) Committees, devising a concept of operations for regional preparedness resourcing and facilitating regional communication, coordination, collaboration and consensus among various regional jurisdictions and multi-disciplinary stakeholders.
4 EMNET (Continuation) (NVERS)	FY2018	12,127.00	Received	Continuation	Office of Emergency Management	Sulayman Brown	0.0 FTE	9/1/2018	5/31/2020	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.
5 Mass Notification and Communications (Continuation)	FY2018	1,775,000.00	Received	Continuation	Office of Emergency Management	Sulayman Brown	0.0 FTE	9/1/2018	5/31/2020	Payment of the yearly maintenance costs for the National Capital Region's emergency alerting system, which includes EAN and Fairfax Alerts.
6 Volunteers and Donations Management - Fairfax County (Continuation)	FY2018	242,600.00	Received	Continuation	Office of Emergency Management	Matt Marquis	0.0 FTE	9/1/2018	5/31/2020	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.
7 NCR Web EOC (Continuation)	FY2018	850,000.00	Received	Continuation	Office of Emergency Management	Paul Lupe	0.0 FTE	9/1/2018	5/31/2020	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.
8 Intelligence Analysis (PD)-VA (Continuation)	FY2018	1,193,329.00	Received	Continuation	Police Department	Lt. Jim Hardy	0.0 FTE	9/1/2018	5/31/2020	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 attacks.
9 Mobile Automated Fingerprint Identification System (AFIS) (Continuation)	FY2018	1,700,000.00	Received	Continuation	Police Department	Dave Russell	0.0 FTE	9/1/2018	6/30/2020	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.

Department of Homeland Security - FY 2018 Homeland Security Grant Program Applications and Awards  
National Capital Region (NCR) Urban Areas Security Initiative (UASI) Funds  
Projects to 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	Public Health Planning and MRC Program - Fairfax County (Continuation) (NVERS)	FY2018	151,591.00	Received	Continuation	Health Department	Jesse Habourn	1.0 FTE	9/1/2018	5/31/2020	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.
11	Interoperable Communications Infrastructure (ICI) (Sustainment)	FY2018	1,343,000.00	Received	Continuation	Department of Information Technology	Matt Dowd	0.0 FTE	9/1/2018	5/31/2020	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.
12	CAD to CAD Maintenance (Continuation)	FY2018	894,439.00	Received	Continuation	Department of Information Technology	Greg Scott	0.0 FTE	9/1/2018	6/30/2020	Provides sustainment funding for business, data and 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.
13	Identity and Access Management Services (IAMS)	FY 2018	334,999.00	Received	New	Department of Information Technology	TBA	0.0 FTE	9/1/2018	5/31/2020	Allows first responders and other emergency support functions (ESF) in the NCR to use a single, familiar username/email address and strong password combination to access regional and shared applications. This concept of "single credential" that is used for any authorized application is a faster, easier, trusted and secure common utility, that does not require additional regional credentialing administration overhead.
14	GIS Data Exchange (GDX) and CAD2GIS (Continuation)	FY2018	352,750.00	Received	Continuation	Department of Information Technology	Michael Liddle	0.0 FTE	9/1/2018	5/31/2020	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.
<b>Total:</b>			<b>9,728,162.00</b>					<b>4.0 FTE</b>			

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



Muriel Bowser  
Mayor

Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Department of Information  
Technology

SUBAWARD TITLE  
CAD to CAD Maintenance (Continuation)

SUBAWARD ID  
18UASI583-01

SUBAWARD AMOUNT  
\$894,439.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018–06/30/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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:

- 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- FY 2018 DHS Homeland Security Grant Program Agreement Articles
- FY 2018 DHS Standard Terms and Conditions
- FY 2018 District of Columbia Homeland Security and Emergency Management Agency Terms and Conditions
- FY 2018 Homeland Security Grant Program Notice of Funding Opportunity
- Subrecipient Handbook

AWARDING OFFICIAL  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
Signature \_\_\_\_\_ Date 10/15/2018

Signature \_\_\_\_\_ Date \_\_\_\_\_

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

Muriel Bowser  
Mayor



Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Department of Information  
Technology

SUBAWARD TITLE  
Interoperable Communications Infrastructure  
(ICI) (Continuation)

SUBAWARD ID  
18UASI583-02

SUBAWARD AMOUNT  
\$1,343,000.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018–05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

FEDERAL AWARDING AGENCY  
U.S. Department of Homeland Security  
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CFDA  
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AWARDING OFFICIAL  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
Signature \_\_\_\_\_ Date 10/15/2018

Signature \_\_\_\_\_ Date \_\_\_\_\_

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

Muriel Bowser  
Mayor



Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Department of Information  
Technology

SUBAWARD TITLE  
Geospatial Data Exchange (GDX) and CAD2GIS  
(Continuation)

SUBAWARD ID  
18UASI583-03

SUBAWARD AMOUNT  
\$352,750.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018–05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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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- FY 2018 Homeland Security Grant Program Notice of Funding Opportunity
- Subrecipient Handbook

AWARDING OFFICIAL  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
Signature \_\_\_\_\_ Date 10/15/2018

Signature \_\_\_\_\_ Date \_\_\_\_\_

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



Muriel Bowser  
Mayor

Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Department of Information  
Technology

SUBAWARD TITLE  
Identity and Access Management Services  
(IAMS)

SUBAWARD ID  
18UASI583-04

SUBAWARD AMOUNT  
\$334,999.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018–05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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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- FY 2018 DHS Standard Terms and Conditions
- FY 2018 District of Columbia Homeland Security and Emergency Management Agency Terms and Conditions
- FY 2018 Homeland Security Grant Program Notice of Funding Opportunity
- Subrecipient Handbook

AWARDING OFFICIAL  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
\_\_\_\_\_  
Signature Date 10/15/2018

\_\_\_\_\_  
Signature Date

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



Muriel Bowser  
Mayor

Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Fire and Rescue Department

SUBAWARD TITLE  
Radio Cache - Virginia (Continuation)

SUBAWARD ID  
18UASI529-01

SUBAWARD AMOUNT  
\$189,419.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018-05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
Signature Date 10/15/2018

\_\_\_\_\_  
Signature Date

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



Muriel Bowser  
Mayor

Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Fire and Rescue Department

SUBAWARD TITLE  
Incident Management Team (Continuation)

SUBAWARD ID  
18UASI529-03

SUBAWARD AMOUNT  
\$272,000.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018–05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
\_\_\_\_\_  
Signature Date 10/15/2018

\_\_\_\_\_  
Signature Date

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

Muriel Bowser  
Mayor



Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 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  
18UASI530-01

SUBAWARD AMOUNT  
\$151,591.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018-05/31/2020

SUBRECIPIENT DUNS  
192897820 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
\_\_\_\_\_  
Signature Date 10/15/2018

\_\_\_\_\_  
Signature Date

33

Dr. Christopher Rodriguez  
Director

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

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

Muriel Bowser  
Mayor



Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Office of Emergency  
Management

SUBAWARD TITLE  
Volunteers and Donations Management - Fairfax  
County (Continuation)

SUBAWARD ID  
18UASI531-02

SUBAWARD AMOUNT  
\$242,600.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018-05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
\_\_\_\_\_  
Signature

10/15/2018  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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



Muriel Bowser  
Mayor

Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Office of Emergency  
Management

SUBAWARD TITLE  
Mass Notification and Communications  
(Continuation)

SUBAWARD ID  
18UASI531-03

SUBAWARD AMOUNT  
\$ ,775,000.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018–05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
\_\_\_\_\_  
Signature Date 10/15/2018

\_\_\_\_\_  
Signature Date

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

Muriel Bowser  
Mayor



Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Office of Emergency  
Management

SUBAWARD TITLE  
WebEOC (Continuation)

SUBAWARD ID  
18UASI531-04

SUBAWARD AMOUNT  
\$850,000.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018–05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
Signature Date 10/15/2018

\_\_\_\_\_  
Signature Date

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



Muriel Bowser  
Mayor

Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Office of Emergency  
Management

SUBAWARD TITLE  
EMNet (Continuation) (NVERS)

SUBAWARD ID  
18UASI531-05

SUBAWARD AMOUNT  
\$12,127.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018-05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
\_\_\_\_\_  
Signature Date 10/15/2018

\_\_\_\_\_  
Signature Date

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

Muriel Bowser  
Mayor



Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Police Department

SUBAWARD TITLE  
Intelligence Analysis - Virginia (Continuation)

SUBAWARD ID  
18UASI533-01

SUBAWARD AMOUNT  
\$1,193,329.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018-05/31/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
\_\_\_\_\_  
Signature Date 10/15/2018

\_\_\_\_\_  
Signature Date

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

Muriel Bowser  
Mayor



Dr. Christopher Rodriguez  
Director

## Subaward

PROGRAM  
FY 2018 Homeland Security Grant Program  
Urban Areas Security Initiative

SUBRECIPIENT  
Fairfax County Police Department

SUBAWARD TITLE  
AFIS (Continuation)

SUBAWARD ID  
18UASI533-02

SUBAWARD AMOUNT  
\$1,700,000.00

SUBAWARD PERFORMANCE PERIOD  
09/01/2018–06/30/2020

SUBRECIPIENT DUNS  
074837626 Fairfax County Virginia

FEDERAL AWARD IDENTIFICATION NUMBER  
EMW-2018-SS-00051

FEDERAL AWARD DATE  
08/14/2018

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  
Dr. Christopher Rodriguez  
Director

SUBRECIPIENT OFFICIAL  
Bryan Hill  
County Executive  
Fairfax County Government

  
\_\_\_\_\_  
Signature Date 10/15/2018

\_\_\_\_\_  
Signature Date

### SUPPLEMENTAL APPROPRIATION RESOLUTION AS 19067

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax Virginia on December 4, 2018, 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 2019, 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	\$2,925,188
Grants:	1HS0036, CAD to CAD Maintenance 1HS0037, Interoperable Communications Infrastructure Sustainment 1HS0078, GIS Data Exchange and CAD2GIS Tool Project 1HS0083, Identity and Access Services (IAMS)	

Agency:	G7171, Health Department	\$151,591
Grant:	1HS0030, Public Health Planning and MRC Program Sustainment	

Agency:	G9090, Police Department	\$2,893,329
Grant:	1HS0039, Intelligence Analysis 1HS0043, Mobile AFIS Maintenance	

Agency:	G9292, Fire and Rescue Department	\$461,419
Grants:	1HS0040, Incident Management Team 1HS0047, Radio Cache Maintenance	

Agency:	G9393, Office of Emergency Management	\$3,296,635
Grants:	1HS0035, Regional Preparedness Program 1HS0038, EMNet 1HS0050, Mass Notification and Communications 1HS0051, Volunteer Initiatives 1HS0052, WebEOC Maintenance	

Reduce Appropriation to:

Agency:	G8787, Unclassified Administrative Expenses	\$9,728,162
Fund:	500-C50000, Federal-State Grant Fund	

Source of Funds: U.S. Department of Homeland Security, \$9,728,162

A Copy - Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors

ADMINISTRATIVE - 14

Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Federal Transit Administration, Access and Mobility Partnership Grants Program

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 Federal Transit Administration (FTA), Access and Mobility Partnership Grants Program in the amount of \$112,000, including \$50,000 in Local Cash Match. Funding will provide non-emergency medical transportation for older adults and individuals with disabilities in Fairfax County when other forms of transportation are unavailable, which will improve mobility and transportation options and provide supportive services to allow residents to age in place. The goal will be to increase access to health care services, improve health outcomes, and to reduce healthcare costs by coordinating and enhancing transportation options and services. The required Local Cash Match is available in the Local Cash Match Reserve for unanticipated awards. NCS anticipates the award will be issued in January 2019 with a total grant period of 18 months. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Department of Neighborhood and Community Services to apply for and accept grant funding, if received, from the Federal Transit Administration in the amount of \$112,000, including \$50,000 in Local Cash Match. Funding will provide non-emergency medical transportation for older adults and individuals with disabilities in Fairfax County when other forms of transportation are unavailable. The County Executive also recommends that the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

Board Agenda Item  
December 4, 2018

TIMING:

Board action is requested on December 4, 2018. Due to the grant application deadline of November 13, 2018, 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 Federal Transit Administration issued solicitation of project proposals announcing the availability of funds for their Access and Mobility Partnership Grants. This grant offers two opportunities to apply for funding aimed at improving access to public transportation through building partnerships among health, transportation, and other service providers. The Department of Neighborhood and Community Services will apply for one of the two available grant opportunities: Human Services Coordination Research (HSCR) Program. This grant focuses on implementation of innovative strategies in the coordination of human services transportation to provide more effective and efficient transportation services to seniors and individuals with disabilities. Grant selection criteria strongly encourages commitment from key partners. To that end, NCS will be coordinating a multi-agency/stakeholder collaboration between NCS, the Area Agency on Aging, the Fairfax County Commission on Aging, the Disability Services Board, the Health Department's Community Health Care Network (CHCN), INOVA Health System, and several community-based organizations to include volunteer transportation programs in Fairfax County.

Non-emergency medical care continues to be a tremendous need in Fairfax County. The following community needs were identified in the 2016 Enhanced Mobility for Seniors and Individuals with Disabilities Survey:

- Eighty-two percent of the 812 survey respondents identified transportation to medical appointments as the number one need
- The top three transportation needs identified included medical appointments, grocery shopping, and pharmaceutical trips
- One in four survey respondents identified that they were not able to reach certain destinations due to barriers in transportation

As referenced at the Board of Supervisors 50+ Committee Update on October 9, 2018, NCS is applying for this grant to build upon the success of the Taxi Transportation Pilot Program and will utilize a similar model which focuses on mobility management strategies, including creating a continuum of services for non-emergency medical transportation for older adults and individuals with disabilities. This continuum includes volunteer driver programs, transportation subsidy programs, and when all options are exhausted, utilization of grant funding to pay for trips to non-emergency medical appointments. In addition, the grant will focus on building capacity with partnering

Board Agenda Item  
December 4, 2018

organizations to become transportation navigators and to grow the number of volunteer transportation programs in the County.

This grant will help further the 50+ Community Action Plan and will address an important transportation services gap. The success of this project will be based on three outcome areas: Access to Medical Services, Community Capacity Building, and Creating Community Partnerships.

FISCAL IMPACT:

Grant funding in the amount of \$112,000, including \$50,000 in Local Cash Match, is being requested to support non-emergency medical transportation options for older adults and individuals with disabilities in Fairfax County when other forms of transportation are unavailable. The non-federal funding requirement is available in the Local Cash Match Reserve for unanticipated awards. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated awards. This grant does allow the recovery of indirect costs; however, because this funding opportunity is highly competitive, NCS has elected to omit the inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:

No new grant positions are being requested with this funding.

ENCLOSED DOCUMENTS:

Attachment 1: Summary of Grant Proposal

STAFF:

Tisha Deeghan, Deputy County Executive

Christopher A. Leonard, Director, NCS

Sarah Allen, Deputy Director, NCS

Glenn Padeway, Manager, Human Services Transportation, NCS

Cynthia Alarico, Mobility Manager, Human Services Transportation, NCS

## Access and Mobility Partnership Grants: Human Services Coordination Research Program

### SUMMARY OF GRANT PROPOSAL

<b>Grant Title:</b>	<u>Access and Mobility Partnership Grants: Human Services Coordination Research Program</u>
<b>Funding Agency:</b>	Federal Transit Administration (FTA)
<b>Applicant:</b>	Fairfax County Department of Neighborhood & Community Services (NCS)
<b>Partners:</b>	Fairfax County Area Agency on Aging, Fairfax County Commission on Aging, Fairfax County Disability Services Board, Fairfax County Health Department – Community Health Care Network, INOVA Health System
<b>Purpose of Grant:</b>	This grant opportunity, with funding from the FTA Public Transportation Innovation Program, offers funding for the implementation of innovative strategies in the coordination of human services transportation to provide more effective and efficient public transportation services to seniors, individuals with disabilities, and low-income individuals. The grant will aim to improve transportation services for these targeted populations to effectively and efficiently coordinate human services transportation.
<b>Funding Amount:</b>	Funding in the amount of \$112,000, including \$50,000 in Local Cash Match.
<b>Proposed Use of Funds:</b>	Funding will provide non-emergency medical transportation for older adults and individuals with disabilities in Fairfax County when other forms of transportation are unavailable, which will improve mobility and transportation options. Funding will also focus on building capacity with partnering organizations to become transportation navigators and to grow the number of volunteer transportation programs in the County.
<b>Target Population:</b>	Seniors and individuals with disabilities.
<b>Performance Measures:</b>	<p>The success of this project will be based on three outcome areas:</p> <p><u>Access to Medical Services:</u></p> <ul style="list-style-type: none"> <li>• Provide transportation services to qualified participants for non-emergency medical care.</li> <li>• Enhance transportation options and access to medical services for seniors and individuals with disabilities.</li> <li>• Improve community knowledge about available options and resources.</li> </ul> <p><u>Community Capacity Building:</u></p> <ul style="list-style-type: none"> <li>• Increase capacity of community-based organizations to enhance transportation options for the identified populations.</li> </ul>

- Increase capacity for additional volunteer driver programs.

Creating Community Partnerships:

- Train partners to become “Transportation Navigators” in the community so they are educated on the continuum of transportation options available to older adults and individuals with disabilities

**Grant Period:**

NCS anticipates that the award will be issued in January of 2019, for a total grant period of 18 months.

ACTION – 1

Approval of the Sale of General Obligation Public Improvement Bonds and Public Improvement Refunding Bonds

ISSUE:

Board approval of a resolution (Attachment 1) to authorize the sale of General Obligation Public Improvement and Public Improvement Refunding Bonds on or about January 29, 2019.

RECOMMENDATION:

The County Executive recommends approval of the sale of General Obligation Public Improvement Bonds that will generate \$247.4 million to fund construction of capital facilities and infrastructure as previously approved by the Board. The County Executive also recommends approval of the sale of taxable Public Improvement Refunding Bonds.

County staff recommends the Board take the following action:

Approve the resolution authorizing the issuance of the General Obligation Public Improvement Bonds and Public Improvement Refunding Bonds, which also authorizes the execution and delivery of a Continuing Disclosure Agreement and other documents necessary for sale. This resolution delegates to the County Executive or Chief Financial Officer authority to award the bonds, on specified criteria, through either a competitive or negotiated sale. Bond Counsel has advised that this form of authorization is acceptable and provides flexibility for changing market conditions. This resolution also approves the form of the notice of sale and the Official Statement for the Public Improvement Bonds, and authorizes the Chairman, Vice Chairman, County Executive or Chief Financial Officer to sign the Official Statement for the Public Improvement Bonds.

TIMING:

Board action is requested on December 4, 2018.

BACKGROUND:

The Proposed Bond Sale Schedule of Events (Attachment 2) indicates a new money bond sale on or about January 29, 2019. Accompanying this Board Item are the necessary documents to proceed with the new money bond sale to meet FY 2019 capital funding requirements for on-going projects. There are many potential market

events that could affect the bond sale in the next few months and this sale date is therefore subject to market conditions. The closing date for the bonds is currently scheduled for the week of February 12, 2019. The County staff, along with the County's Financial Advisor, however, will revisit and adjust the sale date, as needed.

The resolution also lists several outstanding series of bonds that may become future candidates to refund using taxable refinancing if interest rates remain favorable. As with new money bond sales, the refunding candidates may be impacted by future actions taken by the Federal Reserve with respect to interest rates.

### **New Money Sale**

The General Obligation Bond sale totals \$247.4 million. Of that amount, the Fairfax County Public Schools will receive \$180 million. In addition, \$24 million will be allocated to the Washington Metropolitan Area Transit Authority (WMATA) as the County's share of WMATA's FY 2019 Adopted Capital Improvement Program, and \$8 million will fund on-going Board of Supervisors' approved transportation projects such as roadway, pedestrian and bike/trail improvement projects. Public Safety funding of \$5 million will provide for courtroom renovations and the construction of the Jefferson Fire Station. Funding of \$20 million will be provided for the Fairfax County Park Authority and the Northern Virginia Regional Park Authority will receive \$3 million to cover the County's annual capital contribution. Lastly, the Huntington Levee project will receive \$7 million.

The Schedule of Bond Purposes notes the remaining balance of voter-approved authorized but unissued bond funds by category and is included as Attachment 3. The School Board resolution requesting the sale of bonds on behalf of the School system was approved by the School Board at its November 19, 2018 meeting and is included as Attachment 4.

Staff has structured the size of this sale to the level necessary to support the capital construction program for the current fiscal year without altering any of the schedules of the projects in progress and previously approved by the Board of Supervisors. The bond sale amount was sized on project cash needs for the current fiscal year. This sale of \$247.4 million is within the adjusted total maximum sales allowed in the *Ten Principles of Sound Financial Management*. The FY 2019 Adopted Budget Plan states that the maximum annual sale of bonds will be \$300 million or \$1.5 billion over a five-year period, with a technical limit not to exceed \$325 million in a single year. Consistent with previous bond sales, the County's resolution (Attachment 1) delegates to the County Executive or Chief Financial Officer the authority to award the bonds, on specified criteria, through either a competitive or negotiated sale. Bond Counsel has advised that this form of authorization is acceptable and provides flexibility for changing market conditions.

The maximum true interest cost rate permitted on the bonds, as established in the Bond Resolution, is 5.5 percent. In addition, for a competitive sale, staff will use the electronic bidding system to receive bids and participate in providing on-line public access to the Notice of Sale (Attachment 5) and the Preliminary Official Statement (Attachment 6).

Attachments 2 through 6 may be subject to minor changes to satisfy final legal review and to provide the most current information possible for bidders. Any material changes will be noted and forwarded to the Board of Supervisors.

### **Refunding of General Obligation Bonds**

The federal tax reform plan that became effective January 1, 2018 eliminated the ability to sell tax-exempt Advance Refunding bonds, which had allowed the County to refinance debt for savings by issuing tax-exempt bonds prior to the respective call dates. The County can continue to refund bonds prior to these call dates, but the bonds must be issued on a taxable basis, which may reduce the savings potential compared to a traditional tax-exempt advance refunding alternative. At this time, staff recommends the authorization to pursue a taxable refunding bond sale that includes select maturities of the following bond series: 2009A, 2012A, 2013A, 2014A, 2015A, 2016A, and 2017A. Market conditions will determine the viability of a taxable refunding and the amount of savings.

### **FISCAL IMPACT:**

The estimated debt service budget requirement for the new money bond sale, based on a conservative 4.0 percent True Interest Cost estimate, is \$16.49 million for School purposes and \$6.19 million for County purposes, beginning in FY 2020.

The County issued General Obligation bonds as a new money bond sale in the amount of \$219.6 million on January 9, 2018. The bonds were sold to Citigroup Global Markets Inc. at a true interest cost of 2.66 percent.

The reception of Fairfax County bonds in the market continues to compare favorably both nationally and locally. The County has held a Aaa rating from Moody's since 1975, a AAA rating from Standard and Poor's since 1978, and a AAA rating from Fitch Ratings since 1997. As of January 2018, 12 states, 46 counties, and 33 cities have a Triple-A bond rating from all three major rating agencies. As a result of the County's excellent Triple-A bond rating, the County has saved an estimated \$815.9 million from County bond and refunding sales.

Board Agenda Item  
December 4, 2018

ENCLOSED DOCUMENTS:

Attachment 1: 2019 County Public Improvement Bond Resolution  
Attachment 2: 2019 Bond Sale Schedule of Events  
Attachment 3: 2019 Schedule of Bond Purposes  
Attachment 4: School Board Resolution Requesting Sale of Bonds (School Board  
Approved on November 19, 2018)  
Attachment 5: Notice of Sale, Series 2019  
Attachment 6: Draft of the Preliminary Official Statement, Series 2019

STAFF:

Bryan J. Hill, County Executive  
Joseph Mondoro, Chief Financial Officer  
Joseph LaHait, Debt Manager, Department of Management and Budget

ASSIGNED COUNSEL:

Patricia Moody McCay, Senior Assistant County Attorney

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on December 4, 2018, at which meeting a quorum was present and voting, the following resolution was adopted:

**A RESOLUTION AUTHORIZING THE ISSUANCE, IN ONE OR MORE SERIES, OF PUBLIC IMPROVEMENT BONDS AND REFUNDING BONDS, OF FAIRFAX COUNTY, VIRGINIA, PROVIDING FOR THE SALE OF SUCH BONDS AND DELEGATING TO THE COUNTY EXECUTIVE OR THE CHIEF FINANCIAL OFFICER AUTHORITY TO DETERMINE CERTAIN DETAILS OF SUCH BONDS AND ACCEPT OFFERS FOR THE PURCHASE OF SUCH BONDS**

**BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia:**

**Section 1(a). Public Improvement Bonds.** The Board of Supervisors of Fairfax County, Virginia (the “Board of Supervisors”), has found and determined and does hereby declare that:

(i) **School improvements – \$180,000,000.** At an election duly called and held on November 3, 2015, a majority of the qualified voters of Fairfax County, Virginia (the “County”), voting on the question approved contracting a debt, borrowing money and issuing school bonds of the County, in the aggregate principal amount of \$310,000,000.

The purpose of the school bonds stated in the election was to provide funds, in addition to funds from school bonds previously authorized, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system.

The Circuit Court of Fairfax County, Virginia (the “Circuit Court”), has duly entered its Final Order authorizing the Board of Supervisors to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$310,000,000 for such purpose.

The Board of Supervisors at the request of the School Board of Fairfax County, Virginia (the “School Board”), has heretofore issued \$15,749,000 of the school bonds authorized at the election duly called and held on November 3, 2015.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$180,000,000 of school bonds authorized at the November 3, 2015, election and to sell the bonds.

The issuance of such school bonds is contingent upon the adoption by the School Board of a resolution, in a form acceptable to the County's bond counsel, requesting the issuance of such school bonds.

(ii) **Transportation improvements and facilities – \$32,313,000.** At an election duly called and held on November 4, 2014, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County, in addition to the bonds previously authorized for transportation improvements and facilities, in the maximum aggregate principal amount of \$100,000,000 for the purpose of providing funds to finance the cost of constructing, reconstructing, improving and acquiring transportation facilities, including improvements to primary and secondary State highways, improvements related to transit, improvements for pedestrians and bicycles, and ancillary related improvements and facilities.

The Circuit Court has duly entered its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$100,000,000 for such purpose.

The Board of Supervisors has heretofore issued \$17,160,000 transportation improvements and facilities bonds authorized at the election duly called and held on November 4, 2014.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$8,000,000 of transportation improvements and facilities bonds authorized at the November 4, 2014, election and to sell the bonds.

At an election duly called and held on November 8, 2016, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County in addition to bonds previously authorized for transportation improvements and facilities, in the maximum aggregate principal amount of \$120,000,000 to finance Fairfax County's share, under the Washington Metropolitan Area Transit Authority Compact, of the cost of constructing, reconstructing, improving and acquiring transportation improvements and facilities, including capital costs of land, transit facilities, rolling stock and equipment in the Washington metropolitan area, and to finance improvements to primary and secondary State highways and ancillary related improvements and facilities.

The Circuit Court has duly entered its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$120,000,000 for such purpose.

The Board of Supervisors has heretofore issued \$47,930,000 transportation improvement and facilities bonds authorized at the election duly called and held on November 8, 2016.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$24,313,000 of transportation improvement and facilities bonds authorized at the November 8, 2016, election and to sell the bonds.

(iii) **Parks and park facilities – \$23,000,000.** At an election duly called and held on November 6, 2012, a majority of the qualified voters of the County voting on the question, approved contracting a debt, borrowing money and issuing bonds of the County, in addition to the parks and park facilities bonds previously authorized, in the maximum aggregate principal amount of \$75,000,000 for the purpose of providing funds with any other available funds to finance the cost of providing parks and park facilities including the acquisition, construction, development and equipment of additional parks and park facilities, and the purchase of permanent easements for the preservation of open-space land and the development and improvement of existing parks and park facilities by the Fairfax County Park Authority, and including an amount not to exceed \$12,000,000 allocable to the County as its share of the cost of parks and park facilities to be acquired, constructed, developed and equipped by the Northern Virginia Regional Park Authority.

The Circuit Court has duly entered its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$75,000,000 for such purpose.

The Board of Supervisors has heretofore issued \$58,390,000 parks and park facilities bonds (including \$12,000,000 for the Northern Virginia Regional Park Authority) authorized at the election duly called and held on November 6, 2012.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$16,610,000 parks and park facilities bonds for the Fairfax County Park Authority authorized at the November 6, 2012, election and to sell the bonds.

At an election duly called and held on November 8, 2016, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County in addition to bonds previously authorized for parks and park facilities, in the maximum aggregate principal amount of \$107,000,000: (i) \$94,700,000 principal amount to finance the Fairfax County Park Authority's cost to acquire, construct, develop and equip additional parks and park facilities, to preserve open-space land, and to develop and improve existing parks and park facilities; and (ii) \$12,300,000 principal amount for Fairfax County's contribution to the Northern Virginia Regional Park Authority to acquire, construct, develop and equip parks and park facilities.

The Circuit Court has duly entered its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$107,000,000 for such purpose.

The Board of Supervisors has not issued any of the \$94,700,000 parks and park facilities bonds for the Fairfax County Park Authority authorized at the election duly called and held on November 8, 2016, and has heretofore authorized the issuance of and has issued \$6,300,000 parks and park facilities bonds for the Northern Virginia Regional Park Authority authorized at the election duly called and held on November 8, 2016.

The Board of Supervisors deems it advisable to authorize the issuance of up to (i) \$3,000,000 parks and park facilities bonds for the Northern Virginia Regional Park Authority and (ii) \$3,390,000 parks and park facilities bonds for the Fairfax County Parks Authority, each authorized at the November 8, 2016, election and to sell the bonds.

(iv) **Storm drainage improvements – \$7,050,000.** At an election duly called and held on November 6, 2012, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County, in the maximum aggregate principal amount of \$30,000,000 for the purpose of providing funds, with any other available funds, to finance the cost of providing storm drainage improvements to prevent flooding and soil erosion, including the acquisition of necessary land.

The Circuit Court has duly entered its Final Order authorizing the Board of Supervisors to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$30,000,000 for such purpose.

The Board of Supervisors has heretofore issued \$22,950,000 storm drainage improvement bonds authorized at the election duly called and held on November 6, 2012.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$7,050,000 of such storm drainage improvement bonds authorized at the November 6, 2012, election and to sell the bonds.

(v) **Public safety facilities – \$5,000,000.** At an election duly called and held on November 6, 2012, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County, in addition to the public safety facilities bonds previously authorized, in the maximum aggregate principal amount of \$55,000,000, for the purpose of providing funds, with any other available funds, to finance the cost of providing public safety facilities, including the construction, reconstruction, enlargement, renovation and equipment of civil and criminal justice facilities, police training facilities and stations, fire and rescue training facilities and stations, including fire and rescue stations owned by volunteer organizations, and the acquisition of necessary land.

The Circuit Court has duly entered its Final Order authorizing the Board of Supervisors to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County in the aggregate principal amount of \$55,000,000 for such purpose.

The Board of Supervisors has heretofore issued \$28,240,000 public safety facilities bonds authorized at the election duly called and held on November 6, 2012.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$5,000,000 of public safety facilities bonds authorized at the November 6, 2012, election and to sell the bonds.

**Section 1(b). Prior bond issues.** The Board of Supervisors has been advised that certain bonds of certain series of its outstanding public improvement bonds and public improvement and refunding bonds, in certain favorable market conditions, may be refunded to achieve substantial present value debt service savings.

The Board of Supervisors deems it advisable to authorize the issuance of public improvement refunding bonds, pursuant to a tax-exempt or taxable bond sale, to achieve such savings, if available.

The Board of Supervisors has further found and determined and does hereby declare that:

(i) **Series 2009A Bonds.** For the purposes of providing funds, with other available funds, for school improvements, parks and park facilities, transportation improvements and facilities, human service facilities, public library facilities and public safety facilities the Board of Supervisors duly issued bonds of the County in the aggregate principal amount of \$199,510,000, designed “Public Improvement Bonds, Series 2009A” (the “Series 2009A Bonds”), dated January 28, 2009.

The Series 2009A Bonds that mature on or before April 1, 2019, are not subject to optional redemption before their maturity. The Series 2009A Bonds that mature after April 1, 2019, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days’ notice mailed to the registered owners, on any date not earlier than April 1, 2019, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(ii) **Series 2012A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, parks and park facilities, public safety facilities, human services facilities and public library facilities the Board of Supervisors duly issued bonds of the County in the aggregate principal amount of \$217,655,000, designated “Public Improvement Bonds, Series 2012A” (the “Series 2012A Bonds”), dated February 2, 2012.

The Series 2012A Bonds that mature on or before April 1, 2020, are not subject to optional redemption before their maturity. The Series 2012A Bonds that mature after April 1, 2020, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days’ notice mailed to the registered owners, on any date not earlier than April 1, 2020, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(iii) **Series 2013A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, public safety facilities, parks and park facilities, commercial and redevelopment area improvements and public library facilities the Board of Supervisors duly issued bonds of the County in the aggregate principal amount of \$206,335,000, designated “Public Improvement Bonds, Series 2013A” (the “Series 2013A Bonds”), dated January 24, 2013.

The Series 2013A Bonds that mature on or before October 1, 2021, are not subject to optional redemption before their maturity. The Series 2013A Bonds that mature after October 1,

2021, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days' notice mailed to the registered owners, on any date not earlier than October 1, 2021, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(iv) **Series 2014A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, public safety facilities, parks and park facilities and public library facilities and to refund certain Series 2004 A, Series 2004 B and Series 2005 A outstanding bonds of the County, the Board of Supervisors duly issued bonds of the County in the aggregate principal amount of \$316,310,000, designated "Public Improvement and Refunding Bonds, Series 2014A" (the "Series 2014A Bonds"), dated February 6, 2014.

The Series 2014A Bonds that mature on or before October 1, 2023, are not subject to optional redemption before their maturity. The Series 2014A Bonds that mature after October 1, 2023, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days' notice mailed to the registered owners, on any date not earlier than October 1, 2023, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(v) **Series 2015A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, parks and park facilities, public safety facilities, and storm drainage improvements, the Board of Supervisors, duly issued bonds of the County in the aggregate principal amount of \$227,340,000, designated "Public Improvement Bonds, Series 2015A" (the "Series 2015A Bonds"), dated March 4, 2015.

The Series 2015A Bonds that mature on or before October 1, 2024, are not subject to optional redemption before their maturity. The Series 2015A Bonds that mature after October 1, 2024, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days' notice mailed to the registered owners, on any date not earlier than October 1, 2024, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(vi) **Series 2016A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, parks and park facilities, public safety facilities, public library facilities and storm drainage improvements and to refund certain Series 2008 A Bonds, Series 2009 A Bonds, Series 2011A Bonds, Series 2012A Bonds and Series 2013A Bonds the Board of Supervisors duly issued bonds of the County in the aggregate principal amount of \$335,980,000, designated "Public Improvement and Refunding Bonds, Series 2016A" (the "Series 2016A Bonds"), dated February 9, 2016.

The Series 2016A Bonds that mature on or before October 1, 2025, are not subject to optional redemption before their maturity. The Series 2016A Bonds that mature after October 1, 2025, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days' notice mailed to the registered owners, on any date not earlier than April 1, 2026, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(vii) **Series 2017A Bonds.** For the purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, parks and park facilities, public safety facilities, storm drainage improvements and public library facilities duly issued bonds of the County in the aggregate principal amount of \$228,375,000, designated “Public Improvement Bonds, Series 2017A” (the “Series 2017A Bonds”), dated February 7, 2017.

The Series 2017A Bonds that mature on or before October 1, 2026, are not subject to optional redemption before their maturity. The Series 2017A Bonds that mature after October 1, 2026, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days’ notice mailed to the registered owners, on any date not earlier than April 1, 2027, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(viii) The Board of Supervisors has determined to provide for the issuance of refunding bonds of Fairfax County, Virginia, for the purpose of providing funds, with other available funds, to refund all or a portion of all or any of the following outstanding bonds of Fairfax County, Virginia (collectively, the “Refunding Candidates”), all as hereinafter provided:

Series 2009A Bonds that are first subject to, and shall be called for redemption on April 1, 2019, and

Series 2012A Bonds that are first subject to, and shall be called for redemption on April 1, 2020, and

Series 2013A Bonds that are first subject to, and shall be called for redemption on October 1, 2021, and

Series 2014A Bonds that are first subject to, and shall be called for redemption on October 1, 2023, and

Series 2015A Bonds that are first subject to, and shall be called for redemption on October 2024, and

Series 2016A Bonds that are first subject to, and shall be called for redemption on April 1, 2026, and

Series 2017A Bonds that are first subject to, and shall be called for redemption on April 1, 2027.

Any such refunding bonds issued to refund the Refunding Candidates shall not exceed the aggregate principal amount of \$300,000,000.

**Section 2. Authorization of bonds.** The Board of Supervisors has determined that it is in the best interests of the County to consolidate for the purposes of the sale the bond authorizations mentioned above into one or more series of public improvement and/or refunding bonds of the County. The bonds shall be designated as appropriate “[Taxable] Public Improvement [and/or] Refunding Bonds, Series 2019[A], [B].” The bonds shall be dated, shall

be stated to mature in certain amounts on such dates, subject to the right of prior redemption, and shall bear interest until their payment at a rate or rates and on such dates as shall hereafter be determined by the Board of Supervisors by resolution or by the County Executive or Chief Financial Officer pursuant to the delegation to each of them contained in this Resolution. The first interest payment date of such bonds shall be no later than thirteen months after the issuance of such bonds. The bonds shall be issuable in fully registered form in the denomination of \$5,000 or any integral multiple thereof and shall be appropriately numbered all as hereinafter provided.

The Board of Supervisors deems it advisable at this time to authorize the sale of such bonds pursuant to the terms of this Resolution.

The bonds issued for the purpose of providing funds for school improvements, transportation improvements and facilities, public safety facilities, parks and park facilities, and storm drainage improvements shall have an aggregate principal amount not to exceed the sum of the amount required to provide \$247,363,000 for such purposes.

The bonds issued for the purpose of providing funds, with other available funds, to refund all or a portion of all or any of the Refunding Candidates (the Refunding Candidates so refunded, the "Refunded Bonds") shall have such principal amounts as shall hereafter be determined by the Board of Supervisors by resolution or by the County Executive or Chief Financial Officer pursuant to the delegation to each of them contained in this resolution, to produce overall present value debt service savings for the County. The aggregate principal amount of such bonds issued to refund the Refunded Bonds shall not exceed \$300,000,000, and such bonds may be sold on a tax-exempt or taxable basis.

If none of the proceeds of the bonds as authorized should be used for refunding any of the Refunding Candidates, then the bonds shall be designated as appropriate "Public Improvement Bonds, Series 2019, [A], [B]." If a series of bonds is issued and none of the proceeds is used for providing funds for public improvement purposes, then the bonds shall be designated "[Taxable] Public Improvement Refunding Bonds, Series 2019 [A], [B]."

The Board of Supervisors hereby determines that in the event that financial market conditions dictate, and it is determined by the County Executive or Chief Financial Officer to be in the best interests of the County, bond anticipation notes may be issued in anticipation of the issuance of the bonds. Any such bond anticipation notes shall have a first interest payment date no later than July 1, 2020, and a final maturity no later than July 1, 2022. All other provisions in this Resolution setting forth the terms and details of bonds as well as delegations provided shall apply to such bond anticipation notes if the context requires.

Each bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated upon an interest payment date in which case it shall bear interest from such interest payment date or (b) authenticated prior to the first interest payment date in which case it shall bear interest from its date; provided, however, that if at the time of authentication interest on any bond is in default, such bond shall bear interest from the date to which interest has been paid.

The principal of and the interest and any redemption premium on the bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof. The principal of and any redemption premium on each bond shall be payable to the registered owner thereof or his registered assigns or legal representative at the office of the Bond Registrar mentioned hereinafter upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each bond shall be made by the Bond Registrar on each interest payment date to the person appearing (hereafter provided) on the registration books of the County as the registered owner of such bond (or the previous bond or bonds evidencing the same debt as that evidenced by such bond) at the close of business on the record date for such interest, which, unless otherwise determined pursuant to the delegation of authority contained in this resolution, shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed or by wire transfer to such person at his address as it appears on such registration books.

The bonds initially issued will be in fully registered form and registered in the name of Cede & Co., a nominee of The Depository Trust Company, New York, New York ("DTC"), and immobilized in the custody of DTC. One fully registered bond for the original principal amount of each maturity will be registered to Cede & Co. Beneficial owners will not receive physical delivery of bonds. Individual purchases of bonds may be made in book-entry form only in original principal amounts of \$5,000 and integral multiples of \$5,000. Payments of the principal of and premium, if any, and interest on the bonds will be made to DTC or its nominee as registered owner of the bonds on the applicable payment date.

So long as Cede & Co., or its successor, as nominee of DTC, is the registered owner of the bonds, references in this resolution to the holders of the bonds mean Cede & Co. and do not mean the beneficial owners of the bonds.

Replacement bonds (the "Replacement Bonds") will be issued directly to beneficial owners of bonds rather than to DTC, or its nominee, but only in the event that:

- (1) DTC determines not to continue to act as securities depository for the bonds;
- (2) The County has advised DTC of its determination that DTC is incapable of discharging its duties; or
- (3) The County has determined that it is in the best interests of the beneficial owners of the bonds not to continue the book-entry system of transfer.

Upon occurrence of the events described in clause (1) or (2), the County will attempt to locate another qualified securities depository. If DTC makes the determination described in clause (1) and the County fails to select another qualified securities depository to replace DTC, the County will execute and the Bond Registrar will authenticate and deliver to the participants in DTC ("Participants") the Replacement Bonds to which the Participants are entitled. In the event the County makes the determination described in clause (2) or (3) (the County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the County to make any such determination) and, in the case of the determination under

clause (2), the County has failed to designate another qualified securities depository and has made provisions to notify the beneficial owners of the bonds by mailing an appropriate notice to DTC, the County will execute and the Bond Registrar will authenticate and deliver to the Participants the appropriate Replacement Bonds to which the Participants are entitled. The Bond Registrar is entitled to rely on the records provided by DTC as to the Participants entitled to receive Replacement Bonds.

**Section 3. Sale of Bonds.** Pursuant to the delegation set forth within this Resolution, bonds (which includes any bond anticipation notes) to be issued may be sold in a competitive sale pursuant to bids received electronically via the BiDCOMP/Parity Competitive Bidding System or similar electronic based competitive bidding system or through a negotiated sale to one or more underwriters or financial institutions chosen in compliance with County guidelines and regulations. Bonds sold through a negotiated sale may be sold in a public sale or in a private placement. Bonds authorized to be issued under this Resolution may be sold in one or more series and on one or more dates on any date on or before December 31, 2019. The authorization and approvals of the documents set forth in this Resolution (as long as the documents used in such sale are authorized herein) shall apply to each bond sale.

**Section 4. Notice of Sale; Bids.** If bonds (or bond anticipation notes) are determined to be sold in a competitive sale, the Clerk of the Board of Supervisors is hereby authorized, if recommended by the Financial Advisor of the County to be beneficial for the sale of the bonds, to cause one or more notices calling for bids for the purchase of the bonds, to be published. Such notices shall be substantially in the form of the Notice of Sale(s) annexed to this resolution (the "Notice of Sale(s)"). Alternatively, the Clerk may cause to be published a summary of the principal terms of the notices. Bids shall be received electronically via the BiDCOMP/Parity Competitive Bidding System or similar electronic based competitive bidding system.

**Section 5. Official Statement.** The draft of the Preliminary Official Statement of the County (the "Preliminary Official Statement(s)") relating to the public improvement and refunding bonds presented at the meeting at which this resolution is adopted, and the circulation thereof, the completion thereof with the results of the sale and the printing and delivery to the winning bidder(s) in a competitive sale or the underwriter(s) in a negotiated sale of a reasonable number of copies thereof as so completed (the "final Official Statement(s)") are hereby approved and authorized, and the Chairman, Vice Chairman of the Board of Supervisors, County Executive or the Chief Financial Officer is hereby authorized and directed to deem final the Preliminary Official Statement(s) for purposes of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, and to execute and deliver the final Official Statement(s), both the Preliminary Official Statement(s) and the final Official Statement(s) to be in substantially the form of the related draft Preliminary Official Statement presented at this meeting with the changes contemplated hereby and such other changes as the Chairman, Vice Chairman of the Board of Supervisors, County Executive or the Chief Financial Officer may approve, his or her signature on the final Official Statement to be conclusive evidence of the signer's approval thereof. The Preliminary Official Statement(s) and the final Official Statement(s) may be disseminated or otherwise made available through electronic means.

**Section 6. Delegation and Standard.** (a) *Competitive Sale Delegation* – The Board of Supervisors has determined that there may be unplanned occasions when it is not possible for some of the members of the Board of Supervisors to attend a special meeting for the purpose of receiving bids for the purchase of bonds of the County offered for sale at competitive bidding and that the accepted practice of the bond markets dictates that the lowest bid be speedily determined and the bonds be promptly awarded or that all bids be rejected.

The Board of Supervisors delegates to each of the County Executive and the Chief Financial Officer (each a “delegate”), the authority to accept the lowest bid (determined in accordance with the Notice of Sale) for the bonds (or any bond anticipation notes), being offered for sale by the Board of Supervisors at competitive bidding on a date(s) not later than December 31, 2019, subject to the following conditions: (i) a delegate shall have determined that the bid conforms in all material respects to the requirements of the Notice of Sale, (ii) a delegate shall have determined that the bid to be accepted is the lowest bid conforming to the terms of the Notice of Sale, (iii) the Financial Advisor to Fairfax County shall have recommended that the lowest conforming bid be accepted, (iv) the true interest cost of such bid shall not exceed 5.25% for bonds issued on a tax-exempt basis and 5.50% for bonds issued on a taxable basis, and (v) the Board of Supervisors shall not then be in special session called for the purpose of accepting bids (the Board not to be deemed in special session if less than a quorum is present and voting).

(b) *Negotiated Sale Delegation* – The Board of Supervisors delegates to each of the County Executive and the Chief Financial Officer, the authority to sell the bonds (or any bond anticipation notes) in a negotiated sale to one or more underwriters or financial institutions on a date not later than December 31, 2019, subject to the following conditions: (i) the Financial Advisor to Fairfax County shall have recommended that due to financial market conditions such a negotiated sale best serves the interest of the County, (ii) the true interest cost of such bonds shall not exceed 5.25% for bonds issued on a tax-exempt basis and 5.50% for bonds issued on a taxable basis and (iii) the underwriter(s) or other financial institutions(s) of the bonds shall have been chosen pursuant to County guidelines and regulations.

In the event of a negotiated sale, the Chairman or Vice Chairman of the Board of Supervisors, the County Executive and the Chief Financial Officer, or such other officer or officers of the County as may be designated by any one of them, is hereby authorized and directed to execute a bond purchase agreement, setting forth the terms of the sale of the bonds. Such bond purchase agreement shall only be executed (i) if such agreement does not contain any terms contradictory to the terms of this Resolution and (ii) the Financial Advisor to the County shall recommend to the County the execution of such agreement.

(c) *Additional Delegation* – The Board of Supervisors hereby further delegates to each of the County Executive and the Chief Financial Officer, subject to the limitations contained herein, powers and duties to determine the following, such delegation to be effective only if the Board of Supervisors shall not then be in session (the Board not to be deemed in session if less than a quorum is present and voting):

- (1) The series designations of such bonds;

(2) The aggregate principal amount of the bonds issued for public improvement purposes, such amount not to exceed the sum of the amount required to provide \$247,363,000 for such public improvement purposes;

(3) The aggregate principal amount of bonds issued for refunding of the Refunded Bonds; provided, however, that the present value of the debt service savings to be obtained from the refunding of the Refunded Bonds is not less than 3.0% of the principal amount of the Refunded Bonds;

(4) To determine to use additional County funds, in addition to the proceeds of any bonds issued, to refund the Refunded Bonds;

(5) The determination of the bonds as serial or term bonds;

(6) The respective annual maturity dates and any mandatory redemption dates of the bonds, and the respective principal amounts of the bonds to mature or be redeemed on such dates, provided that the first maturity date of bonds for public improvement purposes shall occur no later than December 1, 2020, and the final maturity date shall not be later than December 1, 2039;

(7) The dated date of the bonds provided, however, the bonds shall be dated their date of issue or as of a customary date preceding their date of issue;

(8) The interest payment dates, for the bonds and the record date for the bonds;

(9) The redemption provisions, if any, of the bonds as further set forth in Section 8 of this resolution; and

(10) If necessary, upon the refunding of the Refunded Bonds, (i) to approve and execute an escrow agreement, with an escrow agent or letter of instructions (such escrow agreement or letter of instructions to be executed only if such document does not contain any terms contradictory to the terms of this Resolution and only upon the recommendation of Bond Counsel to Fairfax County and the Financial Advisor to Fairfax County), (ii) to appoint a verification agent and an escrow agent and (iii) to determine the particular escrow securities and the form thereof and the terms of any related agreement (including a forward purchase agreement for the delivery of open-market escrow securities), with respect thereto that in his judgment, upon the recommendation of the County's Financial Advisor, will improve the efficiency of the escrow securities in defeasing the Refunded Bonds.

The Board of Supervisors hereby further delegates to each of the County Executive and the Chief Financial Officer authority to allocate any premium received upon the sale of the bonds to (i) fund interest payments on the bonds which relate to projects financed that are under construction through a time period no later than December 1, 2019, (ii) pay costs of issuance of the bonds or (iii) as to any or all of the public improvement bonds, taking into account, among other things, the reoffering prices for the various maturities of the bonds, reduce the principal amount of the bonds to which such allocation is made to produce proceeds approximately equal to the respective amounts authorized to be issued for such purposes by Section 1(a) and paragraph (c)(2) of this Section 6.

**Section 7. Forms of bonds.** The bonds shall bear the facsimile signatures of the Chairman or Vice Chairman and the Clerk of the Board of Supervisors and a facsimile of the official seal of the Board shall be imprinted on the bonds. The certificate of authentication of the Bond Registrar to be endorsed on all bonds shall be executed as provided hereinafter.

In case any officer of Fairfax County whose facsimile signature shall appear on any bonds shall cease to be such officer before the delivery of such bonds, such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if she or he had remained in office until such delivery, and any bond may bear the facsimile signatures of such persons at the actual time of the execution of such bond shall be the proper officers to sign such bond although at the date of such bond such persons may not have been such officers.

No bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The bonds and the endorsement thereon shall be substantially in the following form:

[Depository Legend]

(Face of Bond)

No. \_\_\_\_\_

\$\_\_\_\_\_

United States of America  
Commonwealth of Virginia

**FAIRFAX COUNTY**

**[Taxable] Public Improvement [and/or Refunding] Bond, Series 2019 [A], [B]**

<b><u>Maturity Date</u></b>	<b><u>Interest Rate</u></b>	<b><u>Dated Date</u></b>	<b><u>CUSIP</u></b>
[_____]	_____%	_____, 2019	_____

**Fairfax County, Virginia**, is justly indebted and for value received hereby promises to pay to

\_\_\_\_\_

or registered assigns or legal representative on the date specified above (or earlier as hereinafter referred to), upon the presentation and surrender hereof, at the office of the Director of the Department of Finance of Fairfax County, Virginia (the "Bond Registrar"), in Fairfax County, Virginia, the principal sum of

\_\_\_\_\_ **DOLLARS**

and to pay interest on such principal sum from the date hereof or from the [\_\_\_\_ 1 or \_\_\_\_ 1] next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is an [\_\_\_\_ 1 or a \_\_\_\_ 1] to which interest shall have been paid, in which case from such date, such interest to the maturity hereof being payable on the 1st days of \_\_\_\_\_ and \_\_\_\_\_ in each year, the first interest payment date being \_\_\_\_\_, 20\_\_\_\_, at the rate per annum specified above, until payment of such principal sum. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by wire transfer, at the discretion of the County, or check mailed to such person at his address as it appears on the bond registration books of the County. Both the principal of and the interest on this bond shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both principal and interest as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged.

This bond and the bonds of the series of which it is one are issued under and pursuant to a resolution duly adopted by the Board of Supervisors of Fairfax County, Virginia, on December 4, 2018 (the "Resolution"), for [(i) the purpose of providing funds, with other available funds, for school improvements, transportation improvements and facilities, parks and park facilities, storm drainage improvements, public safety facilities, public library facilities and human services facilities and community development facilities [and/or (ii) refunding portions of [ ] outstanding series of bonds of Fairfax County, Virginia, designated [ ]]].

The bonds of this series that mature on or before \_\_\_\_\_, 20\_\_\_\_, are not subject to redemption before maturity. Bonds that mature after \_\_\_\_\_ 1, 20\_\_\_\_, may be redeemed, at the option of the County, before their respective maturities on any date not earlier than \_\_\_\_\_ 1, 20\_\_\_\_, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.]

[Insert make-whole or cost-of-funds call provisions, if applicable]

Term bonds of this series purchased or redeemed pursuant to a partial optional redemption by the County may be credited against the amortization requirements therefor as the County in its sole discretion may determine.

If less than all of the bonds of any one maturity shall be called for redemption, the particular bonds or portions of bonds of such maturity to be redeemed shall be selected by lot by the County in such manner as the County in its discretion may determine; provided, however, that the portion of any bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting bonds for redemption, the County shall treat each bond as representing that number of bonds which is obtained by dividing the principal amount of such bond by \$5,000.

Bonds may be redeemed only in increments of \$5,000 or whole multiples thereof. If a portion of a Bond is called for redemption, a new Bond in a principal amount equal to the unredeemed portion thereof will be issued to the bondholder upon the surrender thereof.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any bonds to be redeemed, whether such redemption be in whole or in part, the County shall cause a notice of such redemption to be filed with the Bond Registrar and to be mailed, postage prepaid, to the registered owner of each bond to be redeemed in whole or in part at his address appearing upon the registration books of the County, but failure to mail such notice or any defect therein shall not affect the validity of the redemption. If a portion of this bond shall be called for redemption, a new bond or bonds in principal amount equal to the unredeemed portion hereof will be issued to the registered owner hereof or his legal representative upon the surrender hereof.

Any notice of optional redemption of the bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price of any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit by the County, the corresponding notice of redemption shall be deemed to be revoked.

If the County gives an unconditional notice of redemption, then on the redemption date the Bonds called for redemption will become due and payable. If the County gives a conditional notice of redemption, and the amount of money to pay the redemption price of the affected Bonds shall have been set aside with the Trustee or a depository (either, a “depository”) for the purpose of paying such bonds, then on the redemption date the bonds will become due and payable. In either case, if on the redemption date the County holds money to pay the bonds called for redemption, thereafter no interest will accrue on those bonds, and a bondholder’s only right will be to receive payment of the redemption price upon surrender of those bonds.

The County shall give notice as contemplated by Securities Exchange Act of 1934 Release No. 34-23856, dated December 3, 1986, including the requirement that notice be given to all organizations registered with the Securities and Exchange Commission as securities depositories, and to one or more information services of national recognition which disseminate redemption information with respect to municipal securities.

The bonds are issuable in fully registered form in the denomination of \$5,000 or any multiple thereof. At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, bonds may be exchanged for an equal aggregate principal amount of bonds of the same series and maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at its office the books of the County for the registration of transfer of bonds. The transfer of this bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal

representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new bond or bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this bond, of the same series and maturity and bearing interest at the same rate.

The Bond Registrar shall not be required to exchange or register the transfer of any bond called for redemption in whole or in part pursuant to the Resolution.

This bond is one of a series issued under the authority of and in full compliance with the Constitution and laws of Virginia, particularly the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia, 1950, as amended, and pursuant to votes of a majority of the qualified voters of Fairfax County, Virginia, voting at elections duly called and held under the provisions of the Code of Virginia, 1950, as amended, and under orders of the Circuit Court of Fairfax County, Virginia, authorizing the Board of Supervisors of the County to proceed to carry out the wishes of the voters as expressed at such elections, and pursuant to resolutions duly adopted by the Board of Supervisors and the School Board of the County.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of Virginia to happen, exist and be performed precedent to and in the issuance of this bond have happened, exist and have been performed in due time, form and manner as so required, that the total indebtedness of Fairfax County, Virginia, including this bond, does not exceed any constitutional or statutory limitation thereon, and that provision has been made for the levy and collection of an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and the interest on this bond as the same shall become due which tax shall be without limitation as to rate or amount and shall be in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the resolution mentioned hereinafter until this bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

**IN WITNESS WHEREOF**, the Board of Supervisors of Fairfax County, Virginia, has caused this bond to be issued in the name of Fairfax County, Virginia, and the Board has caused this bond to bear the facsimile signatures of its Chairman and Clerk and a facsimile of the official seal of the Board to be imprinted hereon, all as of the \_\_\_\_ day of \_\_\_\_\_, 2019.

(Facsimile signature)

(Facsimile signature)

\_\_\_\_\_  
**Clerk, Board of Supervisors  
of Fairfax County, Virginia**

\_\_\_\_\_  
**Chairman, Board of Supervisors  
of Fairfax County, Virginia**

(Facsimile seal)

### **CERTIFICATE OF AUTHENTICATION**

This bond is one of the bonds of the series designated herein and described in the within mentioned Resolution.

Director of the Department of Finance of  
Fairfax County, Virginia, as Bond Registrar

By \_\_\_\_\_  
Authorized Signature

Date of authentication: \_\_\_\_\_, 2019

(Form of Assignment)

### **ASSIGNMENT**

**FOR VALUE RECEIVED**, the undersigned registered owner hereby sells, assigns and transfers unto

Please insert social security or  
other identifying number of assignee

\_\_\_\_\_  
\_\_\_\_\_

(Please Print or Typewrite Name and Address of Transferee)

the within bond, and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to register the transfer of the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed\* by: \_\_\_\_\_

\*Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Trustee which requirements will include membership or participation in STAMP or such other “signature guarantee program” as may be determined by the Trustee in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

**Section 8(a). Optional redemption.** The Board of Supervisors hereby delegates to each of the County Executive and the Chief Financial Officer the authority, subject to the limitations contained herein, to determine the optional redemption provisions of any bonds pursuant to the delegation set forth in Section 6(c)(9). The first optional call date for the bonds must be no earlier than 5 years and no later than 10.5 years after the date of issue of such bonds. The maximum redemption price for the bonds may not exceed 102% of the principal amount of the bonds to be redeemed, plus accrued interest to the date of redemption. Bonds of a different series may contain different optional redemption provisions. Such delegation shall be effective only if the Board of Supervisors shall not then be in session (the Board of Supervisors not to be deemed in session if less than a quorum is present and voting). The bonds which are subject to optional redemption may be redeemed, at the option of Fairfax County, Virginia, before their respective maturities on any date not earlier than the optional redemption date, determined as set forth above, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price, determined as set forth above, plus accrued interest to the redemption date. The County Executive or the Chief Financial Officer, upon the recommendation of the Financial Advisor to the County, may determine that the public improvement refunding bonds issued as taxable bonds shall not be subject to optional redemption prior to their maturity or upon the recommendation of the Financial Advisor to the County, notwithstanding the maximum redemption price referred to above, a make-whole or cost-of-funds premium shall be permitted for such taxable public improvement refunding bonds.

**Section 8(b). Mandatory redemption.** The term bonds, if any, shall be called for redemption, in part, in the principal amounts equal to the respective amortization requirements for the term bonds of such series (less the principal amount of any term bond of such series retired by purchase or optional redemption) at a price of par plus accrued interest thereon to the date fixed for redemption on a date specified pursuant to the delegation of authority contained in this resolution, preceding their maturity for which there is an amortization requirement.

In the event of a partial optional redemption or purchase of any such term bonds, the County will credit the principal amount of such term bonds so purchased or redeemed against the

amortization requirements for the remaining term bonds outstanding in such amount and in such years as it in its sole discretion shall determine.

**Section 8(c). Redemption provisions in general.** If less than all of the bonds of any one maturity shall be called for redemption, the particular bonds or portions of bonds of such maturity to be redeemed shall be selected by lot by the County in such manner as the County in its discretion may determine; provided, however, that the portion of any bond to be redeemed shall be in the principal amount of the minimum authorized denomination or some multiple thereof and that, in selecting bonds for redemption, the County shall treat each bond as representing that number of bonds which is obtained by dividing the principal amount of such bond by such minimum authorized denomination.

In the case of redemptions of bonds at the option of the County, the County will select the maturities of the bonds to be redeemed.

The Board of Supervisors hereby delegates to each of the County Executive and the Chief Financial Officer the authority to modify the redemption provisions relating to the bonds based upon the recommendation of the County's Financial Advisor of current financial market considerations.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any bonds to be redeemed, whether such redemption be in whole or in part, the County shall cause a notice of such redemption to be filed with the Bond Registrar and to be mailed, postage prepaid, to the registered owner of each bond to be redeemed in whole or in part at his address appearing upon the registration books of the County, but failure to mail such notice or any defect therein shall not affect the validity of the redemption. Each such notice shall set forth the date designated for redemption, the redemption price to be paid, the maturities of the bonds to be redeemed and, if less than all of the bonds of any one maturity then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such bonds to be redeemed and, in the case of any bond to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such bond, a new bond or bonds in principal amount equal to the unredeemed portion of such bond will be issued.

Any notice of optional redemption of the Bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price of any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit by the County, the corresponding notice of redemption shall be deemed to be revoked.

If the County gives an unconditional notice of redemption, then on the redemption date the Bonds called for redemption will become due and payable. If the County gives a conditional notice of redemption, and the amount of money to pay the redemption price of the affected Bonds shall have been set aside with the escrow agent or a depository (either, a "depository") for the purpose of paying such Bonds, then on the redemption date the Bonds will become due and

payable. In either case, if on the redemption date the County holds money to pay the Bonds called for redemption, thereafter no interest will accrue on those Bonds, and a bondholder's only right will be to receive payment of the redemption price upon surrender of those Bonds.

The County shall give notice as contemplated by Securities Exchange Act of 1934 Release No. 34-23856, dated December 3, 1986, including the requirement that notice be given to all organizations registered with the Securities and Exchange Commission as securities depositories, and to one or more information services of national recognition which disseminate redemption information with respect to municipal securities.

On or before the date fixed for redemption, moneys shall be deposited with the Bond Registrar to pay the principal of and the redemption premium, if any, on the bonds or portions thereof called for redemption as well as the interest accruing thereon to the redemption date thereof.

If a portion of a bond shall be called for redemption, the registered owner thereof or his attorney or legal representative shall present and surrender such bond to the Bond Registrar for payment of the principal amount thereof so called for redemption and the redemption premium, if any, on such principal amount, and the Bond Registrar shall authenticate and deliver to or upon the order of such registered owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the bond so surrendered, a bond or bonds of the same series and maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

**Section 9. Exchange; registration of transfer; Bond Registrar.** Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of bonds of the same series and maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any bond may be registered only upon the registration books of the County upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for such bond a new bond or bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such bond so surrendered, of the same series and maturity and bearing interest at the same rate.

In all cases in which bonds shall be exchanged or the transfer of bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time bonds in accordance with the provisions of this resolution. All bonds surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. The County or the Bond Registrar may make a charge for any governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made for exchanging or

registering the transfer of bonds under this resolution. The Bond Registrar shall not be required to exchange or register the transfer of any bond called for redemption in whole or in part pursuant to Section 8 of this resolution.

As to any bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such bond and the interest on any such bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such bond, including the redemption premium, if any, and the interest thereon, to the extent of the sum or sums so paid.

The County shall appoint such registrars, transfer agents, depositaries or other agents as may be necessary for the registration, registration of transfer and exchange of bonds within a reasonable time according to then current commercial standards and for the timely payment of principal, interest and any redemption premium with respect to the bonds. The Director of the Department of Finance of Fairfax County, Virginia, is hereby appointed the registrar, transfer agent and paying agent for the bonds (collectively the "Bond Registrar"), subject to the right of the Board of Supervisors of the County to appoint another Bond Registrar, and as such shall keep at his office the books of the County for the registration, registration of transfer, exchange and payment of the bonds as provided in this resolution.

**Section 10. Full faith and credit pledged.** For the prompt payment of the principal of and the interest on the bonds authorized by this resolution as the same shall become due, the full faith and credit of Fairfax County, Virginia, are hereby irrevocably pledged, and each year while any of the bonds shall be outstanding, to the extent other funds of the County are not lawfully available and appropriated for such purpose, there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and the interest on the bonds as such principal and interest shall become due, which tax shall be without limitation and in addition to all other taxes authorized to be levied in the County.

**Section 11. Continuing Disclosure Agreement.** The Chairman or Vice Chairman of the Board of Supervisors, the County Executive and the Chief Financial Officer, or such officer or officers of the County as may be designated, is hereby authorized and directed to execute a Continuing Disclosure Agreement, in the form contained in the draft Preliminary Official Statement presented at this meeting, setting forth the reports and notices to be filed by the County and containing such covenants as may be necessary in order to show compliance with the provisions of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

**Section 12. Tax covenant.** The County covenants to take all action, and to refrain from taking any action, necessary under the Internal Revenue Code of 1986, as amended, to ensure that interest on any tax-exempt bonds will remain not includable in gross income for federal income tax purposes to the same extent as it is not includable on the date of closing on such bonds.

**Section 13. Certificate concerning delegation.** The County Executive or the Chief Financial Officer shall execute a Certificate or Certificates evidencing determinations or other actions taken pursuant to the authority granted in this resolution, and any such Certificate shall be conclusive evidence of the action or determination of such County Executive or the Chief Financial Officer as stated therein. The delegations of authority in this resolution to the County Executive and the Chief Financial Officer are to each of them severally, and any action taken by either the County Executive or the Chief Financial Officer pursuant to such delegations of authority is sufficient for all purposes of this resolution.

**Section 14. Authority of officers.** The officers and agents of the County are hereby authorized and directed to do all the acts and things required of them by the bonds and by this resolution for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements contained in the bonds and in this resolution.

**Section 15. Certification and filing.** The Clerk of the Board of Supervisors is hereby authorized and directed to file a certified copy of this resolution and a certified copy of the resolution of the School Board of the County with the Circuit Court of Fairfax County, Virginia.

**A Copy – Teste:**

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**Clerk to the Board of Supervisors**

***DRAFT Critical Path Events***  
***Fairfax County, Virginia***  
***Public Improvement Bonds, Series 2019A &***  
***Taxable Public Improvement Refunding Bonds, Series 2019B***

October 2018							November 2018							December 2018							January 2019							February 2019						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
	1	2	3	4	5	6					1	2	3							1			1	2	3	4	5					1	2	
7	8	9	10	11	12	13	4	5	6	7	8	9	10	2	3	4	5	6	7	8	6	7	8	9	10	11	12	3	4	5	6	7	8	9
14	15	16	17	18	19	20	11	12	13	14	15	16	17	9	10	11	12	13	14	15	13	14	15	16	17	18	19	10	11	12	13	14	15	16
21	22	23	24	25	26	27	18	19	20	21	22	23	24	16	17	18	19	20	21	22	20	21	22	23	24	25	26	17	18	19	20	21	22	23
28	29	30	31				25	26	27	28	29	30		23	24	25	26	27	28	29	27	28	29	30	31			24	25	26	27	28		
														30	31																			

Week of	Activity & Event	Responsible Party
Oct 1 <sup>st</sup>	Kick off Call	All
Oct 8 <sup>th</sup>	<i>Mon, Oct 8<sup>th</sup> – Columbus Day (Markets Closed)</i> First draft of County & School Board Resolutions, POS, & NOS, collectively "Bond Documents" distributed	-- NRF
Oct 15 <sup>th</sup>	Comments due on Bond Documents Wed, Oct 17 <sup>th</sup> – Ratings Prep meeting with Joe & Joe @ 11am <b>NLT Fri, Oct 19<sup>th</sup> – Draft CAFR data needed for PFM to prep for credit assessment</b>	All FX, PFM FX
Oct 22 <sup>nd</sup>	Revised draft of Bond Documents distributed <b>NLT Thurs, Oct 25<sup>th</sup> – Send Resolution to School Board staff</b>	NRF FX
Oct 29 <sup>th</sup>	Comments due on Bond Documents Tues, Oct 30 <sup>th</sup> – County Board Meeting <b>Thurs, Nov 1<sup>st</sup> – Board Title due</b>	All FX FX, NRF
Nov 5 <sup>th</sup>	<b>Mon, Nov 5<sup>th</sup> – Board Item Due</b> <b>Thurs, Nov 8<sup>th</sup> -- School Board Meeting Info Package distributed</b> Thurs, Nov 8 <sup>th</sup> – Ratings Prep meeting with Barbara @ 11am Revised draft of Bond Documents distributed Nov 7 <sup>th</sup> -8 <sup>th</sup> – FOMC meetings	FX, NRF FX PFM, FX NRF --
Nov 12 <sup>th</sup>	<b>Fri, Nov 16<sup>th</sup> – Credit Assessment Meeting @ 10:30am</b> Draft Ratings Presentation distributed Comments due on POS/NOS	FX, PFM FX, PFM All
Nov 19 <sup>th</sup>	<b>Mon, Nov 19<sup>th</sup> – School Board Meeting to consider Resolution</b> <i>Thurs, Nov 22<sup>nd</sup> – Thanksgiving Day (Markets Closed)</i> Comments on Ratings Presentation	FX -- FX
Nov 26 <sup>th</sup>	Tues, Nov 27 <sup>th</sup> – County/School Board Joint Meeting Revised draft POS/NOS distributed Revised Ratings Presentation distributed	-- NRF PFM

\*Request to Fitch to receive affirmation of rating for the TIFIA Loan NLT to meet USDOT requirements NLT January 31<sup>st</sup>.

**Legend:**

FX = Fairfax County  
PFM = Public Financial Management Inc., Financial Advisor  
NRF = Norton Rose Fulbright, Bond Counsel

11/5/2018

# **DRAFT Critical Path Events**

Attachment 2

**Fairfax County, Virginia**

**Public Improvement Bonds, Series 2019A &**

**Taxable Public Improvement Refunding Bonds, Series 2019B**

October 2018	November 2018	December 2018	January 2019	February 2019
S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6	1 2 3	1	1 2 3 4 5	1 2
7 8 9 10 11 12 13	4 5 6 7 8 9 10	2 3 4 5 6 7 8	6 7 8 9 10 11 12	3 4 5 6 7 8 9
14 15 16 17 18 19 20	11 12 13 14 15 16 17	9 10 11 12 13 14 15	13 14 15 16 17 18 19	10 11 12 13 14 15 16
21 22 23 24 25 26 27	18 19 20 21 22 23 24	16 17 18 19 20 21 22	20 21 22 23 24 25 26	17 18 19 20 21 22 23
28 29 30 31	25 26 27 28 29 30	23 24 25 26 27 28 29	27 28 29 30 31	24 25 26 27 28
		30 31		

Week of	Activity & Event	Responsible Party
Dec 3 <sup>rd</sup>	<b>Tues, Dec 4<sup>th</sup> – Board considers Bond Documents, FY18 CAFR Published</b> <b>Thurs, Dec 6<sup>th</sup> – Ratings Prep &amp; Rehearsal Meeting</b> Comments on Ratings Presentation to PFM	<b>FX</b> <b>FX, PFM</b> FX
Dec 10 <sup>th</sup>	Circulate revised Ratings Presentation	PFM
Dec 17 <sup>th</sup>	Mon, Dec 17 <sup>th</sup> -- Draft POS & other info sent to Rating Agencies Finalize Rating Agency Presentation <b>Wed, Dec 19<sup>th</sup> – Ratings Prep &amp; Rehearsal Meeting</b> Dec 18 <sup>th</sup> -19 <sup>th</sup> – FOMC meetings <b>Fri, Dec 21<sup>st</sup> – Final Ratings Prep &amp; Rehearsal Meeting</b>	PFM FX, PFM <b>FX, PFM</b> -- <b>FX, PFM</b>
Dec 24 <sup>th</sup>	<i>Tues, Dec 25<sup>th</sup> – Christmas Holiday (Markets Closed)</i>	--
Dec 31 <sup>st</sup>	<i>Tues, Jan 1<sup>st</sup> – New Year's Day (Markets Closed)</i> Circulate draft of POS/ NOS	-- NRF
Jan 7 <sup>th</sup>	<b>Wed, Jan 9<sup>th</sup> / Thurs, Jan 10<sup>th</sup> –Rating Meetings/Calls</b> Fri, Jan 11 <sup>th</sup> – POS Review Call	<b>FX, PFM</b> FX, NRF, PFM
Jan 14 <sup>th</sup>	Finalize POS <b>Friday, Jan 18<sup>th</sup> – Ratings Received</b>	All --
Jan 21 <sup>st</sup>	<i>Mon, Jan 21<sup>st</sup> – Martin Luther King Jr. Day (Markets Closed)</i> <b>Tues, Jan 22<sup>nd</sup> – POS &amp; NOS posted</b> Tues, Jan 22 <sup>nd</sup> -- Apply for CUSIPs Pre-marketing calls to Underwriters	-- NRF PFM PFM
Jan 28 <sup>th</sup>	<b>Jan 29<sup>th</sup> – Competitive Sale</b> Circulate draft of Closing Documents Jan 29 <sup>th</sup> -30 <sup>th</sup> – FOMC meetings	FX, PFM NRF --
Feb 4 <sup>th</sup>	NLT Thurs, Feb 7 <sup>th</sup> -- Finalize & Mail OS Comments on Closing Documents	NRF FX, PFM
Feb 11 <sup>th</sup>	Finalize Closing Documents Tues, Feb 12 <sup>th</sup> – Closing	NRF All

\*Request to Fitch to receive affirmation of rating for the TIFIA Loan NLT to meet USDOT requirements NLT January 31<sup>st</sup>.

## **Legend:**

FX = Fairfax County  
PFM = Public Financial Management Inc., Financial Advisor  
NRF = Norton Rose Fulbright, Bond Counsel

11/5/2018

Schedule of Bond Purposes FY 2019 Bond Sale - Series 2019A (New Money)					
Fund	Category	Referendum Date	BEGIN Authorized But Unissued Balance	FY 2019 Bond Sale Projection	END Authorized But Unissued Balance
<b>County</b>					
300-C30030	Library Facilities	11/6/12	11,664,000	-	11,664,000
300-C30010	NVRPA	11/8/16	6,000,000	3,000,000	3,000,000
300-C30050	Road Bond Construction	11/4/14	82,840,000	8,000,000	74,840,000
300-C30000	Transportation Facilities (Metro)	11/8/16	72,070,000	24,313,000	47,757,000
300-C30070	Public Safety Facilities	11/6/12	26,760,000	5,000,000	21,760,000
	Public Safety Facilities	11/3/15	151,000,000	-	151,000,000
	Public Safety Facilities	11/6/18	182,000,000	-	182,000,000
300-C30400	Park Authority	11/6/12	16,610,000	16,610,000	-
	Park Authority	11/8/16	94,700,000	3,390,000	91,310,000
400-C40100	Flood Control	11/6/12	7,050,000	7,050,000	-
300-C30010	Human Services Facilities	11/8/16	80,600,000	-	80,600,000
<b>Subtotal County</b>			<b>\$731,294,000</b>	<b>\$67,363,000</b>	<b>\$663,931,000</b>
<b>Schools</b>					
390		11/3/15	294,251,000	180,000,000	114,251,000
390		11/7/17	315,000,000	-	315,000,000
<b>Subtotal Schools</b>			<b>\$609,251,000</b>	<b>\$180,000,000</b>	<b>\$429,251,000</b>
<b>TOTAL COUNTY AND SCHOOLS</b>			<b>\$1,340,545,000</b>	<b>\$247,363,000</b>	<b>\$1,093,182,000</b>

**A RESOLUTION REQUESTING THE BOARD OF SUPERVISORS  
OF FAIRFAX COUNTY, VIRGINIA, TO ISSUE AND SELL SCHOOL BONDS OF  
FAIRFAX COUNTY, VIRGINIA, TOTALING \$180,000,000 AND APPROVING THE FORM  
OF A TAX CERTIFICATE AND AUTHORIZING THE EXECUTION THEREOF**

WHEREAS, at an election duly called and held on November 3, 2015, a majority of the qualified voters of Fairfax County, Virginia (the “County”), voting on the question, approved contracting a debt, borrowing money and issuing school bonds of the County, in the aggregate principal amount of \$310,000,000 (the “2015 Referendum”); and

WHEREAS, the stated purpose of the school bonds authorized in the 2015 Referendum was to provide funds, in addition to funds from school bonds previously authorized, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system; and

WHEREAS, the Board of Supervisors of Fairfax County (the “Board of Supervisors”) has heretofore issued \$15,749,000 of the bonds authorized by the 2015 Referendum, leaving a balance of \$294,251,000 authorized but unissued bonds; and

WHEREAS, the School Board of Fairfax County, Virginia (the “School Board”) deems it advisable for the Board of Supervisors to (i) issue school bonds authorized in the 2015 Referendum in an aggregate principal amount not to exceed \$180,000,000 (the “School Bonds”), (ii) determine certain pricing and sale details of the School Bonds and (iii) determine whether to refund any prior public improvement bonds of Fairfax County, Virginia, that were issued for school improvements (the “Board of Supervisors Actions”); and

WHEREAS, the School Board recognizes that it will be necessary for it to make certain certifications regarding the use of the proceeds of the School Bonds and any refunding bonds for federal income tax purposes;

NOW, THEREFORE, BE IT RESOLVED by the School Board of Fairfax County, Virginia:

Section 1. For the purpose of providing funds, in addition to funds from school bonds previously authorized and any other available funds, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system, the Board of Supervisors is hereby requested to issue the School Bonds, subject to the Board of Supervisors Actions, in an aggregate principal amount not to exceed \$180,000,000 and provide for the sale of such bonds and any refunding bonds at this time.

Section 2. The form of a certificate attached to this resolution as Appendix A (the “School Board Tax Certificate”) to be executed by the School Board in connection with the issuance of the School Bonds and any refunding bonds is approved in all respects and the Chairman, Vice Chairman or any other member or officer of the School Board designated in writing by the Chairman of the School Board is hereby authorized and directed to approve, by execution and delivery, the School Board Tax Certificate in substantially the form presented to this meeting together with such changes, modifications, insertions and deletions as the Chairman, Vice Chairman or such designated member or officer, with the advice of counsel, may deem necessary and appropriate; such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the School Board.

Section 3. The Clerk of the School Board is hereby authorized and directed to file two certified copies of this resolution with the Board of Supervisors.

### **CERTIFICATE OF THE SCHOOL BOARD**

This certificate is provided to Fairfax County, Virginia (the “County”), by the School Board of Fairfax County, Virginia (the “School Board”), in connection with the issuance by the County of its [\$\_\_\_\_,\_\_\_\_,000 Public Improvement Bonds, Series 2019 [ ] [ ] and \$\_\_\_\_\_ Public Improvement Refunding Bonds, Series 2019 [ ] [ ] (collectively, the “Bonds”)], the proceeds of which will be used to finance the cost of constructing, furnishing, acquiring and equipping school improvements (the “[New] School Projects”) [and to refinance school projects that were financed with the proceeds of the County’s \_\_\_\_\_ Bonds and \_\_\_\_\_ Bonds (the “Refunded School Projects” and together with the New School Projects, the “School Projects”)],

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The School Board recognizes that some of the representations made by the County in its Tax Certificate, dated \_\_\_\_\_, 2019, and executed in connection with the issuance of the Bonds (the “Tax Certificate”) must be based on the representations and certifications of the School Board and that the exclusion from gross income of the interest on the Bonds for federal income tax purposes depends on the use of proceeds of the Bonds.

Accordingly, the School Board certifies that it has reviewed the representations set forth in [Section 1 of Part B of the Tax Certificate] to which this certificate is attached regarding the use of proceeds of the Bonds and the School Projects and that such representations, to the extent they relate to the School Projects, are true and correct, except as follows: [(i) with respect to paragraph (d) (“Definition of Private Use”), in the second paragraph, fourth line, after (“General Public Use”), there shall be deemed to be inserted “or other than as is excepted as private use by U.S. Treasury Regulations,” and (ii) with respect to paragraph (e) (“Management and Service Contracts”), the references to Management Contract Safe Harbors shall be deemed to include “or other applicable law.” Furthermore, such representations are hereby incorporated by reference in this certificate and shall be treated as representations made by the School Board with respect to the School Projects as if set forth herein. The School Board shall not take any action that is inconsistent with such representations.]

The School Board further covenants that:

(a) it shall not sell or otherwise dispose of the School Projects prior to the final maturity date of the Bonds of [\_\_\_\_ 1, 20\_\_], except as shall be permitted in the opinion of an attorney or firm of attorneys, acceptable to the County, nationally recognized as experienced with respect to matters pertaining to the exclusion of interest on obligations of states and political subdivisions from gross income for federal income tax purposes; and

(b) it shall not knowingly take any action which will, or fail to take any action which failure will, cause the interest on the Bonds to become includable in the gross income of the owners of the Bonds for federal income tax purposes pursuant to the provisions of the Internal Revenue

Code of 1986, as amended (the “Code”), and the regulations promulgated thereunder in effect on the date of original issuance of the Bonds and for purposes of assuring compliance with Section 141 of the Code.

School Board of Fairfax County, Virginia

\_\_\_\_\_  
Name:

Title:

Date: \_\_\_\_\_, 2019

\* \* \* \* \*

I hereby certify the above is a true and correct copy of a resolution adopted by the School Board of Fairfax County, Virginia, at a regular meeting held on \_\_\_\_\_, 2018, at \_\_\_\_\_, Virginia.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ilene D. Muhlberg, Clerk  
School Board of  
Fairfax County, Virginia

**NOTICE OF SALE**

\$ \_\_\_\_\_ \*

**FAIRFAX COUNTY, VIRGINIA****Public Improvement Bonds, Series 2019A**

Electronic Bids, BiDCOMP/Parity Competitive Bidding System (“BiDCOMP/Parity”) only, will be received by the Board of Supervisors of Fairfax County, Virginia (the “County”), until 11:00 a.m., Fairfax, Virginia Time, on

**January \_\_, 2019\***

for the purchase of all, but not less than all, of the \$\_\_\_\_\_ \* Public Improvement Bonds, Series 2019A of Fairfax County, Virginia (the “Bonds”), dated the date of their delivery and maturing, subject to the right of prior redemption as hereinafter set forth, on the 1st day of October in the following years and in the following amounts, respectively:

**Initial Maturity Schedule for the Bonds\***

<u>Year of Maturity</u>	<u>Principal Amount*</u>	<u>Year of Maturity</u>	<u>Principal Amount*</u>
2019		2029	
2020		2030	
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	

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\* Preliminary, subject to change.

The County reserves the right to change the date for receipt of bids (the “Scheduled Bid Date”) in accordance with the section of this Notice of Sale entitled “Change of Bid Date and Closing Date; Other Changes to Notice of Sale.”

**BID PARAMETERS TABLE FOR THE BONDS\***

<b>INTEREST</b>		<b>PROCEDURAL</b>	
Dated Date:	Date of Delivery	Sale Date and Time:	Bids due January __, 2019, at 11 a.m. Local Time
Anticipated Delivery/Closing Date:	January __, 2019	Bid Submission:	Electronic bids through BiDCOMP/PARITY Only
Interest Payments Dates:	April 1 and October 1	All or None?	Yes
First Interest Payment Date:	October 1, 2019	Bid Award Method:	Lowest TIC
Coupon Multiples:	1/8 or 1/20 of 1%	Good Faith Deposit:	1% of the Bid Maturity Schedule, as more fully described on page 6, under “Good Faith Deposit”
Zero Coupons:	Not Permitted	Max TIC:	[%]
Split Coupons:	Not Permitted		
<b>PRINCIPAL</b>		<b>PRICING</b>	
Optional Redemption:	Due on and after October 1, 2029, callable on April 1, 2029, and thereafter at par	Max. Aggregate Bid Price:	%
Post-bid Principal Increases in Aggregate:	10%	Min. Aggregate Bid Price:	%
Post-bid Principal Reductions in Aggregate:	10%	Max. Price per Maturity:	No Limit
Term Bonds:	Any two or more consecutive maturities may be designated as Term Bonds	Min. Price per Maturity:	No Limit
		High Coupon per Maturity:	Not to exceed %
		Low Coupon per Maturity:	%

\* Subject to the detailed provisions of this Notice of Sale.

### **Changes to Initial Maturity Schedule for the Bonds**

The Initial Maturity Schedule for the Bonds (the “Initial Maturity Schedule”) set forth on page 1 represents an estimate of the principal amount of Bonds to be sold. The County hereby reserves the right to change the Initial Maturity Schedule, based on market conditions prior to the sale, by announcing any such change not later than 30 minutes prior to the announced time and date for receipt of bids via TM3 (www.tm3.com). The resulting schedule of maturities will become the “Bid Maturity Schedule” for the Bonds. If no such change is announced, the Initial Maturity Schedule will become the Bid Maturity Schedule for the Bonds.

### **Changes to Bid Maturity Schedule**

The County hereby further reserves the right to change the Bid Maturity Schedule after the determination of the winning bidder, by increasing or decreasing the aggregate principal amount of the Bonds, subject to the limitation of no more than a 10% increase or decrease in the aggregate principal amount.

THE SUCCESSFUL BIDDER MAY NOT WITHDRAW ITS BID OR CHANGE THE INTEREST RATES BID OR THE INITIAL REOFFERING TERMS (AS HEREAFTER DEFINED) AS A RESULT OF ANY CHANGES MADE TO THE PRINCIPAL AMOUNTS WITHIN THESE LIMITS. The dollar amount bid by the successful bidder will be adjusted to reflect any adjustments in the final aggregate principal amount of the Bonds. Such adjusted bid price will reflect changes in the dollar amount of the underwriters' discount and original issue discount/premium, if any, but will not change the selling compensation per \$1,000 of par amount of the Bonds from the selling compensation that would have been received based on the purchase price in the winning bid and the Initial Reoffering Terms. The interest rates specified by the successful bidder for the various maturities at the Initial Reoffering Terms will not change. The County anticipates that the final annual principal amounts and the final aggregate principal amount of the Bonds will be communicated to the successful bidder within twenty-four hours of the County's receipt of the initial public offering prices and yields of the Bonds (the "Initial Reoffering Terms").

### **Book-Entry System**

The Bonds will be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity of the Bonds will be issued to The Depository Trust Company, New York, New York ("DTC"), and immobilized in its custody. The book-entry system will evidence beneficial ownership interests of the Bonds in the principal amount of \$5,000 and any multiple thereof, with transfers of beneficial ownership interests effected on the records of DTC participants and, if necessary, in turn by DTC pursuant to rules and procedures established by DTC and its participants. The successful bidder, as a condition to delivery of the Bonds, shall be required to deposit the bond certificates with DTC, registered in the name of Cede & Co., nominee of DTC. Interest on the Bonds will be payable on each April 1 and October 1, the first interest payment date being October 1, 2019, and principal of and any redemption premium on the Bonds will be payable at maturity or upon prior redemption, to DTC or its nominee as registered owner of the Bonds. Transfer of principal, interest and any redemption payments to participants of DTC will be the responsibility of DTC, and transfer of principal, interest and any redemption payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. The County will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the County determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the County will discontinue the book-entry system with DTC. If the County fails to

select another qualified securities depository to replace DTC, the County will deliver replacement Bonds in the form of fully registered certificates.

### **The Bonds**

The Bonds will be general obligations of Fairfax County, Virginia, and all taxable property therein will be subject to the levy of an annual ad valorem tax sufficient in amount to provide for the payment of the principal of and the interest on the bonds as the same become due, which tax will be without limitation as to rate or amount and will be in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purposes.

The Bonds are being issued as a series of bonds authorized for the purpose of providing funds, with other available funds, for School Improvements (\$180,000,000), Transportation Improvements and Facilities (\$\_\_\_\_\_), Parks and Park Facilities (\$\_\_\_\_\_), Storm Drainage Improvements (\$\_\_\_\_\_), Public Safety Facilities (\$\_\_\_\_\_), Public Library Facilities (\$\_\_\_\_\_), and Human Services Facilities and Community Development Facilities (\$\_\_\_\_\_).

### **Term Bonds and Mandatory Redemption**

The successful bidder of the Bonds may designate two or more of the consecutive serial maturities to be a term bond maturity equal in aggregate principal amount, and with sinking fund requirements corresponding, to such designated serial maturities.

### **Optional Redemption**

The Bonds maturing before [October 1, 2029,] are not subject to optional redemption before their maturity. The Bonds maturing on or after [October 1, 2029,] are subject to redemption prior to maturity, at the option of the County, from any money available for such purpose on any date not earlier than [April 1, 2029,] in whole or in part (in integral multiples of \$5,000) at any time, at a redemption price equal to the principal amount thereof, together with the interest accrued to the redemption date on the principal amount to be redeemed.

### ***Electronic Bidding and Bidding Procedures***

### **Registration to Bid**

All prospective bidders must be contracted customers of i-Deal LLC's BiDCOMP/Parity Competitive Bidding System. If you do not have a contract with BiDCOMP/Parity, call (212) 404-8102 to inquire about becoming a customer. By submitting a bid for the Bonds, a prospective bidder represents and warrants to the County that such bidder's bid for the purchase of the Bonds (if a bid is submitted in connection with the sale) is submitted for and on behalf of such prospective bidder by an officer or agent who is duly authorized to bind the prospective bidder to a legal, valid and enforceable contract for the purchase of the Bonds. By contracting with BiDCOMP/Parity, a prospective bidder is not obligated to submit a bid in connection with the sale.

**IF ANY PROVISIONS OF THIS NOTICE OF SALE SHALL CONFLICT WITH INFORMATION PROVIDED BY BiDCOMP/Parity AS APPROVED PROVIDER OF ELECTRONIC BIDDING SERVICES, THIS NOTICE OF SALE, AS IT MAY BE AMENDED BY THE COUNTY AS DESCRIBED WITHIN, SHALL CONTROL.** Further information about BiDCOMP/Parity, including any fee charged, may be obtained from BiDCOMP/Parity at (212) 404-8102.

### **Disclaimer**

Each prospective bidder shall be solely responsible to register to bid via BiDCOMP/Parity. Each qualified prospective bidder shall be solely responsible to make necessary arrangements to access BiDCOMP/Parity for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Sale. Neither the County nor BiDCOMP/Parity shall have any duty or obligation to undertake such registration to bid for any prospective bidder or to provide or assure such access to any qualified prospective bidder, and neither the County nor BiDCOMP/Parity shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, BiDCOMP/Parity. The County is using BiDCOMP/Parity as a communication mechanism, and not as the County's agent, to conduct the electronic bidding for the Bonds. The County is not bound by any advice and determination of BiDCOMP/Parity to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the "Bid Specifications" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their registration and submission of bids via BiDCOMP/Parity are the sole responsibility of the bidders, and the County is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in registering to bid or submitting, modifying or withdrawing a bid for the Bonds, it should telephone BiDCOMP/Parity and notify Public Financial Management, Inc., the County's financial advisor, by telephone at (703) 741-0175. After receipt of bids is closed, the County through BiDCOMP/Parity will indicate the apparent successful bidder. Such message is a courtesy only for viewers and does not constitute the award of the Bonds. Each bid will remain subject to review by the County to determine its true interest cost rate and compliance with the terms of this Notice of Sale.

### **Bidding Procedures**

Bids must be submitted electronically for the purchase of all, but not less than all, of the Bonds by means of the Fairfax County, Virginia AON (all or none) Bid Form (the "Bid Form") via BiDCOMP/Parity. Bids must be communicated electronically to BiDCOMP/Parity by 11:00 a.m., Fairfax, Virginia Time on the Scheduled Bid Date unless postponed as described herein (see "Change of Bid Date and Closing Date; Other Changes to Notice of Sale"). Prior to that time, a prospective bidder may input and save the proposed terms of its bid in BiDCOMP/Parity. Once the final bid has been saved in BiDCOMP/Parity, the bidder may select the final bid button in BiDCOMP/Parity to submit the bid to BiDCOMP/Parity. Once the bids are released electronically via BiDCOMP/Parity to the County, each bid will constitute an **IRREVOCABLE** offer to purchase the Bonds on the terms therein provided. For purposes of the electronic bidding process, the time as maintained on BiDCOMP/Parity shall constitute the official Fairfax, Virginia Time. For information purposes only, bidders are requested to state in their bids the

true interest cost to the County, as described under “Award of Bonds” below, represented by the rate or rates of interest and the bid price specified in their respective bids.

**REVOCABLE BIDS ARE NOT PERMITTED.**

**By submitting a bid for the Bonds, each underwriter certifies it has an established industry reputation for underwriting new issuances of municipal bonds.** The County will not accept bids from firms without an establish industry reputation for underwriting new issuances of municipal bonds.

No bids will be accepted in written form, by facsimile transmission or in any other medium or on any system other than by means of the Bid Form via BiDCOMP/Parity. No bid will be received after the time for receiving such bids specified above.

**Good Faith Deposit**

After receipt of bids is closed and prior to the award, the apparent successful bidder indicated on BidCOMP/Parity must submit a good faith deposit (the “Deposit”) for 1% of the aggregate par amount set forth in Bid Maturity Schedule to the County by wire transfer. The award to the apparent successful bidder is contingent upon receipt of the Deposit, and the Bonds will not be awarded to such bidder until the County has confirmation of receipt of the Deposit.

Bank Name: Bank of America VA/Rich  
ABA: 026 009 593  
Account Name: County of Fairfax, Deposit Account  
Account Number: 0000 7902 5799  
Attention: Tammy Kennedy-Nichols, 410-547-4320

Reference your company, company contact, phone number or other helpful identification.

Award or rejection of bids will be made by or on behalf of the Board of Supervisors of Fairfax County, Virginia, on the date above stated for the receipt of bids. The proceeds of the Deposit will be held as security for the performance of the successful bidder’s bid and applied to the purchase price of the Bonds, but, in the event the successful bidder shall fail to comply with the terms of its bid, the Deposit will be retained as and for full liquidated damages. No interest will be allowed thereon.

**Award of Bonds**

Award or rejection of bids will be made by the County prior to 5:00 p.m., Fairfax, Virginia Time on the date of receipt of bids. ALL BIDS SHALL REMAIN FIRM UNTIL 5:00 P.M., FAIRFAX, VIRGINIA TIME, ON THE DATE OF RECEIPT OF BIDS. An award of the Bonds, if made, will be made by the County within such six-hour period of time (11:00 a.m. – 5:00 p.m.).

The Bonds will be awarded to the bidder offering to purchase the Bonds at the lowest “True or Canadian” interest cost (“TIC”), such cost to be calculated by determining the annual interest rate (compounded semiannually) at which the sum of the payments of the principal of

and the interest on the Bonds discounted from their payment dates to the dated date of the Bonds equals the aggregate price bid of the Bonds. If two or more bidders offer to purchase the Bonds at the same lowest TIC, the successful bidder will be selected by the County by lot from among all such bidders.

### **Initial Reoffering Terms**

The apparent successful bidder shall provide the initial public offering prices to the public (the “Initial Public Offering Prices”) and yields of each maturity of the Bonds (collectively the “Initial Reoffering Terms”) within 30 minutes of receipt of notice that it is the apparent winning bidder.

### **Right of Rejection**

The County expressly reserves the right (i) to waive any informalities, (ii) to reject all bids, any incomplete bid or any bid not fully complying with all of the requirements set forth herein, and (iii) to solicit new bids or proposals for the sale of the Bonds or otherwise provide for the public sale of the Bonds if all bids are rejected or the winning bidder defaults, including, without limitation, sale of the Bonds to one or more of the losing or rejected bidders without regard to their original bid or its relationship to any other bid.

### **Change of Bid Date and Closing Date; Other Changes to Notice of Sale**

The County reserves the right to postpone, from time to time, the date and time established for the receipt of bids and will undertake to announce any such change via TM3 ([www.tm3.com](http://www.tm3.com)).

Any postponement of the bid date will be announced via TM3 not later than one hour prior to the announced time for receipt of the bids. An alternative bid date and time will be announced via TM3 at least 18 hours prior to such alternative bid date.

On such alternative bid date and time, the County will accept bids for the purchase of the Bonds, such bids to conform in all respects to the provisions of this Notice of Sale, except for the changes in the date and time for bidding and any other changes announced via TM3 at the time the bid date and time are announced.

The County may change the scheduled delivery date for the Bonds by notice given in the same manner as set forth for a change in the date for the receipt of bids.

The County reserves the right to otherwise change this Notice of Sale. The County anticipates that it would communicate any such changes via TM3 by 4:00 p.m., Fairfax, Virginia Time on the date prior to the scheduled date for receipt of bids but no later than 30 minutes prior to the scheduled time and date for receipt of bids.

### **Conflict Waiver**

Norton Rose Fulbright US LLP is serving as Bond Counsel in connection with the issuance and sale of the Bonds. By placing a bid, each bidder represents that it understands that Norton Rose Fulbright US LLP, in its capacity as Bond Counsel, represents the County, and the

successful bidder waives any conflict of interest that Norton Rose Fulbright US LLP's involvement in connection with the issuance and sale of the Bonds to such successful bidder presents.

### **Establishment of Issue Price**

The successful bidder shall assist the County in establishing the issue price of the Bonds and shall execute and deliver to the County prior to the Closing Date a certificate acceptable to Bond Counsel setting forth the reasonably expected Initial Public Offering Price, or the sales price or prices of the Bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit A, with such modifications as may be appropriate or necessary in the reasonable judgment of the successful bidder, the County or Bond Counsel.

The County intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Bonds) will apply to the initial sale of the Bonds (the "competitive sale requirements") because:

- (1) the County shall disseminate this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- (2) all bidders shall have an equal opportunity to bid;
- (3) the County may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- (4) the County anticipates awarding the sale of the Bonds to the bidder who submits a firm offer to purchase the Bonds at the highest price (or lowest interest cost), as set forth in this Notice of Sale.

If the County receives less than three bids that conform to the parameters contained herein such that the competitive sale requirements are not satisfied, the County intends to treat the Initial Public Offering Price of each maturity of the Bonds as the issue price of that maturity (the "hold-the-offering-price rule"). Consequently, each bidder should assume for purposes of making its bid that for each maturity of the Bonds, the County will treat the Initial Public Offering Prices as of the Sale Date of the Bonds as the issue price of the Bonds. The County will advise the apparent winning bidder within one hour of receipt of bids if the hold the offering price rule will apply. Attached as Exhibit B is a form of the issue price certificate to be provided by the successful bidder to the County prior to the Closing Date if the competitive sale requirements are not satisfied and the hold the offering price rule is applied. Exhibit B is provided in form only and may be modified as may be appropriate or necessary in the reasonable judgment of the successful bidder, the County or Bond Counsel.

By submitting a bid, the successful bidder shall, on behalf of the underwriters participating in the purchase of the Bonds, (i) confirm that the underwriters have offered or will offer each maturity of the Bonds to the public on or before the date that the Bonds are awarded by the County to the successful bidder ("Sale Date") at the Initial Public Offering Prices set forth

in the bid submitted by the winning bidder, and (ii) agree, on behalf of the underwriters participating in the purchase of the Bonds, that the underwriters will neither offer nor sell any maturity of the Bonds to any person at a price that is higher than the Initial Public Offering Price for such maturity during the period starting on the Sale Date and ending on the earlier of the following:

- (1) the close of the fifth business day after the Sale Date; and
- (2) the date on which the underwriters have sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the Initial Public Offering Price for such maturity.

The winning bidder shall promptly advise the County when the underwriters have sold 10% of that maturity of the Bonds to the public at a price that is no higher than the Initial Public Offering Price if that occurs prior to the close of the fifth (5th) business day after the Sale Date.

The County acknowledges that, in making the representation set forth above, the successful bidder will rely on (i) the agreement of each underwriter to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter is a party to a retail distribution agreement that was employed in connection with the initial sale of the Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the retail distribution agreement and the related pricing wires. The County further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Bonds.

By submitting a bid, each bidder confirms that:

(i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to

(A) report the prices at which it sells to the public the Bonds of each maturity allotted to it until it is notified by the successful bidder that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public, and

(B) comply with the hold-the-offering-price rule, if and for so long as directed by the successful bidder and in the related pricing wires, and

(ii) any agreement among underwriters relating to the sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Bonds to the public to require each broker-dealer that is a party to such retail distribution agreement to

(A) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the successful bidder or such underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public, and

(B) comply with the hold-the-offering-price rule, if and for so long as directed by the successful bidder or such underwriter and as set forth in the related pricing wires.

Sales of any Bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Sale. Further, for purposes of this Notice of Sale:

- (i) “public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an underwriter or a related party,
- (ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the County (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public), and
- (iii) a purchaser of any of the Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

### **Undertakings of the Successful Bidder**

The successful bidder shall make a bona fide public offering of all of the Bonds to the general public (excluding bond houses, brokers, or similar persons acting in the capacity of underwriters or wholesalers who are not purchasing for their own account as ultimate purchasers without a view to resell) and will, within 30 minutes after being notified of the award of the Bonds, advise the County in writing (via facsimile transmission) of the Initial Reoffering Terms.

Prior to the delivery of the Bonds, the successful bidder will furnish a certificate acceptable to Bond Counsel as to the “issue price” of the Bonds within the meaning of Section 1273 of the Internal Revenue Code of 1986, as amended. It will be the responsibility of the successful bidder to institute such syndicate reporting requirements, to make such investigation, or otherwise to ascertain the facts necessary to enable it to make such certification with reasonable certainty.

## **Delivery**

The Bonds will be delivered on or about \_\_\_\_\_, 2019, in New York, New York, at DTC against payment of the purchase price therefor (less the amount of the Deposit) in Federal Reserve funds.

The approving opinion of Norton Rose Fulbright US LLP, Washington, D.C., in substantially the form appearing in the Preliminary Official Statement, will be furnished without cost to the successful bidder. There will also be furnished the usual closing papers, including certifications as to the Official Statement and no-litigation.

## **CUSIP Numbers**

CUSIP numbers are to be applied for by the successful bidder with respect to the Bonds. The County will assume no obligation for the assignment of such numbers or for the correctness of such numbers, and no error with respect thereto shall constitute cause for failure or refusal by the successful bidder to accept delivery or make payment for the Bonds.

## **Official Statements**

Copies of the Preliminary Official Statement may be obtained without cost via the Internet at [www.i-dealprospectus.com](http://www.i-dealprospectus.com). The Preliminary Official Statement at its date is “deemed final” by the County for purposes of the Securities and Exchange Commission Rule 15c2-12 adopted under the Securities Exchange Act of 1934, as amended (the “Rule”), but is subject to revision, amendment and completion.

After the award of the Bonds, the County will prepare copies of the Official Statement (no more than 300) and will include therein such additional information concerning the reoffering of the Bonds as the successful bidder may reasonably request; provided, however, that the County will not include in the Official Statement a “NRO” (“not reoffered”) designation with respect to any maturity of the Bonds. The successful bidder will be responsible to the County in all respects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering. The County expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to The Electronic Municipal Market Access System (“EMMA”) administered by the Municipal Securities Rulemaking Board. The successful bidder will be required to acknowledge receipt of such Official Statement, to certify that it has made delivery of the Official Statement to EMMA and to acknowledge that the County expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to certify that the Bonds will only be offered pursuant to such Official Statement and only in states where the offer is legal. The successful bidder will be responsible to the County in all respects for the accuracy

and completeness of information provided by such successful bidder with respect to such reoffering.

In general, the Rule prohibits an underwriter from purchasing or selling municipal securities, such as the Bonds, unless it has determined that the issuer of such securities has committed to provide annually certain information, including audited financial information, and notice of various events described in the Rule, if material. The County will provide to EMMA annual information respecting the County, including audited financial statements. In addition, the County will provide to EMMA the required notice of the occurrence of any events described in the Rule.

Official Statements will be provided within seven (7) business days after the date of the award of the Bonds in such quantities as may be necessary for the successful bidder's regulatory compliance.

Further information will be furnished upon application to Public Financial Management, Inc. at (703) 741-0175.

#### **Reservation of Rights**

The right to reject any or all bids and to waive any irregularity or informality in any bid is reserved.

#### **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**

**By: Catherine A. Chianese, Clerk**

**Exhibit A**

**FAIRFAX COUNTY, VIRGINIA**  
**[\$[PRINCIPAL AMOUNT]**  
**PUBLIC IMPROVEMENT BONDS, SERIES 2019A**  
**ISSUE PRICE CERTIFICATE**

**(for Competitive Sales to be modified if Hold the Offering Price Rule applies)**

The undersigned, on behalf of [NAME OF UNDERWRITER] (“[SHORT NAME OF UNDERWRITER]”), hereby certifies as set forth below with respect to the sale of the above-captioned obligations (the “Bonds”) of Fairfax County, Virginia (the “Issuer”).

1. Reasonably Expected Initial Offering Price.

(a) As of the Sale Date, the reasonably expected initial offering prices of the Bonds to the Public by [SHORT NAME OF UNDERWRITER] are the prices listed in Schedule A (the “Expected Offering Prices”). The Expected Offering Prices are the prices for the Maturities of the Bonds used by [SHORT NAME OF UNDERWRITER] in formulating its bid to purchase the Bonds. Attached as Schedule B is a true and correct copy of the bid provided by [SHORT NAME OF UNDERWRITER] to purchase the Bonds.

(b) [SHORT NAME OF UNDERWRITER] was not given the opportunity to review other bids prior to submitting its bid.

(c) The bid submitted by [SHORT NAME OF UNDERWRITER] constituted a firm offer to purchase the Bonds.

2. Defined Terms.

(a) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(b) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(c) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is [DATE].

(d) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate

in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [SHORT NAME OF UNDERWRITER]'s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate with respect to the Bonds and with respect to compliance with the federal income tax rules affecting the Bonds, and by Norton Rose Fulbright US LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

[NAME OF UNDERWRITER]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**SCHEDULE A TO ISSUE PRICE CERTIFICATE**  
**EXPECTED OFFERING PRICES**

*(Attached)*

**SCHEDULE B TO ISSUE PRICE CERTIFICATE**

[Copy of Bid Submitted by Underwriter]

**Exhibit B**

**FAIRFAX COUNTY, VIRGINIA**  
**[\$[PRINCIPAL AMOUNT]**  
**PUBLIC IMPROVEMENT BONDS, SERIES 2019A**  
**ISSUE PRICE CERTIFICATE**  
**(if Hold the Offering Price Rule applies)**

The undersigned, on behalf of [NAME OF UNDERWRITER] (“[SHORT NAME OF UNDERWRITER]”) [and the other members of the underwriting syndicate (together, the “Underwriting Group”)], hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Bonds”) of Fairfax County, Virginia (the “Issuer”).

**1. *Initial Offering Price of the Hold-the-Offering-Price Maturities.***

(a) [SHORT NAME OF UNDERWRITER][The Underwriting Group] offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.

(b) As set forth in the [Bond Purchase Agreement][Notice of Sale and bid award], [SHORT NAME OF UNDERWRITER][The Underwriting Group] agreed in writing on or prior to the Sale Date that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, [it][they] would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

**2. *Defined Terms.***

(a) *Hold-the-Offering-Price Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the “Hold-the-Offering-Price Maturities.”

(b) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date, or (ii) the date on which [SHORT NAME OF UNDERWRITER][The

Underwriting Group] sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(c) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(d) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(e) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is [date of award].

(f) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [SHORT NAME OF UNDERWRITER]’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate with respect to the Bonds and with respect to compliance with the federal income tax rules affecting the Bonds, and by Norton Rose Fulbright US LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

[NAME OF UNDERWRITER]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**SCHEDULE A**  
**INITIAL OFFERING PRICES OF THE HOLD-THE-OFFERING-PRICE MATURITIES**  
*(Attached)*

**SCHEDULE B**  
**PRICING WIRE OR EQUIVALENT COMMUNICATION**  
*(Attached)*

**PRELIMINARY OFFICIAL STATEMENT DATED JANUARY \_\_, 2019**

NEW ISSUE – Full Book Entry

RATINGS: Fitch: “ ”  
 Moody’s: “ ”  
 S&P: “ ”  
 (See “RATINGS” herein)

*In the opinion of Bond Counsel, under current law and assuming continuing compliance with certain tax covenants and requirements of the Internal Revenue Code of 1986, as amended (the “Code”), as described herein, interest on the Series 2019A Bonds will not be includable in the gross income of the owners thereof for federal income tax purposes. Under existing law, the interest on the Series 2019A Bonds is excluded from Virginia taxable income for purposes of the individual income tax and the income taxation of corporations by the Commonwealth of Virginia under Sections 58.1-322 and 58.1-402 of the Code of Virginia of 1950, as amended, to the extent that such interest is excludable from gross income for federal income tax purposes. See “TAX MATTERS – SERIES 2019A BONDS” herein for further information. Under current law, interest on the Series 2019B Bonds will be includable gross income of the owners thereof for federal income tax purposes. See “TAX MATTERS – SERIES 2019B BONDS” herein for further information.*

\$ \_\_\_\_\_ \*

**FAIRFAX COUNTY, VIRGINIA  
 PUBLIC IMPROVEMENT BONDS, SERIES 2019A**

AND

\$ \_\_\_\_\_ \*

**FAIRFAX COUNTY, VIRGINIA  
 [TAXABLE] PUBLIC IMPROVEMENT REFUNDING BONDS, SERIES 2019B**

**Dated: Date of Delivery****Due: October 1, as shown on the inside cover page**

Interest on the Bonds will be payable on each April 1 and October 1, commencing October 1, 2019.

The Series 2019A Bonds are being issued for the purpose of financing various public improvements. Subject to favorable market conditions, the Series 2019B Bonds are being issued to refund certain outstanding bonds of the County.

The Series 2019A Bonds maturing on and after October 1, 202\_\*, are subject to redemption prior to maturity as a whole or in part at any time on or after April 1, 202\_\*, at a redemption price of par plus accrued interest. The Series 2019B Bonds, are subject to make-whole optional redemption prior to maturity as a whole or in part at any time as described herein. See “The Bonds – Made-Whole Optional Redemption” herein.

The Bonds will be general obligations of Fairfax County, Virginia (the “County”), for the payment of which the Board of Supervisors of the County is unconditionally obligated to levy and collect an annual ad valorem tax, unlimited as to rate or amount, upon all property in the County subject to local taxation.

This page and the inside cover page contain certain information for quick reference only. They are not a summary of this issue. Investors must read this entire Official Statement to obtain information essential to making an informed investment decision.

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\* Preliminary, subject to change.

*The Bonds are offered for delivery when, as, and if issued, subject to the approving opinion of Norton Rose Fulbright US LLP, Washington, D.C., Bond Counsel. The Bonds will be available for delivery in New York, New York, through the facilities of DTC on or about \_\_\_\_\_, 2019.*

January \_\_, 2019

## FAIRFAX COUNTY, VIRGINIA

## MATURITY DATES, PRINCIPAL AMOUNTS, INTEREST RATES AND PRICES/YIELDS

## Base CUSIP† Number

\$\_\_\_\_\_ \* PUBLIC IMPROVEMENT BONDS, SERIES 2019A BONDS

Maturity Date <u>October 1</u>	Principal <u>Amount*</u>	Interest <u>Rate</u>	Price or <u>Yield</u>	CUSIP† <u>Suffix</u>
2019		%	%	
2020				
2021				
2022				
2023				
2024				
2025				
2026				
2027				
2028				
2029				
2030				
2031				
2032				
2033				
2034				
2035				
2036				
2037				
2038				

† CUSIP® is a registered trademark of the American Bankers Association. The CUSIP numbers listed above are being provided solely for the convenience of bondholders only, and Fairfax County, Virginia, does not make any representation with respect to such numbers or undertake any responsibility for their accuracy. The CUSIP numbers are subject to change after the issuance of the Bonds.

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\* Preliminary, subject to change.

\$\_\_\_\_\_ \* [TAXABLE] PUBLIC IMPROVEMENT REFUNDING BONDS,  
**SERIES 2019B BONDS**

<u>Maturity Date</u> <u>October 1</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u> %	<u>Price or</u> <u>Yield</u> %	<u>CUSIP†</u> <u>Suffix</u>
2019				
2020				
2021				
2022				
2023				
2024				
2025				
2026				
2027				
2028				
2029				
2030				
2031				
2032				
2033				
2034				

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\* Preliminary, subject to change.

**Fairfax County, Virginia**

**BOARD OF SUPERVISORS**

Sharon Bulova, *Chairman*  
Penelope A. Gross, *Vice Chairman*  
John C. Cook  
John W. Foust  
Patrick S. Herrity  
Catherine M. Hudgins  
Jeffrey C. McKay  
Kathy L. Smith  
Linda Q. Smyth  
Daniel G. Storck

---

**COUNTY OFFICIALS**

Bryan J. Hill, *County Executive*  
Tisha Deeghan, *Deputy County Executive*  
David J. Molchany, *Deputy County Executive*  
David M. Rohrer, *Deputy County Executive*  
Robert A. Stalzer, *Deputy County Executive*  
Elizabeth D. Teare, *County Attorney*  
Joseph M. Mondoro, *Chief Financial Officer*  
Christopher J. Pietsch, *Director, Department of Finance*

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**PAYING AGENT**

Fairfax County Director of Finance  
1200 Government Center Parkway, Suite 214  
Fairfax, Virginia 22035-0074  
(703) 324-3120

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**FINANCIAL ADVISOR**

PFM Financial Advisors LLC  
4350 North Fairfax Drive, Suite 580  
Arlington, Virginia 22203-1547  
(703) 741-0175

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**BOND COUNSEL**

Norton Rose Fulbright US LLP  
799 9th Street NW, Suite 1000  
Washington, D.C. 20001-4501  
(202) 662-4760

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For information relating to this Official Statement please contact:

Joseph M. Mondoro, Chief Financial Officer  
Fairfax County, Virginia  
12000 Government Center Parkway, Suite 561  
Fairfax, Virginia 22035-0074  
(703) 324-2391

No person has been authorized by Fairfax County, Virginia (the “County”), to give any information or to make any representations with respect to the County or the Bonds other than those contained in this Official Statement, and, if given or made, such other information or representations may not be relied upon as having been authorized by the County. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation, or sale. The information herein is subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the County since the date hereof. This Official Statement is not to be construed as a contract or agreement between the County and the purchasers or owners of any of the Bonds. Any electronic reproduction of this Official Statement may contain computer generated errors or other deviations from the printed Official Statement. In any such case, the printed version controls.

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**OFFICIAL STATEMENT**  
**FAIRFAX COUNTY, VIRGINIA**

**Regarding**  
**\$\_\_\_\_\_ \* Public Improvement Bonds, Series 2019A**  
**and**  
**\$\_\_\_\_\_ \* [Taxable] Public Improvement Refunding Bonds, Series 2019B**

**INTRODUCTION**

The purpose of this Official Statement, which includes the cover page, the inside cover pages and the appendices hereto, is to furnish information in connection with the sale by Fairfax County, Virginia (the "County"), of its \$\_\_\_\_\_ \* Public Improvement Bonds, Series 2019A (the "Series 2019A Bonds"), and \$\_\_\_\_\_ \* [Taxable] Public Improvement Refunding Bonds, Series 2019B (the "Series 2019B Bonds" and together with the Series 2019A Bonds, the "Bonds").

**THE BONDS**

**Authorization And Purposes; Refunding Plan**

The Bonds will be issued under a resolution (the "Resolution") adopted by the Board of Supervisors of Fairfax County (the "Board of Supervisors") on December 4, 2018, pursuant to Article VII, Section 10(b) of the Constitution of Virginia and the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act").

A portion of the Series 2019A Bonds will be issued to provide funds\* in the following amounts\* for the following purposes (collectively, the "Public Improvements"):

School Improvements .....	\$
Transportation Improvements and Facilities.....	
Parks and Park Facilities.....	
Storm Drainage Improvements .....	
Public Safety Facilities .....	
Public Library Facilities.....	
Human Services Facilities and Community Development Facilities.....	
Total	\$

The Series 2019B Bonds are authorized to be issued to provide funds, with other available funds, to refund and to redeem prior to their respective maturities certain outstanding bonds, including all or a portion of the following outstanding bonds of the County referred to hereafter as the "2013A Refunding Candidates," the "\_\_\_\_\_ Refunding Candidates," the "\_\_\_\_\_ Refunding Candidates," and the "\_\_\_\_\_ Refunding Candidates," and collectively as the "Refunding Candidates:"\*

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\* Preliminary, subject to change.

\* For purposes of this Preliminary Official Statement, it is assumed that proceeds of the Bonds will include a net bond premium in order to fund the purposes described above.

<u>Series of Refunded Bonds*</u>	<u>Principal Amount*</u>	<u>Maturities*</u>	<u>Redemption Date</u>	<u>Redemption Price</u>	<u>CUSIP Nos. 303820<sup>†</sup></u>
2013A			October 1, 2021	100%	
[201__]			_____ 1, 20__	100%	

<sup>†</sup>The County shall not be responsible for the accuracy of the CUSIP numbers provided above. The CUSIP numbers are provided solely for the convenience of bondholders.

<sup>‡</sup>Only portions of the outstanding maturities are expected to be refunded.

\* Preliminary, subject to change.

The purpose of the refunding is to achieve present value debt service savings. The County's decision whether to refund any given Refunding Candidates is subject to prevailing market conditions at the time of the sale of the Series 2019B Bonds. The County may refund only certain Refunding Candidates if refunding such Refunding Candidates permits the County to meet certain savings targets. The Refunding Candidates, if any, that are refunded with proceeds of the Series 2019B Bonds are referred to as the "Refunded Bonds." The final Refunded Bonds will be described in the final Official Statement relating to the Series 2019B Bonds.

Upon delivery and issuance of the Series 2019B Bonds by the County, proceeds thereof will be used to provide for the payment and redemption of the Refunded Bonds by depositing with \_\_\_\_\_, pursuant to an escrow deposit agreement, cash and non-callable, direct obligations of the United States of America the maturing principal of and interest on which, together with such cash, will be sufficient to pay all principal, applicable redemption premiums, and interest on the Refunded Bonds to their respective redemption dates. The arithmetical computations of the sufficiency of the cash and securities deposited with \_\_\_\_\_, to pay the principal of and interest on the Refunded Bonds will be verified by \_\_\_\_\_.

### Sources

Par amount of the Series 2019A Bonds .....	\$
Par amount of the Series 2019B Bonds .....	
Net offering premium .....	_____
Total Sources .....	\$ _____

### Uses

Public Improvements .....	\$
Deposit for payment of Refunding Bonds .....	
Underwriters' discount .....	
Other issuance expenses .....	_____
Total Uses .....	\$ _____

## Description

The Series 2019A Bonds will be dated the date of their delivery, will bear interest from their delivery date, payable on each April 1 and October 1, commencing October 1, 2019, and the Series 2019A Bonds will mature in amounts on October 1 in each of the years 2019 through 2038, inclusive, at rates as set forth on the inside cover page of this Official Statement.

The Series 2019B Bonds will be dated the date of their delivery, will bear interest from their delivery date, payable on each April 1 and October 1, commencing October 1, 2019, and the Series 2019B Bonds will mature in amounts on October 1 in each of the years 20\_\_ through 20\_\_, inclusive, at rates as set forth on the inside cover page of this Official Statement.

Interest on the Bonds is calculated based on a 360-day year consisting of twelve thirty-day months. The Bonds will be issued in denominations of \$5,000 and integral multiples thereof under the book-entry system of the Depository Trust Company (“DTC”), and principal and interest on the Bonds will be payable in the manner described in Appendix V, “BOOK-ENTRY ONLY SYSTEM.”

## Optional Redemption – Series 2019A Bonds

The Series 2019A Bonds maturing before October 1, 2029\*, are not subject to optional redemption before their maturity. The Series 2019A Bonds maturing on or after October 1, 2029\*, are subject to redemption prior to maturity, at the option of the County, from any money available for such purpose on any date not earlier than April 1, 2029\*, as a whole or in part (in integral multiples of \$5,000) at any time, at a redemption price equal to the principal amount thereof, together with the interest accrued to the redemption date on the principal amount to be redeemed.

## Make-Whole Optional Redemption – Series 2019B Bonds

*“Make-Whole” Optional Redemption.* The Series 2019B Bonds are subject to redemption at the option of the County, in whole or in part, on any business day, at the Make-Whole Redemption Price (as defined herein). The “Make-Whole Redemption Price” is the greater of (i) 100% of the principal amount of the Series 2019B Bonds to be redeemed and (ii) the sum of the present value of the remaining scheduled payments of principal and interest on the Series 2019B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which the Series 2019B Bonds are to be redeemed, discounted to the date on which the Series 2019B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (defined below) plus 0.10%; plus in each case, accrued and unpaid interest on the Series 2019B Bonds to be redeemed on the redemption date.

For purpose of determining the Make-Whole Redemption Price, the following definitions apply:

“Treasury Rate” means, with respect to any redemption date for any particular Series 2019B Bond, the greater of:

(i) the yield to maturity as of such redemption date of the United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two business days prior to the redemption date (excluding inflation indexed securities) (or, if such Statistical Release is no longer published, any publicly

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\* Preliminary, subject to change

available source of similar market data)) most nearly equal to the period from the redemption date to maturity; provided, however, that if the period from the redemption date to maturity is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used; all as will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the County at the County's expense and such determination shall be conclusive and binding on the owners of the Series 2019B Bonds, and

(ii) the rate per annum, expressed as a percentage of the principal amount, equal to the semiannual equivalent yield to maturity or interpolated maturity of the Comparable Treasury Issue (defined below), assuming that the Comparable Treasury Issue is purchased on the redemption date for a price equal to the Comparable Treasury Price (defined below), as calculated by the Designated Investment Banker (defined below).

"Comparable Treasury Issue" means, with respect to any redemption date for a particular Series 2019B Bond, the United States Treasury security or securities selected by the Designated Investment Banker that has an actual or interpolated maturity comparable to the remaining average life of the Series 2019B Bond to be redeemed.

"Comparable Treasury Price" means, with respect to any redemption date for a particular Series 2019B Bond, (i) if the Designated Investment Banker receives at least four Reference Treasury Dealer Quotations (defined below), the average of such quotations for such redemption date, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (ii) if the Designated Investment Banker obtains fewer than four Reference Treasury Dealer Quotations, the average of all such quotations.

"Designated Investment Banker" means one of the Reference Treasury Dealers appointed by the County.

"Reference Treasury Dealer" means each of the four firms, specified by the County, from time to time, that are primary United States government securities dealers in the City of New York, New York (each a "Primary Treasury Dealer"); provided, however, that if any of them ceases to be a Primary Treasury Dealer, the County will substitute another Primary Treasury Dealer.

"Reference Treasury Dealer Quotations" means, with respect to each Reference Treasury Dealer and any redemption date for a particular Series 2019B Bond, the average, as determined by the Designated Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Designated Investment Banker by such Reference Treasury Dealer at 3:30 P.M., New York City time, on the third Business Day preceding such redemption date.

Any Make-Whole Redemption Price of Series 2019B Bonds to be redeemed pursuant to the provisions described under this section will be determined by an independent accounting firm, investment banking firm or financial advisor retained by the County to calculate such redemption price. The County may conclusively rely on the determination of such redemption price by such independent accounting firm, investment banking firm or financial advisor and will not be liable for such reliance.

#### *Selection of Series 2019B Bonds for Redemption*

Series 2019B Bonds may be redeemed only in increments of \$5,000 or whole multiples thereof. If less than all the Series 2019B Bonds are called for redemption the Series 2019B Bonds or portions thereof will be redeemed in a pro-rata manner for each maturity of Series 2019B Bonds, each \$5,000 increment being counted as one Series 2019B Bond for such purpose. If a portion of a Series 2019B

Bond is called for redemption, a new Series 2019B Bond in a principal amount equal to the unredeemed portion thereof will be issued to the bondholder upon the surrender thereof.

#### *Defeasance of Series 2019B Bonds*

Persons considering the purchase of a Series 2019B Bond should be aware that a defeasance of a Series 2019B Bond by the County prior to maturity could result in the realization of gain or loss by the beneficial owner of the Series 2019B Bond for federal income tax purposes, without any corresponding receipts of money by the beneficial owner. Such gain or loss generally would be subject to recognition for the tax year in which such realization occurs, as in the case of a sale or exchange. Owners are advised to consult their own tax advisers with respect to the tax consequences resulting from such events. See “TAX MATTERS – SERIES 2019B BONDS – Defeasance of Series 2019B Bonds” herein.

#### **Mandatory Sinking Fund Redemption\***

*[This caption and one or more of the following paragraphs will be included in the final Official Statement only if the successful bidder elects to combine, in accordance with the Notice of Sale, two or more consecutive serial maturities into any number of term bonds.]*

The Series 2019A Bonds maturing October 1, 20\_\_, and October 1, 20\_\_, are subject to mandatory redemption in part, on a pro rata basis, on October 1 in the years shown below, at a redemption price equal to the principal amount thereof, plus accrued interest, if any, to the date of redemption in an amount equal to the sinking fund installments for such Series 2019A Bond for such date:

#### Series 2019A Term Bonds Maturing October 1, 20\_\_

<u>Years</u>	<u>Sinking Fund Installments</u>
20__	\$
20__	
20__†	

† Final Maturity

#### Series 2019A Term Bonds Maturing October 1, 20\_\_

<u>Years</u>	<u>Sinking Fund Installments</u>
20__	\$
20__	
20__†	

† Final Maturity

#### **Selection of Bonds for Redemption**

Bonds may be redeemed only in increments of \$5,000 or whole multiples thereof. If less than all of the Bonds of a maturity of a series are called for redemption, the Bonds or portions thereof to be redeemed will be selected by the paying agent and bond registrar in such manner as the paying agent and bond registrar in its sole discretion may determine, each \$5,000 increment being counted as one Bond for

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\* Preliminary, subject to change.

such purpose. If a portion of a Bond is called for redemption, a new Bond in a principal amount equal to the unredeemed portion thereof will be issued to the bondholder upon the surrender thereof.

In the case of redemptions of Bonds at the option of the County, the County will select the maturities of the bonds to be redeemed.

### **Notice of Redemption**

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any Bonds to be redeemed, whether such redemption be in whole or in part, the County will cause a notice of such redemption to be filed with the bond registrar and to be mailed, postage prepaid, to the registered owner of each Bond to be redeemed in whole or in part at his or her address appearing upon the registration books of the County, but failure to mail such notice or any defect therein will not affect the validity of the redemption. Each such notice shall set forth the date designated for redemption, the redemption price to be paid, and the maturities of the Bonds to be redeemed and, if less than all of the Bonds of any one maturity of a series then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed and, in the case of any Bond to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any Bond is to be redeemed in part only, the notice of redemption will state also that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds in principal amount equal to the unredeemed portion of such Bond will be issued.

Any notice of optional redemption of the Bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price if any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit by the County, the corresponding notice of redemption will be deemed to be revoked.

### **Security**

The Bonds are general obligations of the County for which its full faith and credit are irrevocably pledged. The Act requires that the Board of Supervisors shall, in each year while any of the Bonds shall be outstanding, levy and collect an ad valorem tax, unlimited as to rate or amount, upon all property in the County subject to local taxation sufficient to pay the principal of and the interest on the Bonds as the same shall become due, which tax shall be in addition to all other taxes authorized to be levied in the County.

### **State Aid Intercept**

The provisions of Section 15.2-2659 of the Act, in substance, direct the Governor of Virginia, upon satisfactory proof of default by the County in the payment of principal of or interest on the Bonds, immediately to order the Comptroller of Virginia to withhold all further payment to the County of all funds, or any part thereof, appropriated and payable by the Commonwealth of Virginia (the "Commonwealth" or "State") to the County for any and all purposes until such default is remedied. For as long as the default continues, the law directs the Governor to require the Comptroller to pay to the holders of such Bonds or the paying agent therefor all of the withheld funds or as much as are necessary to cure, or to cure insofar as possible, the default on such Bonds. The Governor shall, as soon as practicable, give notice of such default and of the availability of funds with the paying agent or with the Comptroller by publication one time in a daily newspaper of general circulation in the City of Richmond, Virginia, and by mail to the registered owners of such Bonds. Although the provisions of Section 15.2-

2659 have never been tested in a Virginia court, the Attorney General of Virginia has opined that appropriated funds can be withheld pursuant to its provisions.

### **Remedies**

The Bonds do not specifically provide any remedies that would be available to a bondholder if the County defaults in the payment of principal of or interest on the Bonds, nor do they contain a provision for the appointment of a trustee to protect and enforce the interests of the bondholders upon the occurrence of such default. If a bondholder does not receive payment of principal or interest when due, the holder could seek to obtain a writ of mandamus from a court of competent jurisdiction requiring the Board of Supervisors to levy and collect an ad valorem tax, unlimited as to rate or amount, upon all property in the County subject to local taxation sufficient to pay the principal of and the interest on the Bonds as the same shall become due. The mandamus remedy, however, may be impracticable and difficult to enforce. The enforceability of rights or remedies with respect to the Bonds (but not the validity of the Bonds) may be limited by bankruptcy, insolvency, or other State or federal laws, heretofore or hereafter enacted, and equitable principles affecting the enforcement of creditors' rights.

### **No Litigation Respecting the Bonds**

No litigation is pending or, to the best of the County's knowledge, threatened (a) to restrain or enjoin the issuance, sale, or delivery of any of the Bonds, the application of the proceeds thereof, or the pledge of tax revenues for payment of the Bonds, (b) in any way contesting or affecting any authority for the issuance or validity of the Bonds, (c) in any way contesting the existence or powers of the County or (d) that, if determined adversely against the County, would have a material adverse effect on the County. See "CONTINGENT LIABILITIES AND CLAIMS" for a description of litigation affecting the County.

## **FAIRFAX COUNTY**

### **GENERAL DESCRIPTION**

#### **Overview**

The County is located in the northeastern corner of the Commonwealth of Virginia (the "Commonwealth") and encompasses a net land area of 407 square miles. Its current estimated population exceeds one million. The County is part of the Washington, D.C., metropolitan area, which includes jurisdictions in Maryland, the District of Columbia and Northern Virginia.

The Fairfax County government is organized under the Urban County Executive form of government (as defined under Virginia law). The governing body of Fairfax County is the Board of Supervisors, which makes policies for the administration of the County. The Board of Supervisors is comprised of ten members: the Chairman, elected at large for a four year term, and one member from each of nine districts, each elected for a four year term by the voters of the district in which the member resides. The Board of Supervisors appoints a County Executive to act as the administrative head of the County. The County Executive serves at the pleasure of the Board of Supervisors, carries out the policies established by the Board of Supervisors, directs business and administrative procedures, and recommends officers and personnel to be appointed by the Board of Supervisors. (See Appendix I.)

In Virginia, cities and counties are discrete units of government and do not overlap. Fairfax County completely surrounds the City of Fairfax and is adjacent to the City of Falls Church and the City of Alexandria. (See Appendix II.) Property within these cities is not subject to taxation by Fairfax County, and the County generally is not required to provide governmental services to their residents. The

County does, however, provide certain services to the residents of certain of these cities pursuant to agreements with such cities.

In Fairfax County there are three incorporated towns, Clifton, Herndon and Vienna, which are underlying units of government within the County, and the ordinances and regulations of the County are, with certain limitations prescribed by Virginia law, generally effective in them. (See Appendix III.) Property in these towns is subject to County taxation, and the County provides certain services to their residents. These towns may incur general obligation bonded indebtedness without the prior approval of the County (more fully discussed in “DEBT ADMINISTRATION – Underlying Bonded Indebtedness”).

## Population

Fairfax County’s estimated 2016 population is 1,138,652. In 1980, Fairfax County was the third most populous jurisdiction in the Washington, D.C., primary metropolitan statistical area, as defined by the U.S. Bureau of the Census. By 1990, Fairfax County, with 818,584 residents, had become the most populous jurisdiction in the Washington, D.C. area, having added an average of 22,168 people per year in the 1980s. Population growth during the 1990s and 2000s slowed; on average, the County gained about 10,794 people per year during 2007-2016.

### Fairfax County Population

<u>Calendar Year</u>	<u>Population</u>
1940	40,929
1950	98,557
1960	248,897
1970	454,275
1980	596,901
1990	818,584
2000	969,749
2001	984,366
2002	1,004,435
2003	1,012,090
2004	1,022,298
2005	1,033,646
2006	1,037,311
2007	1,041,507
2008	1,050,315
2009	1,074,227
2010	1,081,726
2011	1,100,692
2012	1,118,602
2013	1,130,924
2014	1,137,538
2015	1,142,234
2016	1,138,652

*Sources:* U.S. Bureau of the Census (1940-2000, 2010) and 2010 Decennial Censuses; 2011-2016 Fairfax County Department of Management and Budget

The following table reflects the population age distribution of County residents, based on the U.S. Census Bureau's 2010 Decennial Census. The survey estimated the County's total population in 2010 at 1,081,726.

**Household Population Age Distribution  
Fairfax County**

<u>Age Group</u>	<u>2010</u>	
	<u>Number</u>	<u>Percent (%)</u>
Under 20 years	285,405	26.4
20 – 34	218,781	20.2
35 – 54	339,757	31.4
55 – 64	131,493	12.2
65 and Over	<u>106,290</u>	<u>9.8</u>
Total	1,081,726	100.0

*Sources:* U.S. Bureau of the Census, 2010 Decennial Census and Virginia Employment Commission

Based on the latest data released by the U.S. Census Bureau, Fairfax County's median household income was \$114,329 and median family income was \$132,190 in 2016. Approximately 35.8% of the County's households and 43.2% of families had annual incomes of \$150,000 or more. The following table shows the 2016 household and family income distribution in the County.

**2016 Household and Family Income Distribution (by Percentage)<sup>1</sup>**

<u>Income Level</u>	<u>Household</u>	<u>Family</u>
Under \$25,000	7.2%	5.1%
\$25,000 – 49,999	10.2%	9.1%
\$50,000 – 74,999	12.6%	10.4%
\$75,000 – 99,999	12.5%	11.1%
\$100,000 – 149,999	21.6%	21.1%
\$150,000 or more	35.8%	43.2%
Median Income	\$114,329	\$132,190

*Sources:* U.S. Census Bureau, 2012-2016 American Community Survey 5-Year Estimates

<sup>1</sup> Household Income is defined as that income which is available to all residents of a housing unit, regardless of relationship. Income is from all sources, before taxes and deductions, and includes wages, business, retirement, SSI, alimony, child support, interest, etc. Family Income is derived by including only those households containing two or more persons related by blood, marriage or adoption. Percentages may add to more than 100% due to rounding.

**Certain County Administrative and Financial Staff Members**

Bryan J. Hill, County Executive, was appointed as County Executive by the Fairfax County Board of Supervisors effective January 2, 2018. He was the Chief Administrative Officer and Clerk to the Board for James City County since 2014; he previously spent seven years with Beaufort County, S.C. as deputy county administrator. At James City County, Hill was responsible for oversight of staff, major infrastructure projects, economic development, transportation initiatives and the development and implementation of that county's first strategic plan. He recently led the realignment of James City County's debt portfolio, which resulted in AAA ratings from each of the three major bond rating agencies. Hill also has served as the vice chancellor for finance and operations at the University of South Carolina's Beaufort/Bluffton Campus, and as the director of finance for the University of Maryland's Office of Information and Technology as well as director of administration for the Department of

Aerospace Engineering. He has a bachelor's degree in public administration from Alfred University and a master's degree in public administration from the University of Southern California.

Tisha Deeghan, Deputy County Executive, was appointed in December 2017 as Deputy County Executive for Health and Human Services, which comprises ten agencies serving residents of Fairfax County and the Cities of Fairfax and Falls Church. Ms. Deeghan first joined Fairfax County in September 2014 as the Executive Director of the Fairfax-Falls Church Community Services Board (CSB). Prior to coming to Virginia, Ms. Deeghan worked for thirteen years as the Senior Vice President/Chief Operating Officer for Genesee Health System (GHS) in Flint, Michigan. Ms. Deeghan had responsibility for the agency's behavioral health and managed care operations, as well as integrated health programs, including a directly operated Federally Qualified Health Center, endeavoring to address the often poor health status of the people served by GHS each year. She has worked in the field of mental health and substance use disorder treatment and prevention for 36 years, more than 30 of them in leadership roles, including 18 years as an accreditation surveyor for CARF and national healthcare consultant in both the public and private sectors. Ms. Deeghan has presented on related topics at numerous state and national conferences, including the American Public Health Association, National Council for Behavioral Health, and NIMH. Ms. Deeghan received her Bachelor of Science in Psychology from the Honors College, Michigan State University, and Master of Social Work from Michigan State University. She received her Master of Health Services Administration/Public Health from the Department of Health Management & Policy, University of Michigan School of Public Health.

David J. Molchany, Deputy County Executive, joined the County in 1995. In 2003, Mr. Molchany was recognized by *Governing* magazine as one of the top ten Public Officials of the Year. He is also active in professional organizations at the international, national, state, and local levels of government. Previous employers have included Sallie Mae, American Management Systems, and Electronic Data Systems. Mr. Molchany is a 1983 graduate of Juniata College and holds a Bachelor of Science degree in Marketing and Computer Science.

David M. Rohrer, Deputy County Executive, has worked with the Fairfax County Police Department for almost 32 years and was appointed chief in 2004. In addition, Mr. Rohrer has also served as deputy chief for investigations and operations support; Patrol Bureau commander; Special Operations Division and district commander; SWAT first-line supervisor; and first-line patrol supervisor. Mr. Rohrer has served two terms as chairman of the Metropolitan Washington Council of Governments Police Chiefs' Committee, and he is a member of numerous organizations, including the International Association of Chiefs of Police; the Major Cities Chiefs' Association; the Police Executive Research Forum; and the Virginia Association of Chiefs of Police. Mr. Rohrer holds a bachelor's degree in administration of justice from George Mason University.

Robert A. Stalzer, Deputy County Executive, joined Fairfax County Government on June 5, 2000. Mr. Stalzer previously served as Town Manager for the Town of Herndon, Virginia from 1988 until June 2000. He was Director of Planning and Zoning for Roanoke County, Virginia from 1983 until 1988. Mr. Stalzer holds a Bachelor of Arts degree from Clark University, Worcester, Massachusetts, a Master of Regional and City Planning degree from the University of Oklahoma, and a Master of Business Administration degree from Syracuse University. Mr. Stalzer is a past president of the Virginia Local Government Management Association and recognized as a credentialed manager by the International City/County Management Association. Mr. Stalzer has served as an adjunct professor at Virginia Polytechnic Institute and State University, Roanoke College, and George Mason University.

Elizabeth D. Teare was appointed County Attorney by the Fairfax County Board of Supervisors effective July 1, 2016. Prior to her appointment, Ms. Teare served as the Deputy County Attorney for the Land Use and Environmental Law Section of the Fairfax County Attorney's Office from 2012 through

2016. From 2009 through 2012, she served as a Senior Assistant County Attorney and from 2000 to 2008 as an Assistant County Attorney. Prior to her tenure with the Fairfax County Attorney's Office, Ms. Teare was an associate attorney with a law firm known at that time as Surovell, Jackson, Colten & Dugan, P.C., in Fairfax, Virginia, from 1992 to 2000. She also worked as an Assistant Attorney General in Richmond, Virginia, in a temporary position from 1991 to 1992. Ms. Teare clerked for the Honorable Rosemarie Annunziata, who was then a Fairfax County Circuit Court Judge, from 1990 to 1991. Ms. Teare has been appointed by the Supreme Court of Virginia to serve on the faculty of the Virginia State Bar's Harry L. Carrico Professionalism Course. In addition, she has lectured on land use and environmental law related issues for the Fairfax County Bar Association and the Local Government Attorneys of Virginia. Ms. Teare received a Bachelor of Arts degree from Sweet Briar College, *magna cum laude* with high honors in English, in 1986. In 1990, Ms. Teare received her juris doctorate degree, *cum laude*, from the Washington and Lee University School of Law and was admitted to the Virginia State Bar later that year.

Joseph M. Mondoro is the Chief Financial Officer/Director of the Department of Management and Budget of the County effective September 2015. Prior to assuming the duties of Chief Financial Officer/Director of the Department of Management and Budget, Mr. Mondoro had been Acting Chief Financial Officer/Director of the Department of Management and Budget of the County effective April 2015. From February 2004 until his appointment as Chief Financial Officer/Director of the Department of Management and Budget of the County, Mr. Mondoro served as Deputy Director of the Department of Management and Budget. Mr. Mondoro received his Bachelor's Degree in History and Government and a Masters of Public Policy from the College of William and Mary. Mr. Mondoro worked as an analyst in the Financial Planning Bureau of the City of Norfolk, Virginia from 1993 to 1995. He joined the Fairfax County Department of Management and Budget in July 1995 as a budget analyst.

Christopher J. Pietsch was appointed Director of Finance for Fairfax County effective December 30, 2013. From 2003 until his appointment as Director of Finance, Mr. Pietsch served as the Director of the Fairfax County Internal Audit Office. Prior to that, Mr. Pietsch spent 16 years working in bank auditing as well as governmental auditing with the Commonwealth. Mr. Pietsch is a graduate of James Madison University, Harrisonburg, Virginia, with a degree in Finance. In addition, he is a Certified Public Finance Officer, Certified Internal Auditor and a Certified Bank Auditor.

## **County Employees**

As of July 2017, the School Board of Fairfax County, Virginia (the "School Board"), supported 23,913.8 full time equivalent positions. The County supported 11,180.93 full time equivalent positions in activities funded directly or supported by the General Fund and 1,244.38 full time equivalent positions employed in activities not supported by the General Fund, principally the County's Integrated Sewer System (the "Integrated Sewer System"). Fairfax County employees are not represented by unions. Fairfax County public school employees have, however, organized the Fairfax Education Association and the Fairfax County Federation of Teachers to represent the interests of its members at public hearings and meetings before the School Board and the Board of Supervisors. General County employees' interests are represented at these types of meetings by the Employees Advisory Council and other groups such as police, fire, and sheriff employee organizations. None of these organizations is empowered to serve as negotiating agent for its members for collective bargaining purposes. Collective bargaining by public employees in Virginia is prohibited by law, a restriction upheld by the Supreme Court of Virginia.

## **GOVERNMENT SERVICES**

Reflecting its urban character, Fairfax County provides a comprehensive range of public services characteristic of its form of government under Virginia law and its integral position within the

Washington metropolitan area. The following subsections describe principal governmental services and services performed in conjunction with other governmental entities.

### **General Government Administration**

The County government center complex is located in the Fairfax Center area and is accessible by U.S. Routes 50 and 29, near Interstate Highway 66. The 675,000 square foot government center houses core County services and agencies. Two adjacent County office buildings provide an additional 486,000 square feet of space and house primarily human services and community development agencies and departments of the County. The County also occupies a 135,000 square foot governmental center for delivery of County services in the southeast part of the County, and has six remote governmental centers throughout the County. The centers provide office space for members of the Board of Supervisors, personnel, police, and building inspectors, and provide meeting rooms for community activities.

In July 2017, the International City/County Management Association (ICMA) announced that it had awarded its Certificate of Excellence to Fairfax County for the eighth consecutive year. The County is among only 30 jurisdictions across the nation being recognized for their superior efforts and results in performance measurement and management with this award – the organization's highest level of recognition – from the ICMA Center for Performance Measurement™ (CPM). The Certificate of Excellence is the highest of CPM's three levels of recognition, and pays special tribute to the County's efforts in identifying and reporting to the public key outcome measures and surveying of residents and employees, as well as the pervasiveness of performance measurement in the County's culture.

Fairfax County's Comprehensive Annual Financial Report for the fiscal year ended June 30, 2016, received the Certificate of Achievement for Excellence in Financial Reporting for the 40th year from the Government Finance Officers Association (GFOA). Fairfax County has also earned GFOA's Distinguished Budget Presentation Award for the past 33 years. This award represents the highest form of recognition in governmental budgeting and reflects the commitment of the governing body and staff to meet the highest principles of public budgeting. The Association of Public Treasurers of the United States and Canada ("APT") has awarded the County certification for its investment policy every year since 1998, confirming that the County meets the high public investment standards set forth by the Association. Written investment policies submitted to the APT received vigorous peer team review for conformity with principles of sound investment management, careful public stewardship, and adoption of the profession's best practices.

### **Public Schools**

Fairfax County Public Schools ("FCPS") is the largest educational system in the Commonwealth of Virginia and the tenth largest school system nationwide, ranked by enrollment. The system is directed by a twelve person School Board elected by County residents to serve four-year terms. A student representative with a one-year term participates in the School Board's discussions but does not vote. Because the School Board is not empowered to levy taxes or to incur indebtedness, the operating costs of FCPS are provided by transfers to the School Board from the General Fund of the County and the federal and Commonwealth governments (see the "FINANCIAL INFORMATION – General Fund Summary" herein). Capital construction funding for public school facilities is provided primarily by the sale of general obligation bonds of the County.

The FCPS system is a high quality system offering a variety of programs. There is a strong academic program for college-bound students. Almost 93% of FCPS class of 2016 graduates self-reported plans to enroll in post-secondary educational programs. In addition to the traditional academic curriculum, the Thomas Jefferson High School for Science and Technology provides a four-year college

preparatory program for students who have a strong interest and high aptitude in mathematics, science, computer science, engineering, or related professional fields. The school is designated as one of the Governor's magnet schools for science and technology, and students from other Northern Virginia counties are admitted on a tuition-paying basis.

FCPS also offers an extensive program for students pursuing opportunities in technical careers, with courses in business, health occupations, industrial technology, marketing, trade and industrial, and family and consumer sciences studies. In addition, there are special programs offered for gifted children and for students with disabilities spanning ages 2 through 21. FCPS also provides an extensive adult education program offering basic education courses and general education, vocational, and enrichment programs.

As of FY 2018, the School Board operates 191 schools and 7 special education centers:

### Fairfax County Public Schools

<u>Type of School</u>	<u>Number of Public Schools</u>
Elementary School	141
Middle School	23
High School	22
Secondary Schools <sup>1</sup>	3
Alternative High Schools	2
Special Education Centers	<u>7</u>
Total	198

Source: Fairfax County Public Schools FY 2018 Approved Budget

<sup>1</sup> Grades 7-12.

The number of students attending Fairfax County Public Schools increased overall between FY 2007 and FY 2017. Enrollment for FY 2017 was 187,484, an increase of 22,998 students over the FY 2007 enrollment. FY 2018 approved enrollment is 189,022 students.

### Fairfax County Public Schools Enrollment

<u>Fiscal Year</u>	<u>Number of Public School Students</u>	<u>% Change</u>
2007	164,486	-
2008	166,307	1.11
2009	169,538	1.94
2010	172,391	1.68
2011	174,933	1.47
2012	177,918	1.71
2013	181,259	1.88
2014	183,895	1.45
2015	185,914	1.10
2016	185,979	0.03
2017	187,484	0.81
2018	189,022	0.82

Source: Fairfax County Public Schools FY 2018 Approved Budget

The average per pupil expenditures based on FY 2018 approved budget operating costs for several Washington metropolitan area jurisdictions are as follows:

### **Washington Metropolitan Area Per Pupil Expenditures**

<b><u>Jurisdiction</u></b>	<b><u>Per Pupil Expenditures</u></b>
Arlington County	\$18,957
Falls Church City	18,418
Alexandria City	17,008
Montgomery County (Md.)	15,975
Fairfax County	14,432
Prince George's County (Md.)	13,869
Loudoun County	13,121
Manassas City	13,112
Manassas Park	11,158
Prince William County	10,981

*Sources:* FY 2017 Washington Area Boards of Education Guide; FCPS FY 2018 Approved Budget

Of the Advanced Placement (AP) tests taken by FCPS students in 2016, 73% rated a score of 3 or above (on a grading scale of 1 to 5). In 2016, 37,298 AP test were given, an increase of 9.8% from 2011. Students who score a 3 or above on at least three AP exams are recognized by the College Board as AP Scholars; the total number of FCPS students recognized as AP Scholars rose from 5,176 in 2011 to 6,205 in 2016.

For the 2015-2016 school year, FCPS' average SAT score was 1672, compared with the Virginia average of 1522 and the national average of 1453.

### **Public Works**

The Department of Public Works and Environmental Services (DPWES) provides essential management, professional engineering, design, and construction services in support of the construction of roads, sidewalks, trails, storm drainage, sewers, street lights, bus shelters and public facilities (except schools, housing, and parks). DPWES is also responsible for the acquisition of land for, and timely construction of, public facilities projects contained in bond referenda questions approved by the voters of Fairfax County. See "DEBT ADMINISTRATION – Bond Referenda Authorization" herein.

Wastewater generated in the County is treated at one County-owned treatment facility (Noman M. Cole, Jr. Pollution Control Plant), four inter-jurisdictional treatment facilities (District of Columbia Water and Sewer Authority's Blue Plains Facility, and plants operated by the Upper Occoquan Sewage Authority, Arlington County, and the Alexandria Renew Enterprises), and one private treatment facility (Harbor View Wastewater Treatment Plant). The County's treatment capacity in the six facilities totals approximately 157 million gallons per day ("mgd"). In addition, the County has purchased 1.0 mgd from the Loudoun County Sanitation Authority and 0.1 mgd of capacity from the Prince William County Service Authority for future flow needs in the southern portion of the County.

DPWES manages and operates the I-95 Sanitary Landfill located on approximately 500 acres in the southern portion of the County. This facility is operated on a "special fund" basis, which utilizes tipping fees to pay for the operation and capital expenditures of the landfill. Since January 1, 1996, the landfill has been dedicated to the disposal of ash generated primarily by the incineration of municipal

solid waste at the Arlington/Alexandria Energy-from-Waste Facility and the I-95 Energy/Resource Recovery Facility (“E/RRF”) located in Fairfax County. On older portions of the landfill, the County has initiated closure activities which involve placing a synthetic or low permeability soil cap over the closed section of the landfill along with installation of landfill gas extraction wells and leachate collection systems. Capping activity has been completed on approximately 260 acres of the site. The closure project is a multi-phase construction project to continue through the remaining life of the facility. The County has established reserves for this purpose and has met the financial assurance requirements established by the Virginia Department of Environmental Quality regarding closure and post-closure care. Additional landfill requirements, whether debris or municipal solid waste, are met through separate contracts.

The E/RRF, which is operated by Covanta Fairfax, Inc., burns solid waste delivered to the facility from the County, other local governments, and merchants. The facility has a dependable electric capacity rating of 63 megawatts for sale to Dominion Virginia Power, although it has the ability to generate over 80 megawatts. Fairfax County and the Fairfax County Solid Waste Authority, which was created by the County, entered into a service contract in August 1987 with Ogden Martin Systems of Fairfax (now Covanta Fairfax, Inc.), under which Covanta Fairfax, Inc., was obligated to design, construct, operate, and maintain a 3,000 ton per day resource recovery facility at the I-95 Landfill Site. On April 11, 2014, the County and Covanta Fairfax, Inc. entered into a Waste Disposal Agreement (WDA) that became effective February 2, 2016, and has an initial five year term. Under the WDA, the County’s delivery commitment is 650,000 tons (as may adjusted under the terms of the WDA).

During FY 2016, the E/RRF processed over 772,868 tons of material towards the County’s delivery commitment, exceeding the guaranteed requirements by 2,868 tons. On February 2, 2017, a fire occurred at the E/RRF and caused significant damage to the facility. As a result, the County diverted all of its waste deliveries from the E/RRF from the time of the fire through the end of 2017.

## **Transportation**

### *General*

Fairfax County is served by various highway, rail and air transportation facilities. The Capital Beltway (Interstate Highways 95 and 495), Interstate Highways 395, and 66 and the Dulles Toll Road provide access to all parts of the Washington metropolitan area and major surface transportation corridors along the eastern seaboard. The Washington Metropolitan Area Transit Authority (“WMATA”) Metrorail system provides area residents with one of the largest and most modern regional transit systems in the world.

Two major airports serve the County with daily national and international service. Washington Dulles International Airport (“Dulles Airport”), located along the County’s western boundary, is also the site of a designated Foreign Trade Zone. Ronald Reagan Washington National Airport, located a few miles east of the County, is accessible by Interstate Highways 66 and 395. In 1987, control of these facilities was transferred by a 50-year lease from the federal government to the Metropolitan Washington Airports Authority (“MWAA”), a public authority created by inter-jurisdictional compact between the Commonwealth and the District of Columbia. In June 2003, the lease was extended to 2067.

Ground transportation receives significant attention from the County, primarily in an effort to relieve traffic congestion along the major arterials leading to Washington, D.C. and also to facilitate cross-County movement, connecting established and developing centers of commerce and industry. Recent efforts have included increased local funding for highway improvements, establishment of transportation improvement districts, creation of County transit systems, continued participation in

WMATA, and other improvements which encourage increased use of Metrorail, bus services, and carpooling. The County also participates in a regional commuter rail system to expand transportation services available to County residents. In Virginia, the Commonwealth is generally responsible for highway construction and maintenance. However, highway improvement needs in Fairfax County far exceed the highway revenues available from the Commonwealth.

Since 1993, funding for County transportation projects has been received from Commonwealth bond financing, Federal Highway Reimbursement Anticipation Notes, Commonwealth general funds, fuel tax collections, County bond financing, Northern Virginia Transportation Authority tax collections and other revenue sources. A few of the many projects supported by these funding sources have included the Fairfax County Parkway, the County's share of capital costs for the WMATA's Metrorail system, the Dulles Toll Road, and improvements to U.S. Route 1, U.S. Route 29, I-66, I-95, I-495, the Fairfax County Parkway, State Route 7 and State Route 28.

#### *Metro Transit System*

Since 1970, Fairfax County and the other major political subdivisions in the Washington, D.C., metropolitan area have contracted with WMATA to finance, construct and operate a 103-mile Metrorail subway and surface rail transit system. Funding for the construction of the Metrorail system has come from direct Congressional appropriations and by direct local contributions. Five Interim Capital Contributions Agreements between WMATA and the participating political jurisdictions were executed to fully fund and complete the 103-mile adopted regional system. By 2020, 23 additional miles are expected to be added to the system with completion of the Silver Line, with new tracks connecting downtown Washington, D.C., to Washington Dulles International Airport. In July 2014, 11.7 miles of the Silver Line were completed and began operation.

WMATA's Board of Directors periodically adopts a Capital Improvement Plan ("CIP"), which prioritizes and maintains the existing capital plant and rolling stock of the Metrobus and Metrorail systems. The regional counter-parties to WMATA periodically agree to updated funding agreements regarding their portion of capital priorities and infrastructure renewal projects. The County issues bonds as the primary source of the County's share of WMATA's CIP. There are ongoing discussions in the region on a dedicated revenue source to address long term WMATA capital funding needs, as well as the governance structure of WMATA.

The County's operating assistance to WMATA is funded from the General Fund, gasoline tax receipts, and State aid. Fairfax County's share of the bus and rail operating subsidies for FY 2007-FY 2017 are shown in the following table:

**Fairfax County WMATA Operating Subsidies**  
(Millions of Dollars)

<u>Fiscal Year</u>	<u>Bus Operations<sup>1,2</sup></u>	<u>Rail Operations<sup>1</sup></u>	<u>ADA Para-transit<sup>1</sup></u>	<u>Less State Aid<sup>3</sup></u>	<u>Less Gas Tax Receipts<sup>4</sup></u>	<u>Adjustments and Interest Applied</u>	<u>Net General Fund</u>
2007	\$37.368	\$17.496	\$5.803	\$19.406	\$20.885	\$1.990	\$18.386
2008	36.745	19.267	7.088	21.375	22.610	1.287	17.828
2009	45.292	17.665	7.565	39.836	23.490	0.000	7.196
2010	40.204	22.622	9.164	46.003	17.799	0.300	7.888
2011	45.387	15.598	11.347	44.745	21.838	0.300	5.449
2012	47.458	19.481	12.410	46.252	26.163	2.259	4.675
2013	48.829	26.209	12.424	49.734	28.568	0.056	9.104
2014	52.118	34.952	13.351	63.893	23.274	4.119	9.135
2015	53.349	39.271	13.367	69.971	24.501	1.974	9.541
2016	57.820	46.666	13.661	91.867	17.262	0.168	8.850
2017	63.200	42.186	13.262	91.247	15.841	0.701	10.859

Source: Fairfax County Department of Transportation and Department of Management and Budget

<sup>1</sup>The amounts shown for operating subsidies represent actual disbursements in those years. Adjustments based on final WMATA annual audited figures are incorporated in the fiscal year in which the credit for an overpayment was applied or a debited amount was paid rather than the fiscal year in which the credit or debit was earned. Fiscal Years 2007-2016 are actual, FY 2017 is the Revised budget amount.

<sup>2</sup>Includes other service enhancements.

<sup>3</sup>Virginia law permits the use of State aid for transportation to fund transit program operating costs in addition to transit program capital costs.

<sup>4</sup>A 2% retail gasoline tax is dedicated to mass transit costs in those Northern Virginia jurisdictions covered by the Northern Virginia Transportation Commission ("NVTC"). The receipts from this tax are paid to NVTC which then allocates these funds to participating jurisdictions for payment of transit operating, capital and debt service costs.

### *Tax Districts*

Transportation improvement districts provide another source of funding for transportation improvements in the County. The County, together with Loudoun County, a neighboring jurisdiction, formed the Route 28 Highway Transportation Improvement District (the "Route 28 District") in 1987 to accelerate highway improvements proposed by the Commonwealth to State Route 28. State Route 28 runs approximately parallel to the County's western border and connects State Route 7 in eastern Loudoun County to U.S. Route 50 and Interstate Highway 66 in western Fairfax County. The initial improvements, which consisted of expanding State Route 28 from two to six lanes, with additional turning lanes, are now complete. State Route 28 provides access to Washington Dulles International Airport, as do the Dulles Access Road and the Dulles Toll Road, both of which connect the Capital Beltway to Dulles Airport. Such improvements were financed from proceeds of a special improvements tax (the "Route 28 Special Improvements Tax") collected from owners of real property zoned for commercial and industrial use in the Route 28 District and bonds issued by the Fairfax County Economic Development Authority (the "EDA") secured by the Route 28 Special Improvements Tax collections.

In 2001, the Virginia General Assembly enacted legislation permitting the creation of one or more special transportation taxing districts located between the West Falls Church Metrorail station and the Dulles Airport area to provide a means of financing an extension of rail service in the Dulles Corridor. The structure of any such district is modeled after the existing Route 28 District. In February 2004, pursuant to a petition submitted by landowners representing a majority of the assessed value of property zoned for commercial or industrial use in the Tysons and Reston commercial districts, the Board of

Supervisors formed the Phase I Dulles Rail Transportation Improvement District (the “Phase I District”) to provide funds to support the County’s share of Phase I of a proposed expansion of the Metrorail system to Dulles Airport and beyond (“Phase I”). Funds for financing the County’s \$400 million share of the Phase I expansion of the Metrorail system are provided from a real estate tax levy on all property zoned for commercial and industrial use in the Phase I District (the “Phase I Special Improvements Tax”). As of December, 2013, the County provided to MWAA its required \$400 million share for the Phase I Project from the proceeds of the Phase I Special Improvements Tax and from bonds issued by the EDA secured by the Phase I Special Improvements Tax collections. Metrorail service for Phase I began in July 2014.

Phase II of the proposed expansion of the Metrorail system (“Phase II”) will complete the 23-mile line to Dulles Airport and beyond into Loudoun County. In October 2009, the County received a valid petition to form another special tax district comprised of the Reston-Herndon-Dulles commercial districts to provide \$330 million toward the County’s portion of the Phase II financing. The Phase II tax district was approved by the Herndon Town Council on November 11, 2009, and by the Fairfax County Board of Supervisors on December 7, 2009. On May 9, 2014, the United States Department of Transportation (“USDOT”) approved an application of the County to receive loans in the aggregate principal amount of up to \$403,274,894 plus capitalized interest to fund County obligated Phase II project costs (the “TIFIA Loan”). The TIFIA Loan closed on December 17, 2014. As of June 30, 2017, the outstanding balance on the TIFIA Loan including accrued interest is \$201,495,853.

#### *County Transit Systems*

Within the County, the Fairfax Connector System provides feeder bus service to Metrorail Stations. The Fairfax Connector operates 84 routes to 13 Metrorail Stations which include the Dunn Loring, Franconia-Springfield, Greensboro, Huntington, McLean, Pentagon, Pentagon City, Spring Hill, Tysons Corner, Van Dorn Street, Vienna, West Falls Church, and Wiehle-Reston East stations. Private contractors operate and maintain the service and have the responsibility to employ and supervise all transit personnel, while the Board of Supervisors maintains control and approves all policies for bus service such as routes and service levels, fare structures, and funding assistance. The Fairfax Connector System is supported from General Fund and fare box revenues. The FY 2018 Revised Budget Plan also includes support of \$17.8 million from State aid. The Fairfax Connector carried approximately 8.6 million passengers in FY 2017 and FY 2018 ridership is projected to be approximately 8.7 million. Fairfax Connector System expenditures totaled approximately \$82.7 million in FY 2017, including capital expenditures. The County runs three permanent maintenance and garage facilities for the Fairfax Connector System, with bus operations management provided by a third-party contractor.

#### *Commuter Rail*

Fairfax County is a member of the Northern Virginia Transportation Commission and, in cooperation with the Potomac and Rappahannock Transportation Commission, is a participating jurisdiction in the operation of the Virginia Railway Express (“VRE”) commuter rail service. As of December 2017, the service consisted of eight peak period trips from south of the County in the Spotsylvania County to north of the County in the District of Columbia and six peak trips that run from west of the County in the City of Manassas to north of the County in the District of Columbia. Under a Master Agreement among VRE’s participating jurisdictions, the County is to contribute to capital, operating, and debt service costs of the VRE on a pro rata basis according to its share of ridership. The County’s share of the FY 2018 commuter rail operating and capital budget is \$6.1 million.

## **Parks, Recreation and Libraries**

Fairfax County provides a variety of recreational, educational, and cultural activities and services. In FY 2017, the Fairfax County Public Library system (the “Library System”) made more than 11.4 million loans and recorded more than 4.6 million visits to its 23 branches, and reported more than 3.8 million user visits to its web site. The Library System offers free events and activities, including puppet shows for toddlers, story time for school-aged children, book discussion groups for teens, author visits for adults, and English conversation classes for English for Speakers of other Languages customers (or new arrivals). The Library System also makes library services available and accessible to people who have disabilities or are homebound.

The Department of Community and Recreation Services provides a variety of recreational, community, and human services for County residents. These services include senior adult programs and centers, therapeutic recreation services for individuals with disabilities, a variety of youth programs including recreational activities at youth centers, community-based recreational opportunities, support for Fairfax County’s various volunteer sports councils and leagues, and a variety of volunteer opportunities.

Fairfax County also operates an extensive park system that provides a variety of recreational activities and facilities. Under the direction of a 12-member Park Authority Board appointed by the Board of Supervisors, the Fairfax County Park Authority (“FCPA”) works with constituents, government leaders and appointees to implement Park Authority Board policies, preserve and protect natural and cultural resources, and facilitate the development of park and recreation programs and facilities. FCPA oversees operation and management of a 23,418-acre County park system with 427 parks, nine recreation centers, eight golf courses, an ice skating rink, 211 playgrounds, 668 public garden plots, five nature centers, three equestrian facilities, 420 Park Authority athletic fields, 40 synthetic turf fields, 10 historic sites, two waterparks, a horticultural center, and more than 326 miles of trails. In FY 2016, FCPA welcomed almost 17 million visitors to parks, groomed fields for more than 200 youth and adult sports organizations, improved its trail system, and worked to control non-native invasive plants, promote native species and preserve woodlands and green open spaces.

FCPA charges fees for the use of certain park facilities including the recreation and fitness centers, classes, camps, programs and golf courses, which are operated on a cost recovery basis, and represent approximately 65% of FCPA’s funding. The remaining operating funds are appropriated by the Board of Supervisors from the County’s combined general fund, providing the main operating funds for natural and cultural preservation and protection, administrative tasks, general access parks, planning and development, and park maintenance and operations. User fees do not cover the cost of new development of facilities, land acquisition, or the major renovation of existing facilities. These improvements are funded primarily through revenue bonds and general obligation bonds. General obligation bonds are primarily used for the renovation of existing facilities.

The Northern Virginia Regional Park Authority (“NVRPA”), an independent entity in which the County participates, operates 32 parks covering approximately 12,000 acres throughout Northern Virginia including the County. NVRPA is continually in the process of completing, acquiring, developing, or expanding its regional park facilities.

## **Community Development**

The Fairfax County Redevelopment and Housing Authority (“FCRHA”) was established in 1966 to meet low and moderate income family housing needs. It owns or administers housing developments in Fairfax County with staff and funding provided from County, federal, Commonwealth, and private sources. As of June 2017, the FCRHA owns or operates 77 properties, which are comprised of over

3,800 apartments, townhouses, senior retirement homes, assisted living facilities and specialized housing units. The FCRHA also owns other specialized housing such as mobile home pads and beds in group homes. The FCRHA also administers 3,874 federal Housing Choice Vouchers. In FY 2016, 18,209 people were served through the FCRHA's three major affordable housing programs: Public Housing, the Housing Choice Voucher program, and the Fairfax County Rental Program (FCRP). In FY 2016, the average income of households served in these three programs was approximately \$23,800, or 24% of Area Median Income for a family of three (the average size of the households served). This meets the U.S. Department of Housing and Urban Development's (HUD) definition of "extremely low income."

FCRHA has provided financing with low-income housing tax credits for privately owned developments that reserve a total of 1,655 units for lower income tenants. Fairfax County's Workforce Housing policy, adopted by the Board of Supervisors in 2007, is a proffer-based incentive system designed to encourage the voluntary development of new housing affordable to a range of moderate-income workers in Fairfax County's high-rise/high-density areas. The County's Comprehensive Plan provides for a density bonus of up to one unit for every workforce unit provided by a developer, with the expectation that at least 12% of units, and up to 20% depending on location, in new developments be affordable or workforce housing.

In April 2004, the Board of Supervisors adopted its Affordable Housing Preservation Initiative to preserve affordable housing units. The centerpiece of the Initiative was the creation of the "Penny for Affordable Housing Fund." Beginning in FY 2006, the County's budget each year included the equivalent of one penny on the County's real estate tax rate for the preservation and production of affordable housing in the County. In FY 2010, the Penny Fund was reduced to the equivalent of half of one penny. In FY 2018, this funding equated to \$11,900,000 for affordable housing.

Other County services include efforts to increase local employment opportunities by encouraging and retaining business and industrial development through the County's Economic Development Authority. On July 1, 2007, the County established an Office of Community Revitalization and Reinvestment ("OCR"). The mission of the OCR is to facilitate strategic redevelopment and investments within targeted commercial areas of the County that align with the community vision, and improve the economic viability, appearance and function of those areas. Among other initiatives, the OCR is charged with working with property owners and the community to facilitate interest and participation in commercial development activities, and to develop public/private partnerships that further the County's revitalization, redevelopment, and reinvestment efforts.

## **Health and Welfare**

The County provides services designed to protect, promote, and improve the health and welfare of Fairfax County citizens through a decentralized human services program. Based on individual needs, County human service centers define a comprehensive assistance plan that utilizes the services provided by all County departments. The County operates human service centers in locations convenient to residents to provide financial, medical, vocational, and social services. The Fairfax-Falls Church Community Services Board ("CSB") responsible for planning, organizing, and providing services to individuals who have a mental illness, intellectual disability, or a substance use disorder. The CSB provides state mandated services to assist, improve, and maximize the potential of individuals affected by these conditions and strengthen their capacity for living self-determined, productive, and valued lives. The CSB is part of the Fairfax County Human Services System providing its services at many sites throughout the County, including seven community mental health centers, several outpatient sites, a detoxification center, group homes, consumer-operated drop in centers, and several specialized residential treatment sites.

The County also provides subsidized day care programs for older adults and children of low-income families, two special needs centers that serve emotionally disturbed or physically challenged children, and group homes for youth with serious emotional disturbances. Residential treatment services are also offered in the areas of substance abuse as well as substance abuse outpatient and specialized day treatment programs. Vocational and residential programs are also available for adults with intellectual disabilities and serious mental illness.

Financial assistance and social services are available to eligible residents. For low-income families and individuals, the Department of Family Services (“DFS”) administers federal, Commonwealth, and local programs, such as public assistance, employment and training, and subsidized child care, as well as programs targeted to at-risk children, such as child abuse prevention, Child Protective Services, Foster Care and Adoption, and services purchased under the Comprehensive Services Act. For older adults, DFS also administers programs that include federal funds granted to localities, Commonwealth funds and additional support from the County. The federal and state governments partially reimburse DFS for the cost of administering the programs based on an annual allocation to the County as well as program costs. DFS operates the County’s School-Age Child Care (“SACC”) program in 139 centers located in 136 Fairfax County Public Schools (“FCPS”), one FCPS community building, one County recreation center, and one County community center. Approximately 11,000 children participate in before-and-after-school SACC programs during the school year and in full-day programs in the summer and during school vacations. Since FY 1986, the County has provided a comprehensive County transportation service, Fastran, for qualified elderly, disabled, and low-income persons. Transportation is provided by bus, van, or cab on a door-to-door basis to County programs, medical care, grocery stores, and other destinations.

### **Judicial Administration**

Fairfax County’s court system is one of the most sophisticated systems in Virginia in its use of advanced case management techniques and rehabilitation programs. The County uses automated systems to support case docketing and record retrieval, electronic filing and imaging in the land recordation process, juror selection, service of notices and subpoenas, and the processing of criminal and traffic warrants and collecting delinquent tax obligations.

The County has undertaken rehabilitation efforts through the Juvenile and Domestic Relations District Court and the Office of the Sheriff. These efforts include work training programs and counseling services for both adult and juvenile offenders. Additionally, residential treatment services are provided for juvenile offenders, and a work release program is provided for offenders confined in the County’s Adult Detention Center.

### **Public Safety**

A number of agencies share responsibility for public safety in Fairfax County. The Police Department, which is responsible for law enforcement, had an authorized strength of 1,401 police officers, 32 animal control officers, and 322 civilian personnel, with 8 positions supported by grant funding, effective July 1, 2017. The agency is accredited by the Virginia Law Enforcement Professional Standards Commission, which signifies the Department’s compliance with standards that are specific to Virginia law enforcement operations and administration. The commanders of the eight police district stations located throughout the County have considerable latitude to tailor their operations to provide police services in ways most responsive to the needs of their respective communities, including community policing endeavors. The department has specialized units that operate as both standing (staffed full time) and non-standing units (staffed as needed), including the Helicopter Division, which operates two helicopters to provide support to general police operations, traffic monitoring, emergency

medical evacuation, and rescue support; the Criminal Intelligence Unit, which provides an effective response to organized criminal activity including terrorist-related, gang, and bias crimes; the Gang Unit, which provides regional leadership directed at combating gang crime through prevention and enforcement initiatives; and the Language Skills Support Unit, which serves to bridge the gap in the diverse cultures in the community by providing language support for the successful resolution of major criminal investigations.

Over the past 10 years, the County has maintained one of the lowest rates of serious crimes among jurisdictions in the Washington, D.C., metropolitan area and among comparable suburban jurisdictions throughout the United States. Additionally, the Police Department has continually attained a clearance rate for violent crimes such as murder, rape, and robbery far above the national averages for such offenses. At the same time, Fairfax County has maintained one of the lowest per capita costs for police services of all the local jurisdictions in the Washington metropolitan area.

Fire and rescue services are provided by 1,405 paid uniformed personnel, 187 paid civilian support personnel, and approximately 300 operational volunteers as of July 1, 2017. The County operates 38 fire and rescue stations. The department operates various specialty units, including paramedic engine companies, a hazardous materials response unit, a technical rescue operations team, an arson canine unit, and a water rescue team whose members are certified in swift water rescue. The department also supports regional, national, and international emergency response operations through maintaining and supporting the Urban Search and Rescue Team (“US&R”). US&R operates under the auspices of the Department of Homeland Security for domestic responses and is sponsored by the United States Agency for International Development/Office of Foreign Disaster Assistance for international deployments. In addition to emergency response, the department provides various non-emergency services.

In May 2004, the Office of Emergency Management was established as a separate agency serving as the County’s focal point for emergency preparedness and internal and external coordination to respond to natural, technological, and terrorist-related emergencies. Employees provided emergency management services for Fairfax County, including the Towns of Clifton, Herndon and Vienna. The major areas of focus include emergency management planning and policy, the County-wide emergency training and exercise program, public preparedness and education, and enhancement of response and recovery capabilities.

### **Water Supply Service**

Fairfax Water (“FW”) provides retail water service to residents of Fairfax County and the cities of Fairfax and Falls Church. In addition, FW supplies water for resale, principally in the City of Alexandria, Loudoun County, Prince William County, Fort Belvoir, and the Towns of Vienna and Herndon. The average total retail and wholesale population served by FW is estimated at 2,000,000 persons. FW, which operates the largest water system in the Commonwealth of Virginia, was established by the Board of Supervisors in 1957 to develop a comprehensive, County-wide water supply system through the acquisition of existing systems and the construction of new facilities. FW is an independent body administered by a ten-member board appointed by the Fairfax County Board of Supervisors. FW finances its capital improvements through the issuance of revenue bonds that are not backed by the full faith and credit of the County but principally repaid by revenues derived from charges for services rendered. Effective April 1, 2017, FW’s basic retail water charge was set at \$2.81 per 1,000 gallons, plus a quarterly service charge (currently \$12.20 for most single-family homes and townhouses). To pay for treatment and pumping capacity which is used only during periods of high demand, FW also levies a peak use charge of an additional \$3.80 per 1,000 gallons on customers who exceed their winter quarter consumption by 6,000 gallons or 33%, whichever is greater. There also are fees for initial connection to the system and for opening, closing, or transferring an account.

FW uses three sources of water supply (Occoquan and Potomac Rivers and the Washington Aqueduct), operates associated treatment, transmission, storage, and distribution facilities, and provides service to approximately 280,000 retail accounts in Fairfax County, with an average daily consumption of about 171 million gallons per day (“mgd”). The combined maximum daily capacity of the supply and treatment facilities is 376 mgd, which is sufficient to meet current demand.

Under an agreement with the Board of Supervisors, FW annually submits a 10-year capital improvement program which is reviewed and approved by the Board of Supervisors as part of the County’s total capital improvement program. FW’s 10-year Capital Improvement Program for FY 2018-2027 includes projects totaling \$782,946,000.

## **ECONOMIC FACTORS**

### **Economic Development**

Economic development activities of the County are carried out through the Fairfax County Economic Development Authority (“EDA”), whose seven commissioners are appointed by the Board of Supervisors. EDA promotes Fairfax County as a premier location for business start-up, relocation and expansion, and capital investment. It works with new and existing businesses to help identify their facility and site needs, and assist in resolving County-related issues and provide other business assistance. Pursuant to its enabling legislation, EDA encourages investment in the County with tax-exempt conduit revenue bond financing.

The total inventory of office space in the County was estimated at 116.5 million square feet as of year-end 2017. At that time, construction activity totaled nearly 3.1 million square feet. The direct vacancy rate for the office market was 15.4 percent as of year-end 2017. Including sublet space, the office vacancy rate was 16.2 percent.

The base of technology-oriented companies, particularly in computer software development, computer systems integration, telecommunications, and Internet-related services, has served as a magnet for the expansion and attraction of business and professional services. Government contractors, as well as diversified business and financial services, have added to the demand for prime office space in a number of key employment centers throughout the County.

Federal civilian employment in the County makes up 4.0 percent of the total jobs in the County. Federal jobs decreased slightly in 2016 but by mid-2017, the number of federal civilian jobs had increased slightly. Overall employment rose 1.4 percent in 2016 after increasing 1.3 percent in 2015 and falling 1.2 percent in 2014. The positive trend continued during 2017. In the second quarter of 2017, total non-farm employment in the County was 603,228, an increase of 0.9 percent compared to the second quarter of 2016. Employment in the Professional and Business Services sector also increased by 0.4 percent during this time. After decreasing in FY 2015, federal procurement spending in the County increased 4.8 percent to \$24.0 billion in FY 2016. County General Fund revenue rose 5.4 percent in FY 2017, in part due to an increase of 6.7 percent in current year real estate tax receipts. Current personal property tax receipts rose 4.9 percent in FY 2017, while Business Professional and Occupational License (BPOL) revenue increased a modest 1.2 percent. The combined Consultant and Business Service Occupations categories, which represent 41.8 percent of total BPOL receipts and include federal contractors increased 0.5 percent from the FY 2016 level. The remaining categories rose a combined 1.7 percent. Sales Tax receipts fell 1.2 percent in FY 2017.

There are over 100 hotels in the County, totaling over 18,500 hotel rooms. A 160-room hotel opened in 2016 in the Seven Corners area of the County, and another was delivered in the Tysons area.

Hotel development parallels commercial construction in terms of diversity of concept and design with a variety of product and service mixes (all-suites, business meeting facilities, and leisure facilities) in the marketplace.

Improvements to the County's transportation system, including increased service levels at Washington Dulles International Airport, helped increase corporate activities dependent on immediate access to travel throughout the region, country, and world. The Metrorail service extension (the Silver Line) from the East Falls Church station, through Tysons through Dulles Airport, to Route 772 in Loudoun County will continue to help foster economic growth.

The Board of Supervisors and the County actively support revitalization and redevelopment throughout the County, particularly in its more mature business areas. Many enhancements have been made to the residential and commercial neighborhoods in Annandale, Bailey Crossroads/Seven Corners, the Lake Anne section of Reston, the Springfield and McLean central business districts, Merrifield, and the Richmond Highway corridor in the southeastern portion of the County. A number of capital improvement projects and other construction in process or already completed have improved the appearance and quality of life of these communities.

The most notable area of redevelopment in the County, Tysons—Fairfax County's "downtown"—is undergoing a transformative land-use replanning effort. Spurred by the Metrorail expansion project, the County is working to set the stage for Tysons's evolution into a more urban-scale, pedestrian-friendly environment, with more housing, recreation and open space in addition to more-dense office and retail development. Tysons currently has over 36.6 million square feet of office, retail, and other commercial space and is behind only downtown Washington's Central Business District and the East End submarkets in the entire Washington D.C. metropolitan area in total office inventory, and has 13.9 million square feet of residential space. Now that Phase I of the Metrorail expansion has been completed, it is expected that Tysons will continue to have significant growth in population, employment and commercial, retail and residential space over the next several decades. County staff continues to evaluate potential arrangements for financing the public share of Tysons infrastructure improvements and to facilitate co-operative funding agreements with the private sector. County staff, in cooperation with private participants, created a 501(c)(6) membership organization known as the Tysons Partnership in January 2011. The Tysons Partnership provides a comprehensive approach to tasks that include marketing and branding, transportation, urban design/planning, public facilities and community amenities and finance. On January 8, 2013, the Board of Supervisors established, by ordinance, the Tysons Transportation Service District No. 1 (the "Tysons Service District") to provide transportation infrastructure and transit services within Tysons. As the governing board of the Tysons Service District, the Board of Supervisors is empowered to levy and collect a tax on any property within Tysons Service District's boundaries to finance the transportation infrastructure and transit services projects. The tax rate of \$0.04 per \$100 of assessed value was adopted by the Board of Supervisors as part of the FY 2014 Adopted Budget Plan, and this rate remained unchanged as part of the FY 2015 Adopted Budget. However, in the FY 2016 Adopted Budget, the tax rate increased one cent from \$0.04 to \$0.05 per \$100 of assessed value. The tax rate remained unchanged at \$0.05 per \$100 of assessed value in the FY 2017 and FY 2018 Adopted Budgets.

## **Employment**

As of the second quarter of 2017, there were more than 37,000 payroll business establishments (units) including global, corporate and regional headquarters, technology firms, sales and marketing offices, and business services located in Fairfax County, employing over 610,000. Local businesses create employment in diversified areas like computer software development and systems integration, technical services, management consulting, government contracting, Internet-related services, wholesale

and retail trade, and financial services. The following table presents data on the average number of payroll establishments and employment by major industry classification in Fairfax County as of the second quarter of 2017.

**Businesses and Employment by Industry  
Fairfax County, Virginia<sup>1</sup>**

<b><u>Industrial Classification</u></b>	<b><u>Number of Establishments</u></b>	<b><u>Average Payroll Employment for Quarter</u></b>
Agriculture, Forestry, Fishing and Hunting	16	107
Mining, quarrying, and oil and gas extraction <sup>2</sup>	Confidential	Confidential
Utilities	36	1,174
Construction	2,282	23,492
Manufacturing	441	5,798
Wholesale Trade	1,166	14,038
Retail Trade	2,660	53,639
Transportation and Warehousing	408	6,904
Information	838	19,820
Finance and Insurance	1,678	27,807
Real Estate and Rental and Leasing	1,582	9,557
Professional and Technical Services <sup>3</sup>	10,097	154,003
Management of Companies and Enterprises	357	17,326
Administrative and Waste Services	1,971	40,338
Educational Services	686	11,102
Health Care and Social Assistance	3,866	55,756
Arts, Entertainment, and Recreation	412	9,109
Accommodation and Food Services	2,214	46,162
Other Services except Public Administration	5,070	21,348
Unclassified	645	1,237
Federal Government, all industries	143	24,098
State Government, all industries	32	9,237
Local Government, all industries	<u>90</u>	<u>50,954</u>
Total	36,699	603,186

Source: Virginia Employment Commission, Quarterly Census of Employment and Wages, Fairfax County, second quarter 2017

<sup>1</sup> Excludes self-employed business owners.

<sup>2</sup> This represents non-disclosable data.

<sup>3</sup> The Services category includes professional and technical services, health care and social assistance, management services, educational services, accommodation and food services, arts, entertainment and recreation, administrative and waste services, and membership organizations and trade associations.

The following is a list of the largest private, base sector (non-retail) employers as of April, 2017. Companies are alphabetized in their size category.

## Largest Private Employers in Fairfax County

### 4,000-7,000+ Employees

Company Name	Type of Business
Booz Allen Hamilton*	Professional, Scientific and Technical Services
Federal Home Loan Mortgage Corp. (Freddie Mac)*	Finance and Insurance
General Dynamics*	Professional, Scientific and Technical Services
Inova Health System*	Health Care and Social Assistance

### 1,000-3,999 Employees

Company Name	Type of Business
Accenture	Professional, Scientific and Technical Services
AECOM	Professional, Scientific and Technical Services
Amazon Web Services	Information
AT&T	Information (Telecommunications)
BAE Systems	Professional, Scientific and Technical Services
Boeing	Professional, Scientific and Technical Services
CACI International	Professional, Scientific and Technical Services
Capital One*	Finance and Insurance
Catholic Diocese of Arlington	Educational Services/Other Services
CGI	Professional, Scientific and Technical Services
Constellis Holdings*	Administrative and Support Services
CSRA *	Professional, Scientific and Technical Services
Dell	Professional, Scientific and Technical Services
Deloitte	Professional, Scientific and Technical Services
DXC Technology*	Professional, Scientific and Technical Services
Engility*	Professional, Scientific and Technical Services
Erickson Living (Greenspring)	Health Care and Social Assistance
EY (Ernst & Young)	Professional, Scientific and Technical Services
HCA Virginia	Health Care and Social Assistance
Hilton Worldwide*	Accommodation and Food Services
IBM	Professional, Scientific and Technical Services
ICF International*	Professional, Scientific and Technical Services
Kaiser Foundation Health (Kaiser Permanente)	Health Care and Social Assistance
KPMG	Professional, Scientific and Technical Services
Leidos*	Professional, Scientific and Technical Services
Lockheed Martin	Professional, Scientific and Technical Services
ManTech International Corp.*	Professional, Scientific and Technical Services
The MITRE Corporation*	Professional, Scientific and Technical Services
Navy Federal Credit Union*	Finance and Insurance
Northrop Grumman*	Professional, Scientific and Technical Services
Oracle	Professional, Scientific and Technical Services
PricewaterhouseCoopers	Professional, Scientific and Technical Services
Quest Diagnostics	Health Care and Social Assistance
SAIC*	Professional, Scientific and Technical Services
Spectrum (Time Warner Cable)	Information
Sprint	Information
United Parcel Service	Transportation and Warehousing
US Fitness Holdings*	Arts, Entertainment, and Recreation
Vencore*	Professional, Scientific and Technical Services
Wells Fargo Bank	Finance and Insurance

**500-999 Employees**

<u>Company Name</u>	<u>Type of Business</u>
The Aerospace Corporation	Professional, Scientific and Technical Services
Bechtel	Professional, Scientific and Technical Services
Calibre Systems*	Professional, Scientific and Technical Services
Carahsoft Technology Corp.*	Wholesale Trade
Carepeople Home Health Inc.*	Health Care and Social Assistance
Cavalier Maintenance Services*	Administrative and Support Services
Cisco Systems	Professional, Scientific and Technical Services
College Entrance Exam Board*	Educational Services
CustomInk*	Wholesale Trade
Cvent*	Professional, Scientific and Technical Services
Deltek*	Professional, Scientific and Technical Services
Fairfax Radiological Consultants*	Health Care and Social Assistance
Frontpoint Security Solutions*	Administrative and Support Services
Gannett*	Information
Harris	Professional, Scientific and Technical Services
HITT Contracting*	Construction
Intelsat*	Information
K12*	Educational Services
Knowledge Universe Education	Educational Services
Life Time Fitness	Arts, Entertainment, and Recreation
LMI*	Professional, Scientific and Technical Services
Marriott	Accommodation and Food Services
MAXIMUS*	Professional, Scientific and Technical Services
Microsoft Corporation	Professional, Scientific and Technical Services
MicroStrategy*	Professional, Scientific and Technical Services
Middle East Broadcasting*	Information
Mount Vernon	Other Services
MV Contract Transportation	Health Care and Social Assistance
NJVC*	Professional, Scientific and Technical Services
Omniplex World Services*	Administrative and Support Services
Raytheon	Professional, Scientific and Technical Services
Securitas Security Services	Administrative and Support Services
Serco Inc.	Professional, Scientific and Technical Services
Shirley Contracting*	Construction
Sodexo USA	Accommodation and Food Services
Stratford University*	Educational Services
Sunrise Senior Living	Health Care and Social Assistance
SunTrust Banks	Finance and Insurance
Unisys	Professional, Scientific and Technical Services
The Washington Post	Information
Verisign*	Professional, Scientific and Technical Services
Verizon	Information
WGL	Utilities
William A. Hazel*	Construction

*Source:* Fairfax County Economic Development Authority, List of Largest Employers April 2017. Excludes public-sector and retail entities. Employment figures are for company facilities in Fairfax County only. Additionally, these numbers include employees, not independent contractors. Type of Business description for each firm is based on two-digit North American Industry Classification System (NAICS) codes. Companies may have business activities in other two-digit NAICS sectors.

\*Company with headquarters in Fairfax County.

A list of the top ten new or expanded office projects within the County announced in the third quarter of 2017 is shown below:

### New or Expanded Commercial Projects

<u>Name of Company</u>	<u>Type of Business</u>	<u>Projected New/Additional Employment</u>
TEKsystems, Inc.	Information technology	373
Softthink Solutions, Inc.	Information technology	75
M.C. Dean, Inc.	Electrical systems engineering	60
Electrify America, LLC	Energy	48
Caboose Brewing Company	Manufacturing	40
Buchanan & Edwards	Information technology	30
Avizia, Inc.	Healthcare	27
Atlantic Metro	Telecommunications	21
Virginia Spine Institute	Healthcare	15
Counterpoint Consulting, Inc.	Software	11

Source: Fairfax County Economic Development Authority

Unemployment in the County has historically been, and continues to be, well below the national average, even in challenging economic times. The average unemployment rate in Fairfax County in 2017 through October was 2.9%. The average Virginia and U.S. unemployment rates during the same period were 3.5% and 3.9%, respectively. Reflecting the global recession that began in late 2007 and escalated a year later, Fairfax County's average annual unemployment rate rose to a high of 5.1% in 2010 but has since declined, reflecting an overall leveling out of the economic downturn. The following table shows the average annual unemployment rate in Fairfax County as compared to Virginia and national averages in the past decade.

### Average Annual Unemployment Rates

<u>Calendar Year</u>	<u>Fairfax County</u>	<u>Virginia</u>	<u>United States</u>
2007	2.2%	3.0%	4.6%
2008	2.8	3.9	5.8
2009	4.8	6.7	9.3
2010	5.1	7.2	9.6
2011	4.8	6.6	9.0
2012	4.5	6.0	8.1
2013	4.4	5.7	7.4
2014	4.2	5.2	6.2
2015	3.6	4.4	5.3
2016	3.2	4.0	4.9
2017 <sup>1</sup>	2.9	3.5	3.9

Source: U.S. Bureau of Labor Statistics; data are not seasonally adjusted. Virginia Employment Commission

<sup>1</sup> Through October 2017.

According to the Bureau of Labor Statistics, the average total number of jobs in the County was 610,318 in the second quarter of 2017. Self-employed persons are not included in these counts. The following table presents total covered employment in recent years:

### Covered Employment<sup>1</sup>

<u>Second Quarter</u>	<u>Covered Employment in Fairfax County</u>	<u>% Change</u>
2012	597,533	-
2013	595,638	(0.32%)
2014	588,507	(1.20)
2015	596,878	1.42
2016	603,348	1.08
2017	610,318	1.16

Source: U.S. Department of Labor, Bureau of Labor Statistics, Quarterly Census of Employment Wages

<sup>1</sup> Covered employment means employees covered by state and federal unemployment laws.

### Construction Activity

The following table includes data for residential and commercial construction activity in the County:

Fiscal Year	Building Permits				Estimated Housing Units Started
	Residential Properties		Industrial and Commercial Properties		
	Number	Estimated Value (000s)	Number	Estimated Value (000s)	
2008	10,719 <sup>1</sup>	548,759	5,046 <sup>1</sup>	619,613	2,238
2009	8,780 <sup>1</sup>	327,454	4,361 <sup>1</sup>	413,719	1,361
2010	8,977	428,941	3,946	375,126	1,150
2011	9,371	480,268	4,595	397,435	1,797
2012	9,454	538,307	4,308	602,444	3,023
2013	10,610	509,957	3,907	710,488	1,930
2014	10,469	895,638	5,054	660,063	4,154
2015	10,320	529,104	4,714	475,241	2,580
2016	10,268	616,151	4,844	496,006	2,961
2017	10,885	800,375	4,609	710,078	3,872

Sources: Building permits provided by Fairfax County Department of Public Works and Environmental Services, and estimated housing units started provided by the Weldon Cooper Center for Public Service, University of Virginia.

<sup>1</sup> Includes new and alteration/repair permits issued. Does not include trade permits issued.

### Housing

As reported in January 2017, single-family detached housing units represented 47.0% of the total housing units within Fairfax County. Single-family attached housing accounted for 24.2%, and multi-family housing made up the remaining 28.8%. In 2017, the median market value of all owned housing units, including condominiums, in Fairfax County was estimated by the Department of Management and Budget to be \$505,722.

### Housing Units by Type of Structure

	<u>1980</u>		<u>1990</u>		<u>2000</u>		<u>2017</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
Single-Family:								
Detached <sup>1</sup>	125,580	59.3	163,029	53.9	181,591	50.6	195,462	47.0
Attached <sup>2</sup>	30,833	14.6	67,306	22.3	87,171	24.3	100,588	24.2
Multi-Family <sup>3</sup>	<u>55,333</u>	<u>26.1</u>	<u>72,129</u>	<u>23.8</u>	<u>90,198</u>	<u>25.1</u>	<u>119,686</u>	<u>28.8</u>
Total	<u>211,746</u>	<u>100.0</u>	<u>302,464</u>	<u>100.0</u>	<u>358,960</u>	<u>100.0</u>	<u>415,736</u>	<u>100.0</u>

Sources: U.S. Bureau of the Census, U.S. Census of Housing (1980-2000) and 2016 data from Fairfax County Department of Management and Budget

<sup>1</sup> Single-Family detached includes all single-family homes and mobile homes.

<sup>2</sup> Single-Family attached includes duplexes, townhouses, and multiplex units.

<sup>3</sup> Multi-Family includes condominiums, apartments and other units in structures with a common entryway.

The average sale price of housing units within the County comparing October 2017 to October 2016 is listed below:

### Average Sale Price Housing Units

<u>Type of Structure</u>	<u>October 2017</u>	<u>October 2016</u>	<u>% change</u>
All Homes	\$553,780	\$537,897	2.95%
Detached Homes	757,818	730,863	3.69
Attached Homes	370,009	370,270	(0.07)

Source: Fairfax County Department of Management and Budget Economic Indicators – November 2017

### Colleges and Universities

Sixteen institutions of higher education are located in Fairfax County: George Mason University, ITT Technical Institute, Marymount University, Missouri State University (Department of Defense Studies), Northern Virginia Community College, Potomac College, Stratford University, Strayer University, University of Fairfax, University of North America, University of Phoenix, University of Virginia-Northern Virginia Center, Virginia International University, Virginia Polytechnic Institute, Washington Bible College – Capital Bible Seminary, and Westwood College. Two campuses of the University of Virginia (both Virginia Tech and the Falls Church campus) are located in the Northern Virginia Graduate Center in Fairfax County. George Mason University, with an enrollment of more than 33,000 students, offers over 200 degree and certificate programs. The Northern Virginia Community College serves more than 76,000 students in credit courses and non-credit workforce and professional development programs at six campuses and two centers throughout Northern Virginia. American University, George Washington University, Catholic University, and Virginia Commonwealth University also operate programs in the County's secondary schools and on military installations within the County.

### Cultural Amenities

Wolf Trap Farm Park for the Performing Arts, a cultural facility internationally renowned for its ballet, symphony, concert, and opera offerings, and the only national park for the performing arts in the U.S., is located in north-central Fairfax County. Nearly 300 cultural organizations – theater and opera companies, music and dance groups, community arts centers, festivals, and other activities – are based in

and around the County. The County also assists in supporting the Fairfax Symphony, an internationally recognized orchestra that provides a variety of musical programs and outreach services to County residents. Other well-known attractions in the County include Mount Vernon, the home of George Washington; Woodlawn Plantation, George Washington's wedding gift to his nephew; and Gunston Hall, home of George Mason, author of the U.S. Bill of Rights and the first Constitution of Virginia. The region also boasts professional baseball, basketball, football, ice hockey and soccer.

## **DEBT ADMINISTRATION**

### **Statement of Bonded Indebtedness**

Pursuant to the Constitution of Virginia and the Act, a county in Virginia is authorized to issue general obligation bonds secured by a pledge of its full faith and credit. For the payment of such bonds, the Board of Supervisors of the County is required to levy, if necessary, an annual ad valorem tax on all property in the County subject to local taxation.

As of June 30, 2017, the County had outstanding the following amounts of general obligation bonds:

<u><b>Purpose</b></u>	<u><b>Total General Obligation Bonds</b></u>
School	\$1,390,565,000
General Government	<u>832,800,000</u>
Total General Obligation Bonded Indebtedness <sup>1</sup>	<u>\$2,223,365,000</u>

Source: Fairfax County Comprehensive Annual Financial Report FY 2017

<sup>1</sup> See "Debt Administration – Debt Service on Tax Supported Debt Obligations" herein for outstanding debt service as of January \_\_, 2019.

The County does not rely upon short-term borrowings to fund operating requirements. The County has never defaulted in the payment of either principal or interest on any general obligation indebtedness.

### **Limits on Indebtedness**

There is no legal limit on the amount of general obligation bonded indebtedness that Fairfax County can at any time incur or have outstanding. However, all such indebtedness must be approved by voter referendum prior to issuance. Since 1975, the Board of Supervisors has established as a financial guideline a self-imposed limit on the average annual amount of bond sales. In May 2006, the Board of Supervisors increased the bond sale target to \$1.375 billion over a 5-year period, or an average of \$275 million annually, with the flexibility to expand to a maximum of \$300 million based on market conditions and/or priority needs in any given year. The actual amount of bond sales will be determined by construction funding requirements and municipal bond market conditions.

The Board of Supervisors also has imposed limits which provide that the County's long-term debt should not exceed 3% of the total market value of taxable real and personal property in the County. The limits also provide that annual debt service should not exceed 10% of annual General Fund disbursements. These limits may be changed by the Board of Supervisors, and they are not binding on future Boards of Supervisors of the County.

### Bond Referenda Authorization

The following chart presents by purpose Fairfax County's authorized but unissued general obligation bond indebtedness as of December 31, 2017:

<u>Authorized Purpose</u>	<u>Principal Amount Authorized but Unissued as of December 31, 2017</u>
School Improvements	\$744,410,500
Transportation Improvements and Facilities	194,839,500
Public Safety Facilities	184,760,000
Parks and Park Facilities	137,410,000
Human Services Facilities	85,000,000
Library Facilities	16,015,000
Flood Control	<u>15,750,000</u>
Total	<u>\$1,378,185,000</u>

Source: Fairfax County Department of Management and Budget

### Other Tax Supported Debt Obligations

The Board of Supervisors of the County directly or indirectly appoints all or a portion of the governing body of several legally independent local and regional authorities that provide services to the County and its constituents. Such authorities include those that issue revenue bonds that are not general obligations of the County and issue debt supported directly or contingently by appropriations of tax revenues by the County. The full faith and credit of the County are not pledged to secure such bonds.

In March 1994, the Fairfax County Economic Development Authority ("EDA") issued \$116,965,000 of lease revenue bonds to finance the County's acquisition of two office buildings occupied by County agencies and departments. In October 2003, EDA issued \$85,650,000 of lease revenue refunding bonds to refund \$88,405,000 of the 1994 lease revenue bonds. The County is obligated by the terms of a lease agreement with EDA to pay amounts equal to debt service on EDA's bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the bonds and the lease agreement extend to November 15, 2018.

Beginning in 1996, the Fairfax County Redevelopment and Housing Authority ("FCRHA") has issued \$42,460,000 of revenue bonds in seven series to finance the construction or renovation of five community center buildings, two adult day health care centers, one Head Start facility and one senior center. The County was obligated by the terms of triple net lease agreements or payment agreements with FCRHA to pay amounts equal to debt service on FCRHA's bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of funds for such purpose. The coincidental terms of the various bonds, lease agreements and payment agreements extend to May 1, 2029. On March 10, 2010, EDA issued \$43,390,000 revenue bonds (Six Public Facilities Projects) (the "2010 Bonds") and provided a portion of the proceeds of the 2010 Bonds to the County to enable the County pursuant to its lease agreements with FCRHA to purchase five facilities financed from FCRHA bond issuances in 1996, 1998, 1999 and 2004. FCRHA used the funds provided by the County to redeem or defease the four series of bonds that financed the applicable facilities. On September 13, 2017, the original series issued by FCRHA in 2003 financing a head start facility was fully redeemed.

In July 2000, the Fairfax County Board of Supervisors entered into a Master Development Agreement with a private developer to finance and construct a 135,000 square foot government center in the southeastern region of the County. In November 2000, \$29,000,000 of Certificates of Participation (“Certificates” or “COPs”) were issued, secured by a triple net lease on the property between the developer and the County. The County was obligated by the terms of the lease agreement to pay an amount equal to the debt service on the Certificates. The County accepted the government center as substantially complete in February 2002. A portion of the proceeds of EDA’s 2010 Bonds were provided to the County to enable the County to exercise an option to purchase the government center (the “South County Government Center Purchase”). The purchase price provided by the County was used to defease the COPs. The County is obligated by the terms of a contract with the EDA to pay amounts equal to debt service on the EDA’s 2010 Bonds. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of EDA’s 2010 Bonds and the contract extend to April 2032.

In June 2003, EDA issued \$70,830,000 of revenue bonds (Laurel Hill Public Facilities Project), backed by a contract with the County. Approximately \$55,300,000 of the bonds were allocable to the financing of a new public secondary school in the southern part of the County and \$15,530,000 of the bonds were allocable to the financing of a new 18 hole public golf course in the southern part of the County. The County is obligated by the terms of a contract with EDA to pay amounts equal to debt service on EDA’s bonds. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the bonds and the contract extend to June 2033. In April 2012, EDA issued its \$47,745,000 Revenue Refunding Bonds (Laurel Hill Public Facilities Projects) to refund a portion of the bonds issued in 2003.

On January 27, 2005, EDA issued \$60,690,000 of revenue bonds (School Board Central Administration Building Project Phase I) (the “School Board Building Bonds”), backed by a contract with the County. The bonds were issued to finance the purchase of certain property, including an existing office building thereon, the purchase of certain land adjacent thereto and the improvement of the existing building for use by the School Board as an administration building. The County is obligated by a contract with EDA to pay amounts equal to debt service on the School Board Building Bonds. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the School Board Building Bonds and the contract extend to April 2035. In June, 2014, EDA issued \$170,690,000 Fairfax County Facilities Revenue and Refunding Bonds Series 2014 A (County Facilities Projects) to refund a portion of the School Board Building Bonds.

On December 27, 2005, the Fairfax County Park Authority (“FCPA”) issued two promissory notes in the aggregate amount of \$12,900,000 for the purpose of providing a portion of the purchase price of a conservation easement for preservation purposes on an approximately 41 acre parcel of land, and options to purchase certain land. This land is known as “Salona,” a historic site within the County. The County is obligated by the terms of a contract with FCPA to pay amounts sufficient to pay the principal and interest installments on the promissory notes when due. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the promissory notes and contract extend to December 2025.

On February 16, 2006, FCRHA issued a \$40,600,000 Bond Anticipation Note (Affordable Housing Acquisition) Series 2006 (the “Series 2006 Note”). The Series 2006 Note was issued for the purpose of providing a portion of the funds required for the purchase of a multi-family rental housing complex, known as Crescent Apartments, to further FCRHA’s goal of preserving existing affordable housing in Fairfax County. In 2007, 2008, 2011 and 2013 FCRHA issued bond anticipation notes, each time to refinance previous bond anticipation notes issued for the financing or refinancing of the Crescent

Apartments project that were not paid from County money set aside to promote affordable housing. In February, 2015 the County and FCRHA entered into a direct loan agreement with Bank of America, N.A. (the “Crescent Apartments Loan Agreement”), in a principal amount of \$18,260,000, which together with other County funds refinanced the 2013A Notes. The County is obligated by a contract with FCRHA to make payments equal to the debt service on the Crescent Apartments Loan Agreement. The County’s obligation to make such payments is subject to annual appropriation. In February 2018, FCRHA issued its Revenue Bonds (Crescent Affordable Housing Acquisition), Series 2018A (Federally Taxable) (the “Series 2018 Bonds”) in the aggregate amount of \$11,175,000 with a five year amortization to refinance the loan payment. The County is obligated by the terms of a payment agreement with FCRHA, subject to the appropriation of funds for the purpose, to pay amounts equal to the interest on and the principal of the Series 2018 Bonds. The coincidental terms of the Series 2018 Bonds and the related payment agreement extend to October, 2022.

On November 28, 2007, FCRHA issued \$105,485,000 Bond Anticipation Notes (Affordable Housing Acquisition) Series 2007B (the “Series 2007B Notes”). The Series 2007B Notes were issued for the purpose of providing a portion of the funds required for the purchase of a multi-family rental housing complex located in Annandale, Virginia. In 2008, FCRHA issued bond anticipation notes to refinance the Series 2007B Notes. On August 20, 2009, FCRHA issued its Revenue Bonds (Affordable Housing Acquisition) Series 2009 in the aggregate amount of \$94,950,000 (the “Series 2009 Bonds”) to pay a portion of the principal amount of the 2008 outstanding bond anticipation notes. A portion of the principal amount of the 2008 bond anticipation notes, and the interest due on such notes, was paid from money set aside to promote affordable housing. The County is obligated by the terms of a payment agreement with FCRHA, subject to the appropriation of funds for the purpose, to pay amounts equal to the interest on and the principal of the Series 2009 Bonds. The coincidental terms of the Series 2009 Bonds and the related payment agreement extend to October 2039.

In July 2011, EDA issued \$99,430,000 of Revenue Bonds (Wiehle Avenue Metrorail Station Parking Project). The bonds were issued to finance a portion of the costs of construction of a public parking facility to serve the Wiehle Avenue Metrorail Station that was constructed as part of the extension of Washington Metropolitan Area Transit Authority’s Metrorail System in the Dulles Corridor. The County is obligated by contract with EDA to pay amounts equal to debt service on EDA’s bonds. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the bonds and the contract extend to August 2034.

In May 2012, EDA issued \$65,965,000 of Revenue Bonds (Community Services Facilities Projects) (the “2012 EDA Bonds”) backed by a contract between the County and EDA. The bonds were issued to finance the improvement of certain properties to be used by the County as a mental health facility and as a neighborhood community center. The County is obligated by a contract with EDA to pay amounts equal to debt service on such bonds. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the bonds and the contract extend to March 2042. In August 2017, EDA issued its 2017B County Facilities Projects Refunding Bonds (hereinafter defined) to refund certain outstanding maturities of the 2012 EDA Bonds.

In November 2013, the County issued an \$11,085,000 special subfund revenue bond (the “2013 VRA Bond”) to Virginia Resources Authority (“VRA”). In return for issuing the 2013 VRA Bond, VRA provided the County with a portion of the proceeds realized from its autumn 2013 pooled financing bond transaction. The 2013 VRA Bond was issued to finance renovations to a complex that serves as a senior housing and assisted living facility, a senior center and an adult day health care center in the County. The County is obligated by a contract with VRA to pay amounts equal to the debt service on the 2013 VRA

Bond. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the 2013 VRA Bond and the contract extend to October 2033.

In December 2013, EDA and the County entered into a master credit agreement with Bank of America, N.A., pursuant to which a revolving line of credit in an amount of up to \$100,000,000 is made available to the County to provide interim financing for projects within the County's Capital Improvement Program or other similar projects. In December 2016, the termination of date of the revolving line of credit was extended for a one-year period until December 2017. A request for proposal was issued in November 2017 to prospective bidders seeking a new line of credit in the amount of \$100 million. The Fairfax County Board of Supervisors and the EDA are anticipated to award the new line of credit in winter 2018.

In December 2013, EDA and the County entered into a loan agreement with T.D. Bank, N.A. (the "T.D. Loan Agreement"), pursuant to which the proceeds of the loan in the amount of \$25,000,000 are made available to the County to provide financing for the costs of the planned replacement of County-owned building subsystems such as roofs, electrical systems, HVAC, plumbing systems, carpet replacement, parking lot and garage repairs, fire alarm replacement and emergency generator replacement that have reached the end of their useful life (collectively, "County Building Improvements"). The County is obligated by a contract with EDA to pay amounts equal to the debt service on the loan. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. In March 2015, the County obtained an additional \$10,000,000 pursuant to the T.D. Loan Agreement to finance additional County Building Improvements. The terms of the \$25,000,000 loan and the \$10,000,000 extend to January 2019 and January 2020, respectively.

In June 2014, EDA issued \$170,690,000 of Fairfax County Facilities Revenue and Refunding Bonds Series 2014 A (County Facilities Projects) (the "2014A County Facilities Projects Bonds"). The 2014A County Facilities Projects Bonds were issued to provide funds to finance the costs of the construction of a building to serve as a public safety facility for the County and the construction of a related parking garage, to refund and redeem prior to their respective maturities certain outstanding School Board Building Bonds and to capitalize interest on a portion of the Series 2014A County Facilities Projects Bonds up to and including the October 1, 2016, interest payment date. The County is obligated by a contract with EDA to pay amounts equal to debt service on such bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the Series 2014A County Facilities Projects Bonds and the contract extend to October 2034.

In June 2014, EDA issued \$30,175,000 of Fairfax County Facilities Revenue Bonds Series 2014 B (Federally Taxable) (County Facilities Projects) (the "2014B County Facilities Projects Bonds, and together with the 2014A County Facilities Projects Bonds, the "2014 County Facilities Projects Bonds") to provide funds to permanently finance the leasehold acquisition from LAF, LLC, of the Workhouse Arts Center located in the southeastern corner of the County, for a price sufficient to enable the lessee to retire all of its indebtedness relating to the Workhouse Arts Center. The County leased the 55-acre site and existing historic structures of the Lorton Correctional Complex to the lessee in 2006, and the lessee incurred over \$50 million in debt through EDA to finance improvements to convert the Complex into a center for visual and performing arts. The County plans to provide for the continuation of the existing educational and cultural programs at the Center, while the County conducts a study of the optimum uses of and develops plans for further improvements to the Center. The County is obligated by a contract with EDA to pay amounts equal to debt service on such bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such

purpose. The coincidental terms of the 2014B County Facilities Projects Bonds and the contract extend to October 2033.

On December 17, 2014, EDA entered into a loan agreement with the United States Department of Transportation and obtained a Transportation Infrastructure Financing and Innovation Act (TIFIA) loan in the principal amount up to \$403,274,894 (plus capitalized interest). Proceeds from the TIFIA loan are being used to finance the County's share of Phase II of the Silver Line Metrorail expansion. The County is obligated by a contract with the EDA to pay amounts equal to debt service on the TIFIA loan. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The terms of the TIFIA loan provide for repayment to begin October 1, 2023, and end April 1, 2046. As of June 30, 2017, the outstanding balance on the TIFIA Loan including accrued interest is \$201,495,853.

In August 2017, EDA issued \$19,060,000 of Fairfax County Facilities Revenue Bonds Series 2017 A (County Facilities Projects) (Federally Taxable) (the "2017A County Facilities Projects Bonds") and \$31,150,000 of Fairfax County Facilities Revenue Refunding Bonds Series 2017 B (County Facilities Projects) (the "2017B County Facilities Projects Refunding Bonds" and together with the 2017A County Facilities Projects Bonds, the "2017 County Facilities Projects Bonds"). The 2017A County Facilities Projects Bonds were issued to finance the costs of the construction and improvement of certain property to be used by the County as an adult day care facility, child day care centers and a senior center or for other County approved purposes. The 2017B County Facilities Projects Refunding Bonds were issued to refund certain outstanding maturities of the 2012 EDA Bonds. The County is obligated by a contract with EDA to pay amounts equal to debt service on the 2017 County Facilities Projects Bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the 2017 County Facilities Projects Bonds and the contract extend to October 2037.

### **Lease Commitments and Contractual Obligations**

The County leases certain real estate, equipment, and sewer facilities under various long-term lease agreements. In addition, pursuant to contracts with Arlington County, the Alexandria Sanitation Authority, the District of Columbia, and the Upper Occoquan Sewage Authority, the County is obligated to share the capital costs and associated debt service of certain facilities.

In February 1990, the Northern Virginia Transportation Commission ("NVTC") issued \$79.4 million of bonds to finance certain costs associated with the establishment of commuter rail services (the Virginia Railway Express) in the area of Northern Virginia bordering Washington, D.C. Fairfax County has joined with other jurisdictions through a Master Agreement to bear certain costs associated with operating and insuring the rail service as well as servicing the debt issued by NVTC. The Master Agreement requires that the County's governmental officers charged with preparing its annual budget include an amount equal to its share of the costs of the Virginia Railway Express. Each jurisdiction's share is determined by a formula set out in the Master Agreement. Fairfax County's share of this cost was \$5.2 million in FY 2017. An additional \$23 million in NVTC commuter rail revenue bonds were issued in early 1997 to purchase new rail coaches. Debt service on these bonds is being funded predominantly by Commonwealth and federal funds and VRE revenues.

On October 29, 2003, EDA issued \$33,375,000 transportation contract revenue bonds to provide \$30,000,000 to the Commonwealth Transportation Board (CTB) for construction of certain interchanges on Route 28 in the Route 28 Highway Transportation District, which is partly in Fairfax County and partly in Loudoun County. On August 26, 2004, EDA issued \$57,410,000 transportation contract revenue bonds to provide an additional \$60 million for construction of additional interchanges. The bonds issued

in 2003 and 2004 financed the construction of six interchanges. In March 2007, EDA issued \$41,505,000 transportation contract revenue bonds to finance a portion of the costs of constructing an additional four interchanges in the Route 28 Highway Transportation District. In July 2008, EDA issued \$51,505,000 transportation contract revenue bonds to finance additional costs of constructing the additional four interchanges on Route 28. See also the discussion of taxes levied by the County in the Route 28 Highway Transportation Improvement District, located partly in the County, to pay debt service on CTB and EDA bonds in “GOVERNMENT SERVICES – Transportation – Tax Districts” herein. In May, 2012, EDA issued bonds to refund a portion of the bonds issued in 2003 and 2004 and in August 2016 EDA issued bonds to refund all of the outstanding bonds issued in March 2007 and a portion of the outstanding bonds issued in July 2008.

On May 26, 2011, EDA issued \$205,705,000 Transportation District Improvement Revenue Bonds (Silver Line Phase I Project) Series 2011 which provided \$220 million to provide a portion of the financing for the expansion of Metrorail of approximately 11.5 miles of rail line through the County’s primary urban center, Tysons to Reston. On October 10, 2012, EDA issued an additional \$42,390,000 Transportation District Improvement Revenue Bonds (Silver Line Phase I Project) Series 2012 to provide \$48,400,000 for this purpose. Debt service on the bonds is paid from a special improvements tax levied by the County on commercial and industrial use property located in the Phase I Dulles Rail Transportation Improvement District within the County. On March 16, 2016, EDA issued \$173,960,000 Transportation District Improvement Revenue Refunding Bonds (Silver Line Phase I Project) Series 2016 which refunded a portion of the outstanding bonds issued in 2011 and 2012.

On June 9, 2011, the Mosaic District Community Development Authority (the “CDA”) issued \$46,980,000 Revenue Bonds, Series 2011A, and the CDA issued in July, 2011 an additional \$18,670,000 Revenue Bonds, Taxable Series 2011A-T (collectively, the “CDA Bonds”). Proceeds from the CDA Bonds were used to finance certain public infrastructure improvements within the Mosaic District Community Development Authority District (the “Mosaic District”) to support a mixed-use development to be constructed within the Mosaic District. The CDA Bonds are payable primarily from certain incremental real estate tax revenues collected by the County in the District and certain special assessments imposed and collected by the County within the Mosaic District. The payment of incremental real estate tax revenues and special assessments, as applicable, by the County to the CDA to be used for debt service payments on the CDA Bonds is subject to appropriation by the County.

On March 8, 2017, EDA issued \$69,645,000 Fairfax County Metrorail Parking System Project Revenue Bonds Series 2017 (“Parking System Revenue Bonds”) to provide funds to finance the construction of parking facilities to be owned and operated by the County, that will be located adjacent to WMATA’s Herndon and Innovation Center Metrorail Stations to be constructed as part of Phase II of the Silver Line extension of Metrorail. Debt service on the Parking System Revenue Bonds is payable from the proceeds of net parking revenues collected from customers of parking facilities controlled by the County at certain WMATA Metrorail stations in the County and from certain surcharge revenues collected from customers of certain parking facilities controlled by WMATA.

#### **Debt Service on Tax Supported Debt Obligations**

Total principal and interest payments on the County’s outstanding tax supported debt obligations, including general obligation bonds and other tax supported debt obligations, are presented in the following table as of January \_\_, 2019:

<b>Fiscal Year Ending June 30</b>	<b><u>General Obligation Bonds<sup>1</sup></u></b>		<b><u>Other Tax Supported Debt Obligations</u></b>		<b><u>Total<sup>3</sup></u></b>
	<b><u>Principal</u></b>	<b><u>Interest<sup>2</sup></u></b>	<b><u>Principal</u></b>	<b><u>Interest</u></b>	
2019					
2020					
2021					
2022					
2023					
2024					
2025					
2026					
2027					
2028					
2029					
2030					
2031					
2032					
2033					
2034					
2035					
2036					
2037					
2038					
2039-2049					
Total					

Source: Fairfax County Department of Management and Budget

<sup>1</sup> Does not include debt service on the Bonds.

<sup>2</sup> Does not reflect anticipated payments by the United States Treasury with respect to the County's Public Improvement Bonds Series 2009E (Federally Taxable - Build America Bonds).

<sup>3</sup> Totals may not add due to rounding.

## Sewer Revenue Bonds

Beginning in 1986, the County has issued several series of bonds under the General Bond Resolution for the benefit of the County's sewage collection, treatment and disposal systems (the "System"), including \$104,000,000 Sewer Revenue Bonds, Series 1996 (the "1996 Bonds") issued to provide funds for paying a portion of the costs of certain additions, extensions and improvements to the System. The County also issued \$94,005,000 Sewer Revenue Refunding Bonds, Series 2004 (the "2004 Bonds") on October 14, 2004, to provide funds, with other available funds, to refund the \$91,430,000 of the County's outstanding 1996 Bonds that were scheduled to mature on and after July 15, 2007. On June 17, 2009, the County issued \$152,255,000 Sewer Revenue Bonds, Series 2009 (the "2009 Bonds") to provide funds to finance capital improvements for the benefit of the System as well as for the purchase of additional wastewater capacity for the benefit of the County. On August 8, 2012, the County issued \$90,710,000 Sewer Revenue Bonds, Series 2012 (the "2012 Bonds") to provide funds to pay a portion of capital improvement costs allocable to the County at certain wastewater treatment facilities that are owned by, or that provide service to, the County which were required by the Commonwealth's Department of Environmental Quality to reduce the total nitrogen discharge to newly required limits, the purchase of additional capacity at certain wastewater treatment facilities for the benefit of the County and the costs of certain additions, extensions and improvements to the County's sewage collection, treatment and disposal systems. On April 16, 2014, the County issued \$61,755,000 Sewer Revenue Refunding

Bonds, Series 2014 to refund the outstanding 2004 Bonds. In addition, on May 16, 2016, the County issued \$164,450,000 Sewer Revenue Refunding Bonds, Series 2016A to refund the outstanding 2009 Bonds that were scheduled to mature on and after July 15, 2019, and a portion of the outstanding 2012 Bonds that were scheduled to mature on and after July 15, 2021. On June 28, 2017, the County issued \$85,785,000 Sewer Revenue Bonds to provide funds to pay the costs of certain additions, extensions and improvements to the County's sewage collection, treatment and disposal systems, paying capital improvement costs allocable to the County at certain wastewater treatment facilities that provide service to the County and, if necessary purchasing additional capacity at certain wastewater treatment facilities for the benefit of the County.

Wastewater treatment capacity and services are also provided to the Integrated Sewer System pursuant to contracts with Arlington County, the Alexandria Renew Enterprises ("ARE"), the District of Columbia, and the Upper Occoquan Sewage Authority ("UOSA"), whereby the County is obligated to share the capital costs and associated debt service of certain facilities. The County's obligations to such entities are payable solely from the revenues of the Integrated Sewer System on a basis, under the General Bond Resolution, subordinate to its sewer revenue bonds, and are not general obligations of the County.

The County has entered into a service agreement with ARE that obligates the County for 60% of the cost of capacity of the ARE wastewater treatment plant and a joint use system, including debt service on ARE bonds issued for ARE system improvements where the County does not otherwise provide for its share of the capital cost of such improvements. The County's share of previous upgrades was \$200 million. The County's share of additional upgrades, as estimated by ARE, is approximately \$80 million. The County obtained permanent funding from the Virginia Water Facilities Revolving Fund in FY 2001 and again in FY 2002 for a portion of its share of the initial costs from the proceeds of two loans aggregating \$90 million. The County issued to the Virginia Water Facilities Revolving Fund the County's \$40 million subordinated sewer revenue bonds which now bear interest at the rate of 0.95% per annum and \$50 million subordinated sewer revenue bonds which now bear interest at the rate of 0.95% per annum, in evidence of its obligation to repay the loans. The County expects to provide the balance of its share of the costs of ARE's improvement project from other borrowings and available Integrated Sewer System funds.

UOSA issued regional sewer system revenue refunding bonds in November 2013, May 2013, February 2007, and November 2004 to refund certain of its outstanding bonds. In 2010 and 2007, UOSA issued \$85.2 million and \$119.7 million of Regional Sewer System Revenue Bonds, of which the County's share of the par amount of such debt is \$34.1 million and \$53.9 million, respectively, to finance the cost of certain capital improvements. In fiscal year 2012, UOSA entered into two loans to fund costs related to an energy service project and phase 1 of a nutrient compliance improvement project, respectively. In fiscal years 2014, 2015 and 2016, UOSA refinanced bonds issued in 2007. As of June 30, 2017, the County's share of UOSA's outstanding debt is \$242.6 million.

The debt service on the County's outstanding sewer revenue bonds, its subordinated sewer revenue bonds payable to the Virginia Water Facilities Revolving Fund evidencing loans for a portion of the County's costs associated with the ARE improvement project, and its subordinated obligations payable for capacity under its contract with UOSA, as of June 30, 2017, is reflected in the following table:

<b>Fiscal Year Ending June 30</b>	<b><u>Sewer Revenue Bonds</u></b>		<b><u>Other Sewer Debt Service Obligations</u></b>		<b><u>Total</u><sup>3</sup></b>
	<b><u>Principal</u></b>	<b><u>Interest</u></b>	<b><u>SRF/VRA</u><sup>1</sup></b>	<b><u>UOSA</u><sup>2</sup></b>	
2019					
2020					
2021					
2022					
2023					
2024					
2025					
2026					
2027					
2028					
2029					
2030					
2031					
2032					
2033					
2034					
2035					
2036					
2037					
2038					
2039-2049					
Total					

Source: Fairfax County Department of Public Works and Environmental Services

<sup>1</sup> Debt service on the County's subordinated sewer revenue bonds issued to the Virginia Water Facilities Revolving Fund evidencing the County's obligation to repay \$90 million in loans made to the County by Virginia Resources Authority from the Fund.

<sup>2</sup> Based on the County's share of scheduled UOSA debt service. Does not reflect any anticipated payments by the United States Treasury on outstanding UOSA Build America Bonds.

<sup>3</sup> Totals may not add due to rounding.

## Debt Ratios

The following data show trends in the relationship of the general obligation bond indebtedness of the County to the estimated market value of taxable property in the County and to its estimated population and the trend of general obligation debt service requirements as a percentage of General Fund disbursements.

**Trend of Debt as a Percentage of  
Estimated Market Value of Taxable Property (in 000s)**

<b><u>Fiscal Year Ended June 30</u></b>	<b><u>Bonded Indebtedness<sup>1</sup></u></b>	<b><u>Estimated Market Value<sup>2</sup></u></b>	<b><u>Percentage</u></b>
2009	\$2,131,273	\$244,973,908	0.87%
2010	2,318,699	222,951,827	1.04
2011	2,554,051	204,324,080	1.25
2012	2,734,135	210,318,077	1.30
2013	2,514,452	211,298,487	1.19
2014	2,766,717	224,369,644	1.23
2015	2,770,822	236,403,666	1.17
2016	2,750,573	244,397,085	1.13
2017	2,766,149	251,724,115	1.13
2018 <sup>3</sup>	3,002,833	252,978,261	1.19

Sources: Fairfax County Comprehensive Annual Financial Report FY 2009-2017 and Department of Finance; FY 2018 Adopted Budget Plan.

<sup>1</sup> Bonded Indebtedness beginning with Fiscal Year 2013 included herein differs from the data shown in Tables 3.1, 3.2 and 3.4 of the Statistical Section of the County's Comprehensive Annual Financial Report based on the treatment of bond premium and discounts. In the Comprehensive Annual Financial Report, beginning with Fiscal Year 2013, Bonded Indebtedness represents principal outstanding plus unamortized premium (minus unamortized discount). In the table above, Bonded Indebtedness is based on outstanding principal without adjustment for unamortized premium or discount. The total includes General Obligation Bonds and other tax supported debt payable from the General Fund including the County's obligation to make payments with respect to "Other Tax Supported Debt Obligations."

<sup>2</sup> Estimated market value is based on recorded values as of January 1 of the prior fiscal year, and reflects the original book value and does not reflect any adjustments made during the fiscal year.

<sup>3</sup> Estimates per the FY 2018 Adopted Budget Plan per the Fairfax County Department of Management and Budget.

**Debt Per Capita**

<b><u>Fiscal Year Ended June 30</u></b>	<b><u>Bonded Indebtedness (in 000s)<sup>1</sup></u></b>	<b><u>Estimated Population (in 000s)<sup>2</sup></u></b>	<b><u>Bonded Indebtedness Per Capita</u></b>	<b><u>Fairfax County Per Capita Income<sup>3</sup></u></b>	<b><u>Debt Per Capita as Percentage of Per Capita Income</u></b>
2009	\$2,131,273	1,074	\$1,984	\$69,241	2.87%
2010	2,318,699	1,082	2,143	67,094	3.19
2011	2,554,051	1,101	2,320	64,637	3.59
2012	2,734,135	1,119	2,443	68,847	3.55
2013	2,514,452	1,131	2,223	71,607	3.10
2014	2,766,717	1,138	2,431	71,752	3.39
2015	2,770,822	1,142	2,426	75,007	3.23
2016	2,750,573	1,139	2,415	75,007	3.21
2017 <sup>4</sup>	2,766,149	1,142	2,565	75,007	3.23
2018 <sup>4</sup>	3,002,833	1,142	2,629	75,007	3.51

Source: Fairfax County Comprehensive Annual Financial Report FY 2017

<sup>1</sup> Bonded Indebtedness beginning with Fiscal Year 2013 included herein differs from the data shown in Tables 3.1, 3.2 and 3.4 of the Statistical Section of the County's Comprehensive Annual Financial Report based on the treatment of bond premium and discounts. In the Comprehensive Annual Financial Report, beginning with Fiscal Year 2013, Bonded Indebtedness represents principal outstanding plus unamortized premium (minus unamortized discount). In the table above, Bonded Indebtedness is based on outstanding principal without adjustment for unamortized premium or discount. The total includes General Obligation Bonds and other tax supported debt payable from the General Fund including the County's obligation to make payments with respect to "Other Tax Supported Debt Obligations."

<sup>2</sup> U.S. Census Bureau, 2010 Decennial Censuses, U. S. Census Bureau Annual Estimates of the Resident Population: April 1, 2010, to July 1, 2015.) 2017 and 2018 estimates not yet available.

<sup>3</sup> Source: Bureau of Economic Analysis (BEA), U.S. Department of Commerce, 2008-2014 and Fairfax County Department of Management and Budget 2015-2018.

<sup>4</sup> Estimates per the FY 2018 Adopted Budget Plan per the Fairfax County Department of Management and Budget.

**Debt Service Requirements as a  
Percentage of General Fund Disbursements (in 000s)**

<b>Fiscal Year Ended June 30</b>	<b>Debt Service Requirements<sup>1</sup></b>	<b>General Fund Disbursements</b>	<b>Percentage</b>
2009	\$276,105	\$3,354,860	8.23%
2010	277,370	3,309,905	8.38
2011	285,551	3,343,689	8.54
2012	288,302	3,419,953	8.43
2013	289,714	3,533,098	8.20
2014	295,451	3,637,841	8.12
2015	313,969	3,729,625	8.42
2016	323,859	3,860,655	8.39
2017	313,389	4,005,845	7.82
2018 <sup>2</sup>	354,177	4,103,205	8.63

Source: Fairfax County Comprehensive Annual Financial Report FY 2017

<sup>1</sup> The Debt Service Requirements include total principal and interest payments on the County's outstanding tax supported debt obligations, including all debt listed under the heading "Other Tax Supported Debt Obligations."

<sup>2</sup> Estimates per the FY 2018 Adopted Budget Plan per Fairfax County Department of Management and Budget. Fiscal year property taxes are levied on prior year assessments.

**Underlying Bonded Indebtedness**

The following table shows the underlying bonded indebtedness of towns within the boundaries of Fairfax County as of June 30, 2017:

Town of Vienna <sup>1</sup>	General Obligation Bonds and Capital Leases	\$22,937,284
Town of Herndon <sup>1</sup>	General Obligation and Public Improvement Notes	<u>12,179,500</u>
Total Underlying Bonded Indebtedness		<u>\$35,116,784</u>

Source: Fairfax County Comprehensive Annual Financial Report FY 2017

<sup>1</sup> Underlying Bonded Indebtedness for Fiscal Year 2017 included herein differs from the data shown in Tables 3.1, 3.2 and 3.4 of the Statistical Section of the County's Comprehensive Annual Financial Report based on the treatment of bond premium and discounts. In the Comprehensive Annual Financial Report, beginning with FY 2013, Bonded Indebtedness represents principal outstanding plus unamortized premium (minus unamortized discount). In the table above, Bonded Indebtedness is based on outstanding principal without adjustment for unamortized premium or discount.

This underlying bonded indebtedness are obligations of the respective towns only and are not obligations of Fairfax County.

The bonds, notes and other obligations of Fairfax Water, the Fairfax County Park Authority, the Fairfax County Industrial Development Authority, the Fairfax County Economic Development Authority, the Fairfax County Redevelopment and Housing Authority, the Northern Virginia Health Center Commission, the Northern Virginia Transportation Commission, and the Mosaic District Community Development Authority are not obligations of the County.

### TAX BASE DATA

Fairfax County annually reassesses over 350,000 parcels of real property employing a computer assisted mass reassessment program for both residential and non-residential properties. The County uses a statistic called the coefficient of dispersion (the “Coefficient of Dispersion”) which measures the uniformity of assessment to sale ratios among properties. The lower the coefficient of dispersion, the more uniform the assessment. The overall Coefficient of Dispersion in Fairfax County for tax year 2015 (FY 2016) was 3.5%, and the assessment to sales price ratio was 0.948. A Coefficient of Dispersion of 15% is considered good by professional assessing standards. The County falls into the excellent category, indicating a high degree of assessment uniformity and equity.

The assessed value for FY 2018 of the real estate tax base, as reported for calendar year 2017 assessments in the main tax book for Fairfax County, increased by 1.8% in value from the prior year.

The data in the following five tables are presented to illustrate trends and characteristics of the assessed value of real and personal property which are major sources of County-derived revenue.

#### Assessed Value of All Taxable Property<sup>1</sup>

<u>Fiscal Year</u>	<u>Real Property</u>	<u>Personal Property</u>	<u>Total</u>
2009	\$226,983,531,614	\$15,516,080,309	\$242,499,611,923
2010	204,047,166,164	14,502,191,112	218,549,357,276
2011	185,755,271,151	14,767,968,334	200,523,239,485
2012	192,062,068,734	15,265,499,862	207,327,568,596
2013	198,178,754,789	16,053,881,534	214,232,636,323
2014	205,045,008,994	16,420,356,751	221,465,365,745
2015	216,832,912,747	16,518,808,610	233,351,721,357
2016	224,411,716,328	16,895,179,834	241,306,896,162
2017 <sup>2</sup>	231,053,798,265	17,349,492,361	248,403,290,626
2018 <sup>2</sup>	235,375,468,249	17,602,793,390	252,978,261,639

*Source:* Fairfax County Department of Tax Administration and Department of Management and Budget. All years included figures for the Public Service Corporation. All Public Service Corporation real property assessments are required under Virginia law to be made at 100% of estimated market value annually by the State Corporation Commission.

<sup>1</sup>Figures are net of exonerated assessments and tax relief for the elderly and disabled.

<sup>2</sup>Estimates per the FY 2017 Revised Budget Plan and FY 2018 Adopted Budget Plan per Fairfax County Department of Management and Budget. Fiscal year property taxes are levied on prior year assessments.

**Tax Rates per \$100 Assessed Value  
(Fiscal Year)**

Tax Category	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Real Estate – Regular and Public Service	\$0.92	\$1.04	\$1.09	\$1.07	\$1.075	\$1.085	\$1.09	\$1.09	\$1.13	\$1.13
Personal Property – Regular	4.57	4.57	4.57	4.57	4.57	4.57	4.57	4.57	4.57	4.57
Personal Property – Public Service	0.92	1.04	1.09	1.07	1.075	1.085	1.09	1.09	1.13	1.13
Personal Property – Machinery and Tools	4.57	4.57	4.57	4.57	4.57	4.57	4.57	4.57	4.57	4.57
Personal Property – Development	4.57	4.57	4.57	4.57	4.57	4.57	4.57	4.57	4.57	4.57
Personal Property – Mobile Homes	0.92	1.04	1.09	1.07	1.075	1.085	1.09	1.09	1.13	1.13
Personal Property – Special <sup>1</sup>	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01

Sources: Fairfax County Adopted Budgets, FY 2009-FY 2017 and FY 2018 Adopted Budget Plan

<sup>1</sup> Includes vehicles specially equipped for the handicapped, privately owned vans used for van pools, vehicles belonging to volunteer fire and rescue squad members, vehicles owned by auxiliary police and reserve deputy sheriffs, certain property of homeowners associations, antique cars, aircraft, including flight simulators, and motor vehicles owned by qualified elderly or disabled individuals, and boats.

**Commercial-Industrial Percentage of the  
Total Assessed Value of Real Property<sup>1</sup>**

<u>Fiscal Year<sup>2</sup></u>	<u>Percent (%)<sup>3</sup></u>
2009	21.06
2010	22.67
2011	19.70
2012	19.64
2013	20.77
2014	19.96
2015	19.01
2016	18.67
2017	18.89
2018	19.12

Source: Fairfax County Department of Tax Administration

<sup>1</sup> Assessed values are reported by State of Virginia Land Use Codes. Vacant land is defined according to zoning classification.

<sup>2</sup> Fiscal year property taxes are levied on prior year assessments.

<sup>3</sup> Includes the Towns of Vienna, Herndon and Clifton.

The following data show the assessed value of real property of the 25 largest holders of real property in the County as of January 1, 2017.

**Top 25  
Holders of Real Property in Fairfax County  
As of January 1, 2017**

<b>Rank</b>	<b>Property Owner</b>	<b>Property Type</b>	<b>Total Assessment<sup>1</sup></b>
1	Tysons Corner Property Holdings LLC	Tysons Corner Regional Shopping Mall	\$1,376,257,960
2	Pr Springfield Town Center LLC	Springfield Town Center	597,030,680
3	Capital One Bank	Office	524,313,260
4	US Bank National Association	Office	515,886,820
5	Fairfax Company Of Virginia LLC	Fair Oaks Mall	466,683,300
6	Camden Summit Partnership LP	Apartments	351,573,180
7	Washington Gas Light Company	Public Utility	321,508,844
8	Federal Home Loan Mortgage Corporation	Office	311,075,800
9	Homart Newco One Inc	Commercial & Industrial	301,531,350
10	Reston Town Center Property LLC	Commercial & Retail	300,421,890
11	South Office Market LLC	Office	285,527,090
12	Ps Business Parks LP	Industrial Parks	251,879,350
13	Hyundai Able Patriots Park LLC	Commercial & Industrial	247,021,180
14	Tysons Corner Office I LLC	Office	235,501,060
15	Home Properties Mount Vernon LLC	Apartments and Office	225,090,580
16	Rbdw Avant LLC	Office	224,357,820
17	WashReit Riverside Apartments LLC	Apartments	224,198,140
18	Tamames 7950 Owner LLC	Office	217,515,490
19	Writ LP	Commercial & Industrial	215,955,830
20	Dunn Loring Development Company LLC	Commercial & Retail	191,162,520
21	Mitre Corporation	Office	190,082,460
22	Tysons Corner Residential	Apartments and Office	187,237,670
23	Eqr-Skyline Towers LLC	Apartments and Office	184,781,180
24	Gba Associates Limited Partnership	Office	183,616,340
25	Two Freedom Square LLC	Office	176,918,140
<b>Total</b>			<b>\$8,307,127,934</b>

Source: Fairfax County Department of Tax Administration, January 1, 2017, tax rolls

<sup>1</sup> As of January 1, 2017, the assessed value of the real property of the 25 largest holders of real property in the County represented 3.53% of the total assessed value of all real property in Fairfax County, excluding tax-exempt properties. January 1, 2017, assessments generate tax revenue in FY 2018.

**Real and Personal Property  
Tax Levies and Tax Collections**

<b>Fiscal Year</b>	<b>Total Levy<sup>1</sup></b>	<b>Current Collections<sup>2</sup></b>	<b>% of Total Levy Collected<sup>3</sup></b>	<b>Collection of Delinquent Taxes</b>	<b>Total Current &amp; Delinquent Taxes<sup>4</sup></b>	<b>% of Total Levy &amp; Delinquent Taxes</b>
2009	\$2,616,413,372	\$2,597,768,048	99.29	\$23,406,200	\$2,621,174,248	100.18
2010	2,617,630,834	2,611,825,961	99.78	21,900,682	2,633,726,643	100.61
2011	2,529,322,489	2,519,767,097	99.62	22,696,208	2,542,463,305	100.52
2012	2,578,579,112	2,563,131,721	99.40	22,034,282	2,585,166,003	100.26
2013	2,685,186,192	2,679,668,935	99.79	18,659,978	2,698,328,913	100.49
2014	2,789,010,004	2,776,199,493	99.54	21,735,390	2,797,934,883	100.32
2015	2,932,029,373	2,926,228,317	99.80	23,425,378	2,949,653,695	100.60
2016	3,027,718,274	3,019,636,276	99.73	21,161,598	3,040,797,874	100.43
2017	3,210,450,869	3,189,385,196	99.34	22,014,102	3,211,399,298	100.03
2018	3,264,983,544	3,249,807,986	99.54	22,714,102	3,272,522,088	100.23

*Sources:* Fairfax County Department of Management and Budget and Department of Tax Administration

<sup>1</sup> The total levy is the levy for General Fund real and personal property taxes and does not include the property tax levy for Special Revenue Funds, e.g. for refuse collection and community centers.

<sup>2</sup> Current collections do not include tax collections for the Special Revenue Funds or payments in lieu of taxes. As a result of revised accounting procedures, the collection of penalty and interest payments for late payments of current taxes is included in the collection of current taxes rather than under the collection of back taxes.

<sup>3</sup> The percentage of levy is not the collection rate since current collections also include penalty and interest payments for late payments of current taxes.

<sup>4</sup> FY 2009 through FY 2016 from Fairfax County Comprehensive Annual Financial Reports; FY 2017 and FY 2018 are estimates per the FY 2017 Revised Budget Plan and FY 2018 Adopted Budget Plan per Fairfax County Department of Management and Budget and Department of Tax Administration.

Section 58.1-3916 of the Code of Virginia authorizes Fairfax County, pursuant to Section 4-10-1 of the County Code, to impose a penalty of 10% for failure to pay taxes when due, with interest to be due on such taxes and penalty following the day such taxes are due at the rate of 10% per annum the first year and at the greater of 10% per annum and the rate established pursuant to Section 6621 of the Internal Revenue Code for the second and subsequent years of delinquency.

**FINANCIAL INFORMATION**

**Five Year Summary of Revenues, Expenditures and Fund Balances for the General Fund**

The financial data shown in the following table represent a summary for the five fiscal years ended June 30, 2017, of the revenues, expenditures, and fund balances accounted for in the County's General Fund.

	Fiscal Years Ended June 30				
	2013	2014	2015	2016	2017
<b>REVENUES</b>					
Taxes	\$3,008,000,381	\$3,091,497,604	\$3,233,977,029	\$3,327,545,952	\$3,516,899,229
Permits, fees, and licenses	38,201,352	39,351,756	45,545,990	48,443,054	52,201,079
Intergovernmental	339,758,071	345,208,093	344,894,850	352,320,212	356,846,491
Charges for services	68,546,107	69,207,776	71,273,201	79,086,734	81,264,762
Fines and forfeitures	16,792,348	16,669,844	16,298,999	14,566,333	15,947,672
Developers' contributions	10,473	14,906	5,757	225,101	-
Use of money and property	18,554,603	15,033,510	15,701,691	22,679,412	31,325,447
Recovered costs	7,695,967	9,426,879	11,655,234	9,423,456	8,960,041
Gifts, donations, and contributions	<u>1,294,507</u>	<u>771,379</u>	<u>916,287</u>	<u>969,583</u>	<u>890,976</u>
<b>Total revenues</b>	<u>\$3,498,853,809</u>	<u>\$3,587,181,747</u>	<u>\$3,740,269,038</u>	<u>\$3,855,259,837</u>	<u>\$4,064,335,697</u>
<b>EXPENDITURES</b>					
Current:					
General government administration	\$165,846,296	\$163,828,478	\$162,063,387	\$159,574,082	\$158,210,278
Judicial administration	44,865,364	49,302,583	52,120,422	54,237,643	56,018,395
Public safety	581,786,118	620,073,326	634,174,750	646,258,835	673,290,385
Public works	79,745,099	86,012,739	84,038,207	88,201,178	90,215,133
Health and welfare	349,735,140	352,430,786	362,016,707	381,760,426	391,618,833
Community development	49,760,626	55,705,696	57,331,723	60,981,469	62,174,038
Parks, recreation, and cultural	37,985,735	35,409,661	34,297,699	36,311,287	36,528,547
Intergovernmental:					
Community development	9,989,987	10,382,091	10,492,636	10,746,095	10,988,449
Parks, recreation, and cultural	29,591,048	31,427,759	31,114,997	31,502,197	33,129,930
Education - for Public Schools	1,683,462,921	1,717,128,761	1,768,588,028	1,838,341,763	1,926,706,345
Capital outlay:					
General government admin.	9,623,346	9,073,520	11,071,093	13,020,325	11,545,792
Judicial administration	167,696	54,113	225,921	40,493	5,720
Public safety	297,806	675,118	1,388,288	7,726,916	1,851,101
Public works	614,691	106,271	128,823	265,695	247,960
Health and welfare	628,993	213,352	319,412	136,984	483,077
Community development	19,684	27,670	7,318	44,570	7,495
Parks, recreation, and cultural	3,564,993	3,919,566	4,275,727	4,878,597	3,676,970
Debt service:					
Principal retirement	347,692	362,258	314,660	228,213	857,156
Interest and other charges	<u>52,732</u>	<u>38,166</u>	<u>22,987</u>	<u>9,767</u>	<u>68,367</u>
<b>Total expenditures</b>	<u>\$3,048,085,967</u>	<u>\$3,136,171,914</u>	<u>\$3,213,992,785</u>	<u>\$3,334,266,535</u>	<u>\$3,457,623,971</u>
<b>Revenues over (under) expenditures</b>	\$450,767,842	\$451,009,833	\$526,276,253	\$520,993,302	\$606,711,726
<b>OTHER FINANCING SOURCES (USES)</b>					
Transfers in	\$10,030,457	\$24,195,595	\$12,473,516	\$14,363,192	\$21,572,105
Transfers out	(485,201,216)	(501,669,578)	(515,632,051)	(526,388,805)	(548,220,839)
Capital Leases	-	-	-	6,502,955	-
<b>Total other financing sources (uses)</b>	<u>\$(475,170,759)</u>	<u>\$(477,473,983)</u>	<u>\$(503,158,535)</u>	<u>\$(505,522,658)</u>	<u>\$(526,648,734)</u>
Net change in fund balances	(24,402,917)	(26,464,150)	23,117,718	15,470,644	80,062,992
Beginning Fund Balance	353,671,166	329,268,249	302,804,099	325,921,817	341,392,461
Ending Fund Balance	\$329,268,249	\$302,804,099	\$325,921,817	\$341,392,461	\$421,455,453

Source: Fairfax County Comprehensive Annual Financial Reports for the fiscal years ended June 30, 2013-2017, Exhibit A-3 - Statement of Revenues, Expenditures, and Changes in Fund Balances for Governmental Funds.

## Financial Policies

The Board of Supervisors has been guided by long-standing financial policies and guidelines in the conduct of financial management. The governing statement of financial policy is contained within the Ten Principles of Sound Financial Management (“Ten Principles”). Adopted by the Board of Supervisors in 1975 and amended as needed to address changing economic conditions and management practices, the Ten Principles have been reaffirmed and have guided each succeeding Board of Supervisors to establish strong fiscal management tools and practices. The Ten Principles provide for the integration of land use planning with capital and operating budgets; establish guidelines for the development of annual balanced budgets; stress the importance of maintaining positive cash balances; establish firm not to exceed limits to debt ratios; provide guidance on cash management, internal controls, and performance measurement; provide guidelines restricting the proliferation of underlying debt and use of moral obligation financing; and encourage the development of a diversified economy within the County.

In 1982, the Board of Supervisors adopted a financial policy requiring maintenance of a “managed reserve” in the General Fund beginning on July 1, 1982, at a level not less than 2% of General Fund disbursements. This reserve has been incorporated in the budget each fiscal year. This reserve was implemented to provide for temporary financing of unforeseen needs of an emergency nature and to permit orderly adjustment to changes resulting from termination of revenue sources through actions of other governmental bodies. In 1985, the Board of Supervisors adopted a policy on appropriations during quarterly budget reviews, which provides that non-recurring revenues should be used for either capital expenditures or other non-recurring expenditures and that quarterly review adjustments are not to exceed 2% of the General Fund disbursements. In addition, on September 13, 1999, the Board of Supervisors established a Revenue Stabilization Fund with a goal of reaching 3% of General Fund disbursements. As of the FY 2006 Third Quarter Review, the Revenue Stabilization Fund was fully funded at 3% of General Fund disbursements. This reserve is designed to address ongoing requirements in years of significant economic downturn. Criteria for withdrawals from the Revenue Stabilization Fund include (1) projected revenues must reflect a decrease of greater than 1.5% from the current fiscal year estimate, (2) withdrawals must not exceed one-half of the fund balance in any fiscal year, and (3) withdrawals must be used in combination with spending cuts or other measures.

From time to time the Board of Supervisors has amended the Ten Principles in order to address changing economic conditions and management practices. Changes adopted on April 21, 2015, reflect the Board’s commitment to increasing the County’s reserve policies and to continue to strengthen the County’s financial position. The Managed Reserve target was increased from 2% to 4% of General Fund disbursements and the Revenue Stabilization Fund target was increased from 3% to 5% of General Fund Receipts. In addition, an Economic Opportunity Reserve was established to stimulate economic growth and will provide for strategic investment opportunities that are identified as priorities by the Board of Supervisors. When fully funded, this reserve will equal 1% of total General Fund disbursements in any given fiscal year. Funding for this reserve would only occur after the Managed Reserve and the Revenue Stabilization Fund are fully funded at their new levels of 4% and 5%, respectively. Funding of this increase will begin immediately; however, it will take several years to fully fund the new target level. As of June 30, 2017, the Managed Reserve and Revenue Stabilization Fund were funded at \$110.7 million and \$178.7 million, respectively.

Other policies and tools that have been designed to enhance the impact of the Ten Principles include annual adoption of budgetary guidelines, formal establishment of various expenditure, revenue, and special purpose reserves, capital improvement planning guidelines, policies for risk management, guidelines for acceptance of grant awards, and planning for information technology. Various tools in active use by the County include the annual budget, the Capital Improvement Program, revenue and

financial forecasts, and management initiatives such as a performance measurement program, a pay-for-performance management system, workforce planning, and various information technology initiatives.

## **Certain Financial Procedures**

### *Description of Funds*

The County's annual audited financial statements include the funds administered by the Board of Supervisors and the School Board. The accounts of the County are organized on the basis of funds, each of which is considered to be a separate accounting entity. The transactions in each fund are accounted for by providing a separate set of self-balancing accounts which comprise its assets, liabilities, fund balance, revenues, and expenditures.

### *Annual Financial Statements*

The County has no legal authority to borrow in anticipation of future years' revenues, except by the issuance of bonds or bond anticipation notes.

Prior to the beginning of each fiscal year, the Board of Supervisors adopts a budget plan consisting of contemplated expenditures and estimated revenues for such fiscal year. On the basis of the adopted budget plan, the Board of Supervisors appropriates funds for the expenditures, and establishes tax rates sufficient to produce the revenues, contemplated in the budget plan.

The annual budgeting process for a fiscal year begins in the first quarter of the previous fiscal year with the submission by agency directors of budget requests to the Department of Management and Budget. During the second quarter, budget requests are reviewed and meetings between the County Executive, Deputy County Executives, and agency directors are held to discuss agency requests. Upon receipt of the preliminary budget of the School Board in the third quarter, the County Executive prepares an initial budget for submission to the Board of Supervisors and proposes tax rates sufficient to produce revenues needed to meet expenditures contemplated in the initial budget. After work sessions with the Board of Supervisors and public hearings on the proposed budget, changes are made and the final budget is adopted. Tax rates are established prior to the beginning of the fiscal year for which the budget is prepared.

During the fiscal year, quarterly reviews of revenue and expenditures are undertaken by the County Department of Management and Budget. On the basis of these reviews, the Board of Supervisors revises appropriations as needed or desired.

In 1982, the Board of Supervisors adopted a financial policy requiring maintenance of a "managed reserve" in the General Fund beginning on July 1, 1982, at a level not less than 2% of General Fund disbursements. This reserve has been incorporated in the budget each fiscal year. This reserve was implemented to provide for temporary financing of unforeseen needs of an emergency nature and to permit orderly adjustment to changes resulting from termination of revenue sources through actions of other governmental bodies. In 1985, the Board of Supervisors adopted a policy on appropriations during quarterly budget reviews, which provides that non-recurring revenues should be used for either capital expenditures or other non-recurring expenditures and that quarterly review adjustments are not to exceed 2% of the General Fund disbursements. In addition, on September 13, 1999, the Board of Supervisors established a Revenue Stabilization Fund with a goal of reaching 3% of General Fund disbursements. As part of the adoption of the FY 2016 Adopted Budget Plan, the Board of Supervisors updated the County's *Ten Principles of Sound Financial Management* to increase the reserve targets for both the Revenue Stabilization Reserve and the Managed Reserve. The target level of the Revenue Stabilization Reserve

was increased from 3% to 5% of General Fund disbursements, and the target level of the Managed Reserve was increased from 2% to 4% of General Fund disbursements. The Revenue Stabilization Fund is fully funded and currently totals \$178.7 million. This reserve is designed to address ongoing requirements in years of significant economic downturn. Criteria for withdrawals from the Revenue Stabilization Fund include (1) projected revenues must reflect a decrease of greater than 1.5% from the current fiscal year estimate, (2) withdrawals must not exceed one-half of the fund balance in any fiscal year, and (3) withdrawals must be used in combination with spending cuts or other measures.

### **Investment Management Policy**

The County's Division of Investments and Cash Management operates under the direction of the Investment Committee comprised of the Chief Financial Officer/Director of the Department of Management and Budget, the Director of the Department of Finance, the Director of the Department of Tax Administration, and the Deputy Director of the Department of Finance. Guided by a formal investment policy, the Committee continually reviews the County's investment policies and strategies and monitors daily investment activity.

During FY 2017, the County's average portfolio size (which includes investments in the General Fund, Special Revenue Funds, and Enterprise Funds) was approximately \$2.96 billion. The funds are invested in U.S. Treasury obligations, obligations of the Federal Home Loan Mortgage Corporation, Federal Home Loan Banks, Federal Farm Credit Bank, and Fannie Mae, bankers' acceptances, commercial paper (rated A1/P1 or higher), negotiable and non-negotiable and insured certificates of deposit, money market mutual funds limited to government obligations, corporate notes, bank notes, and other investments permitted under Virginia law for these purposes.

The County's investment policy, which governs the pooled cash, and general obligation bond proceeds, prohibits investment in instruments generally referred to as derivatives, and the County does not employ leverage in its investments.

The Association of Public Treasurers of the United States and Canada has awarded the County a certification for its investment policy each year since 1998. To achieve certification, an investment policy must establish standards recognized in the profession as fostering prudent management of public funds.

### **General Fund Revenues, Expenditures, Transfers and Beginning Fund Balance**

The General Fund is maintained by the County to account for revenue derived from Countywide ad valorem taxes, other local taxes, licenses, fees, permits, charges for services, certain revenue from federal and State governments, and interest earned on invested cash balances of the General Fund and Capital Project Funds. General Fund expenditures and transfers include the costs of general County government, transfers to the School Operating Fund to pay the local share of operating Fairfax County public schools, and transfers to the Debt Service and Capital Projects Funds to pay debt service on County general obligation bonds and for certain capital improvement projects.

### **General Fund Summary**

Shown below are the County's revenues, expenditures, transfers, and beginning fund balance of the General Fund for FY 2013 through FY 2017.

**General Fund Revenues, Transfers In, and Beginning Fund Balance**

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
General Property Taxes	\$2,477,039,967	\$2,576,653,463	\$2,727,409,751	\$2,818,183,929	\$3,003,139,306
Other Local Taxes	530,960,414	514,844,141	506,567,278	509,362,021	513,759,924
Permits, fees, and licenses	38,201,352	39,351,756	45,545,990	48,443,054	52,201,079
Intergovernmental	339,758,071	345,208,093	344,894,850	352,320,212	356,846,491
Charges for Services and Recovered Costs	76,242,074	78,634,655	82,928,435	88,510,190	90,224,803
Fines and Forfeitures	16,792,348	16,669,844	16,298,999	14,566,333	15,947,672
Use of money and property	18,554,603	15,033,510	15,701,691	22,679,412	31,325,447
Miscellaneous	1,304,980	786,285	922,044	1,194,684	890,976
Transfers In	10,030,457	24,195,595	12,473,516	14,363,192	21,572,105
Beginning Fund Balance	<u>353,671,166</u>	<u>329,268,249</u>	<u>302,804,099</u>	<u>325,921,817</u>	<u>341,392,461</u>
Total	<u>\$3,862,555,432</u>	<u>\$3,940,645,591</u>	<u>\$4,055,546,653</u>	<u>\$4,195,544,844</u>	<u>\$4,427,300,263</u>

Source: Fairfax County Comprehensive Annual Financial Reports for FY 2013-2017

**General Fund Expenditures and Transfers Out**

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Transfer to School Operating Fund	\$1,683,462,921	\$1,717,128,761	\$1,768,588,028	\$1,838,341,763	\$1,926,618,902 <sup>1</sup>
Costs of General County Government	1,474,233,561	1,529,124,187	1,557,590,972	1,612,168,270	1,657,082,620
Transfer to Debt Service Funds	281,610,137	291,165,641	310,883,333	314,950,773	326,622,753
Transfer to Capital Project Funds	17,054,569	27,636,497	37,682,606	42,315,124	37,065,093
Transfer to Metro Construction and Operations Fund	11,298,296	11,298,296	11,298,296	11,298,296	13,557,955
Other Transfers	<u>65,627,699</u>	<u>61,488,110</u>	<u>43,581,601</u>	<u>41,581,114</u>	<u>44,897,487</u>
Total	<u>\$3,533,287,183</u>	<u>\$3,637,841,492</u>	<u>\$3,729,624,836</u>	<u>\$3,860,655,340</u>	<u>\$4,005,844,810</u>

Source: Fairfax County Comprehensive Annual Financial Reports for FY 2013-2017

<sup>1</sup> Excludes the operating contribution of \$87,443 to Northern Virginia Community College.

**Revenues**

The following is a discussion of the General Fund revenue structure.

*General Property Taxes* – An annual ad valorem tax is levied by the County on the assessed value of real and tangible personal property located within the County as of January 1 preceding the fiscal year in which such tax is due. The personal property tax on motor vehicles that acquire situs within the County or have title transferred on or after January 2 is prorated on a monthly basis. Real property and personal property are assessed at 100% of fair market value. Real property taxes are due on July 28 and December 5 of the fiscal year in which they are levied. The payment date for personal property taxes is October 5. The penalty for late payment is 10% of the amount due, and interest on delinquent taxes and penalties accrues at a rate of 1% per annum for real estate taxes and 5% per annum for personal property

taxes. In cases of property on which delinquent taxes are not paid within three years, the County may sell the property at public auction to pay the amounts due. There is no legal limit at the present time on the property tax rates that may be established by the County. Property taxes (including delinquent payments, penalties, and interest) accounted for 73.9% of total General Fund revenues in FY 2017. However, this percentage does not include the reimbursement from the Commonwealth of Virginia for a portion of the personal property tax. Including the reimbursement reflected in Intergovernmental revenue, the percentage of revenue from property taxes in FY 2017 was 79.1%. A description of the Commonwealth's plan to reduce personal property taxes follows.

During its 1998 Special Session, the General Assembly of Virginia enacted legislation to reduce personal property taxes applicable to individually owned motor vehicles. The reduction, which applies to the first \$20,000 in assessed value, was scheduled to be phased in over a five year period. The legislation states that the Commonwealth will reimburse local governments for the revenue lost from the reduction in personal property tax collections. In fiscal years subsequent to the legislation personal property taxes paid by citizens steadily reduced until such reduction equaled 70% in 2002. Due to Commonwealth budget constraints, the 2003 Virginia General Assembly temporarily froze the tax reduction at 70%. The 2005 General Assembly revised this measure further to limit its tax relief payments to all localities to a total of \$950 million per tax year beginning with 2006 (fiscal year 2007). The County's fixed share of the \$950 million is \$211,313,944, as determined by its share of the total payments made to all localities by the Commonwealth during calendar years 2004 and 2005 for tax year 2004 (fiscal year 2005). The County's total personal property tax collections for FY 2017 were \$613.3 million, comprised of \$402.0 million paid by taxpayers and \$211.3 million reimbursed by the Commonwealth of Virginia as Intergovernmental Revenue.

*Other Local Taxes* – The County levies various other local taxes, including a 1% local sales tax (collected by the Commonwealth and remitted to the County), a tax on consumer utility bills based on consumption for gas and electric services and a 5% communications sales tax which is imposed on the charge for or sale of communications services. Also included in this category are a cigarette tax of \$0.30 per pack, property recordation taxes, an automobile license tax, and various businesses, professional, and occupational licenses taxes. These taxes accounted for 12.6% of total General Fund revenues in FY 2017.

*Permits, Privilege Fees, and Licenses* – The County requires that licenses or permits be obtained in order to perform certain activities in the County and that fees be paid for services provided by certain County departments. These revenues represented 1.3% of total General Fund revenues for FY 2017.

*Fines and Forfeitures* – The sources of revenue in this category include court fines and penalties from the Circuit Court and the General District Court and court fines, costs from the Juvenile and Domestic Relations District Court and fines for traffic violations, misdemeanors, and felonies. In addition, the County receives revenues from parking violations as authorized under the County Code. Revenues in this category represented 0.4% of General Fund revenues in FY 2017.

*Use of Money and Property* – The principal sources of revenue to the General Fund from the use of money and property are interest on General Fund and Capital Project Fund investments and minor amounts of revenue from the sale and lease of County equipment and property. These revenues represented 0.8% of General Fund revenues in FY 2017.

*Charges for Services and Recovered Costs* – The principal sources of revenue to the General Fund from charges for services are County Clerk fees, school age child care fees, recreation fees, publication sales and various other services for which the County charges a fee. Revenues in this category represented 2.2% of General Fund revenues in FY 2017.

*Intergovernmental Revenue* – Intergovernmental revenue is comprised of revenue from the Commonwealth, revenue from the federal government, and revenue from local government. Revenues in this category represented 8.8% of General Fund revenues in FY 2017. This percentage includes the revenue that the County receives from the Commonwealth as reimbursement for the County's personal property tax. Each revenue source within intergovernmental revenue is described below.

*Revenue from the Commonwealth* – The County is reimbursed by the Commonwealth of Virginia for a portion of shared expenses, including certain expenditures for social services, the sheriff's office, courts, the Office of the Commonwealth Attorney, and other constitutional offices. Additionally, the County receives a share of the net profits from the State Alcoholic Beverage Control Board's liquor sales and state contributions to assist in meeting law enforcement expenditures. As mentioned in the section concerning General Property Taxes, the Commonwealth also reimburses the County for a portion of its personal property tax on vehicles. Including the reimbursement for the County's personal property tax, revenues from this category represented 7.6% of total General Fund revenues in the fiscal year ended June 30, 2017. Excluding this reimbursement, revenue from this category represented 2.5% of General Fund revenue in FY 2017. The County receives a significant amount of additional State aid in support of public school operations. These revenues are credited directly to the School Operating and School Lunch Funds, however, and are not reflected in the General Fund.

*Revenue from the Federal Government* – The principal sources of categorical federal aid to the General Fund are federal grant money supporting human service programs such as supplemental nutrition, temporary assistance for needy families, foster care, adoption assistance, and medical assistance for clients of the Department of Family Services. This revenue category represented 1.1% of General Fund revenues in FY 2017.

*Revenue from Local Government* – The principal sources of local government revenues are reimbursement from the Public Schools System for school nurses and reimbursement from the Park Authority for the debt service. This revenue category represented 0.1% of General Fund revenues in FY 2017.

*Miscellaneous Revenues* – The sources of revenue in this category include the sale of land and buildings, contract rebates, and other miscellaneous sources. These revenue sources accounted for 0.02% of General Fund revenue in FY 2017.

## **Expenditures and Transfers**

The following is a discussion of the major classifications of General Fund expenditures and transfers.

*Transfer to School Operating Fund* – The County transfers money from the General Fund to the School Operating Fund to pay the County's share of the costs of operating public schools in Fairfax County. This transfer represented approximately 48.1% of total disbursements from the General Fund in the fiscal year ended June 30, 2017. The transfer to the School Operating Fund was approximately 72.5% of total receipts of the School Operating Fund. Other revenues credited directly to the School Operating and School Lunch Funds include revenue from the Federal Government, the Commonwealth of Virginia, the City of Fairfax (representing tuition of students residing in the City of Fairfax who attend Fairfax County schools), and other revenue derived locally from sale of textbooks, school lunches, etc.

*Costs of General County Government* – The County pays the costs of general County government from the General Fund. These costs include expenditures for general government administration, judicial

administration, public safety, public works, health and welfare, parks, recreational and cultural programs, and community development. This classification was approximately 41.4% of total General Fund disbursements in FY 2017.

*Transfer to Debt Service Fund* – The County transfers from the General Fund to the Debt Service Fund amounts sufficient to pay principal and interest on outstanding County and School debt including general obligation bonds and EDA and FCRHA revenue bonds. Transfers to the Debt Service Fund represented 8.2% of total General Fund disbursements in FY 2017. Effective FY 2006, Fairfax County Public Schools (FCPS) transfers from its operating fund to the County’s Debt Service Fund an amount sufficient to pay principal and interest on the applicable portion of the 2014A County Facilities Projects Bonds.

*Transfer to Capital Project Funds* – The County transfers money from the General Fund to the Capital Project Funds to pay the cost of certain capital improvements. The General Fund transfer to the Capital Project Funds (except for the General Fund transfer for Fairfax County’s obligations to WMATA, which is discussed below) represented 0.9% of total General Fund disbursements in FY 2017.

*Transfer to Metro Construction and Operations Fund* – The County is a member jurisdiction of WMATA and as such has agreed to make certain capital contributions in support of the construction by WMATA of a rail transit system to serve the Washington metropolitan area (which includes the County) and to pay a portion of the deficit incurred by WMATA in the operation of its bus system and rail system. The County generally has used bond proceeds to fund its capital contributions to WMATA and has transferred money from the General Fund to pay its share of the bus and rail operating subsidies. The General Fund transfer to the Metro Construction and Operations Fund to pay the County’s share of the system’s operating subsidies represented 0.3% of total General Fund disbursements in FY 2017. See the subsection herein entitled “GOVERNMENT SERVICES – Transportation” for a more complete discussion of the County’s obligations with respect to WMATA.

*Other Transfers* – The County transfers money from the General Fund to other funds for a variety of purposes. The General Fund transfer to other funds includes transfers to the County Transit Systems, Information Technology, Aging Grants and Programs, Community-Based Funding Pool, Housing Programs for the Elderly, Health Benefits Trust, and Equipment Management and Transportation Agency. Transfers to other funds were 1.1% of total General Fund disbursements in FY 2017.

*Transfer to Revenue Stabilization Fund* – Beginning in FY 2000, the County began setting aside money in the General Fund for a Revenue Stabilization Fund to address significant revenue reductions during severe, prolonged economic downturns. The Revenue Stabilization Fund represented 42.4% of the total fund balance in the General Fund as of June 30, 2017.

## **FY 2018 Budget**

On May 2, 2017, the Fairfax County Board of Supervisors voted to approve the FY 2018 Adopted Budget Plan. This budget is based on General Fund revenue increasing 1.94% over the FY 2017 Revised Budget Plan. The real estate tax rate of \$1.13 per \$100 of assessed value remains level over the FY 2017 Adopted Budget Plan. General Fund disbursements total \$4.11 billion, which is an increase of 0.35% or \$14.21 million from the FY 2017 Revised Budget Plan. The County transfer to support the operations and debt service requirements for the Fairfax County Public Schools is \$2.2 billion, or 52.82% of total County disbursements. Additionally, funding is provided for employee compensation as well as additional funding toward the County retirement plans. Updated budget projections through December 2017 are consistent with the FY 2018 Adopted Budget Plan.

## **FY 2019 Budget**

As of November 2017, the County projects a \$55.9 million shortfall for FY 2019, or approximately 1.4% of the FY 2018 Adopted Budget Plan. The FY 2019 budget projection contemplates funding for additional employee compensation and takes into consideration updated revenue projections. The FY 2019 budget forecast assumes no change in the current real estate tax rate of \$1.13 per \$100 of assessed value. Projected disbursements assume a 3.3% increase to the school operating transfer, increased funding for County retirement plans, and employee compensation. The County Executive's FY 2019 Advertised Budget is anticipated to be presented to the Board of Supervisors in February 2018.

## **CAPITAL IMPROVEMENT PROGRAM**

In connection with the County's adopted comprehensive land use plan, the Fairfax County Planning Commission annually prepares and submits to the Board of Supervisors a capital improvement program ("CIP") for the ensuing five-year period. The CIP is designed to balance the need for public facilities as expressed by the County's land use plan with the fiscal capability of the County to provide for those needs.

The CIP is an integral element of the County's budgeting process. The five-year document serves as a general planning guide for the construction of general purpose, school and public utility projects in the County. The CIP is updated and approved by the Board of Supervisors each year. This annual review process prompts careful attention to the development of reliable capital expenditure and revenue estimates and the timely scheduling of bond referenda.

In connection with the CIP process, the Board of Supervisors has adopted certain policy guidelines for the development and financing of the CIP. These guidelines include self-imposed restrictions on the issuance of general obligation bonds designed to keep General Fund supported debt service expenditures less than 10% of total Combined General Fund disbursements, and to maintain the ratio of bonded indebtedness to the market value of taxable property in the County at a level less than 3.0%.

The Board of Supervisors continues to review the County's debt program in light of current fiscal conditions and capital needs. Currently, general obligation bond sales for new money projects are limited to an average of \$275 million per year with a maximum limit of \$300 million in a single year. The CIP for fiscal years 2018-2022 (along with estimates for fiscal years 2023 to 2027) was approved by the Board of Supervisors on April 25, 2017. The County program includes new construction, renovation and renewal of school facilities, parks, housing development, revitalization, storm water management, public safety and courts, libraries, human services, solid waste, sewers, and transportation. Significant capital construction activity from FY 2018-2027 totaling \$9.1 billion is anticipated for the County, in addition to \$0.9 billion in regional parks and water supply projects that are undertaken within the County to benefit County residents, but is not managed or funded directly by the County. The total capital construction activity to be financed by the County totals \$10 billion from FY 2018-2027.

## **RETIREMENT SYSTEMS**

Fairfax County administers four separate public employee retirement systems that provide pension benefits for various classes of County employees: Fairfax County Employees' Retirement System (ERS), Fairfax County Police Officers Retirement System (PORS), Fairfax County Uniformed Retirement System (URS), and the Educational Employees' Supplemental Retirement System of Fairfax County (ERFC). In addition, professional employees of the Fairfax County Public Schools participate in a plan sponsored and administered by the Virginia Retirement System (VRS).

The Fairfax County retirement systems investments are managed by independent professional investment managers. Investments in derivatives are not made for speculative purposes but may be used by investment managers to gain access to markets, to reduce risk, or to reduce transaction costs.

In fiscal year 2015, the County implemented GASB No. 68, *Accounting and Financial Reporting for Pensions – an amendment of GASB Statement No. 27*. GASB Statement No. 68 establishes the standards for accounting and reporting employee pension plans including the recognition and measurement of liabilities, deferred inflows and outflows, expenses and expenditures. The tables below are presented in conformity with GASB Statement No. 68.

Membership in the reporting entity's plans consisted of the following as of the July 1, 2015, valuation date:

Description	Primary Government			Component Unit – Public Schools
	ERS	PORS	URS	ERFC
Retirees and beneficiaries receiving benefits	8,189	1,039	1,256	11,367
Terminated employees entitled to, but not yet receiving, benefits	1,858	47	61	4,446
Deferred Retirement Option Plan participants	691	75	123	N/A
Active employees	14,171	1,319	1,948	21,748
<b>Total number of plan members</b>	<b>24,909</b>	<b>2,480</b>	<b>3,388</b>	<b>37,561</b>

Source: Fairfax County Comprehensive Annual Financial Report for FY 2017

## Fairfax County Employees' Retirement System (ERS)

### Plan Description

The Fairfax County Employees' Retirement System (ERS) is a legally separate single-employer defined benefit pension plan established under the Code of Virginia which covers only employees of the reporting entity. The plan covers full-time and certain part-time employees of the reporting entity who are not covered by other plans of the reporting entity or the VRS. This is the only plan that provides pension benefits to both the primary government and component units. The balances have been allocated in the financial statements as follows: County 67.3 percent including business type activities, FCPS 27.2 percent, EDA 0.5 percent, FCRHA 1.6 percent, FCPA 3.4 percent of all totals.

Benefit provisions are established and may be amended by County ordinances. All benefits vest at five years of creditable service. To be eligible for normal retirement, an individual must meet the following criteria: (a) attain the age of 65 with five years of creditable service, or (b) attain the age of 50 with age plus years of creditable service being greater than or equal to 80. The normal retirement benefit is calculated using average final compensation (i.e., the highest 78 consecutive two week pay periods or the highest 36 consecutive monthly pay periods) and years (or partial years) of creditable service at date of termination. In addition, if normal retirement occurs before Social Security benefits are scheduled to begin, an additional monthly benefit is paid to retirees. The plan provides that unused sick leave credit may be used in the calculation of average final compensation by projecting the final salary during the unused sick leave period. The benefit for early retirement is actuarially reduced and payable at early termination.

### *Funding Policy*

All contribution requirements for ERS are established and may be amended by County ordinances, including member contribution rates. Plan A and Plan C require member contributions of 4.0 percent of compensation up to the maximum Social Security wage base and 5.33 percent of compensation in excess of the wage base. Plan B and Plan D require member contributions of 5.33 percent of compensation.

The County is required to contribute at an actuarially determined rate; the rate for the year ended June 30, 2017, was 22.99 percent. Since the ERS's adjusted funded ratio (the ratio of the sum of the actuarial value of assets and commitments already made to fund changes to the actuarial accrued liability) fell below 90 percent, the contribution rate includes a margin to amortize this shortfall back to the 90 percent level. For fiscal year 2017 the amortization target was increased to 97 percent. Per the County's pension funding policy as approved by the Board of Supervisors as part of the FY 2016 Adopted Budget Plan and incorporated in the Fairfax County Code, the County will continue increasing the amortization target so that, at or before fiscal year 2020, 100 percent of the unfunded actuarial accrued liability is amortized and included in the contribution rate. The employer contribution made during the measurement period of the liability was \$155,780,373. The 2017 employer contribution totaled \$167,311,608.

### *Schedule of Changes in Net Pension Liability and Related Ratios (Dollar amounts in thousands)*

CAFR Reporting Year Measurement Date June 30 of prior year		2017
<b>Total Pension Liability</b>		
Service cost	\$	85,499
Interest		361,225
Changes in benefit terms		773
Differences between expected and actual experience		(104,260)
Changes of assumptions		68,573
Benefit payments, including refunds of member contributions		(274,902)
<b>Net change in total pension liability</b>		136,908
<b>Total pension liability – beginning</b>		4,979,660
<b>Total pension liability – ending</b>	\$	5,116,568
<b>Plan Fiduciary Net Position</b>		
Contributions – employer	\$	155,780
Contributions – member		34,627
Net investment income		(16,668)
Benefit payments, including refunds of member contributions		(274,902)
Administrative expense		(2,113)
<b>Net change in plan fiduciary net position</b>		(103,276)
<b>Plan fiduciary net position – beginning</b>		3,693,357
<b>Plan fiduciary net position – ending</b>	\$	3,590,081
<b>Net pension liability – ending</b>	\$	1,526,487
Plan fiduciary net position as a percentage of the total pension liability		70.17 %
Covered employee payroll	\$	708,415
Net pension liability as a percentage of covered employee payroll		215.48 %

Source: Fairfax County Comprehensive Annual Financial Report for FY 2017

### *Administration*

There are ten members of the ERS Board of Trustees. Four members are appointed by the Board of Supervisors. Three members are elected representing the following groups: County employees, Schools employees, and retired employees. The Fairfax County Director of Human Resources and the

Director of Finance serve as ex-officio members of the board, along with an appointee from the Fairfax County Public Schools system.

#### *Professional Services*

An independent auditor and actuary are hired to provide service to the fund.

### **Fairfax County Police Officers Retirement Systems (PORS)**

#### *Plan Description*

The Fairfax County Police Officers Retirement System (PORS) is a legally separate single-employer defined benefit pension plan established under the Code of Virginia. The plan covers County police officers who are not covered by other plans of the reporting entity or the VRS and former Park Police officers who elected to transfer to the PORS from the Uniformed Retirement System effective January 22, 1983.

Benefit provisions are established and may be amended by County ordinances. All benefits vest at five years of creditable service. To be eligible for normal retirement, an individual must meet the following criteria: (a) if employed before July 1, 1981, attain the age of 55 or have completed 20 years of creditable service, or (b) if employed on or after July 1, 1981, attain the age of 55 or have completed 25 years of creditable service. The normal retirement benefit is calculated using average final compensation and years (or partial years) of creditable service at date of termination. The plan provides that unused sick leave credit may be used in the calculation of average final compensation by projecting the final salary during the unused sick leave period. To be eligible for early retirement, the employee must have 20 years of creditable service (does not apply if hired before July 1, 1981). The benefit for early retirement is actuarially reduced and payable at early termination.

#### *Funding Policy*

All contribution requirements for PORS are established and may be amended by County ordinances, including member contribution rates. Member contributions were based on 8.65 percent of compensation at June 30, 2017.

The County is required to contribute at an actuarially determined rate; the rate for the year ended June 30, 2017, was 29.63 percent of annual covered payroll. The decision was made to commit additional funding and a rate of 38.98 percent was adopted for fiscal year 2017. Since the PORS's adjusted funded ratio (the ratio of the sum of the actuarial value of assets and commitments already made to fund changes to the actuarial accrued liability) fell below 90 percent, the contribution rate includes a margin to amortize this shortfall back to the 90 percent level. For fiscal year 2017, the amortization target was set to a 97 percent level. Per the County's pension funding policy as approved by the Board of Supervisors as part of the FY 2016 Adopted Budget Plan and incorporated in the Fairfax County Code, the County will continue increasing the amortization target so that, at or before fiscal year 2020, 100 percent of the unfunded actuarial accrued liability is amortized and included in the contribution rate. The employer contribution made for the measurement period of the liability was \$37,867,181. The employer contribution made for the measurement period of the liability was \$40,646,884. The 2017 employer contribution totaled \$43,381,151.

*Schedule of Changes in Net Pension Liability and Related Ratios (Dollar amounts in thousands)*

CAFR Reporting Year Measurement Date June 30 of prior year		2017
<b>Total Pension Liability</b>		
Service cost	\$	30,913
Interest		110,362
Differences between expected and actual experience		(30,821)
Changes in assumptions		9,895
Benefit payments, including refunds of member contributions		(70,750)
<b>Net change in total pension liability</b>		49,599
<b>Total pension liability – beginning</b>		1,510,917
<b>Total pension liability – ending</b>	\$	1,560,516
<b>Plan Fiduciary Net Position</b>		
Contributions – employer	\$	40,647
Contributions – member		9,324
Net investment income		10,764
Benefit payments, including refunds of member contributions		(70,750)
Administrative expense		(511)
<b>Net change in plan fiduciary net position</b>		(10,526)
<b>Plan fiduciary net position – beginning</b>		1,280,915
<b>Plan fiduciary net position – ending</b>	\$	1,270,389
<b>Net pension liability – ending</b>	\$	290,126
Plan fiduciary net position as a percentage of the total pension liability		81.41 %
Covered employee payroll	\$	107,022
<b>Net pension liability as a percentage of covered employee payroll</b>		271.09%

Source: Fairfax County Comprehensive Annual Financial Report for FY 2017

*Administration*

There are seven members of the PORS Board of Trustees. Three members are appointed by the Board of Supervisors. Two members are active employee elected representatives, and one member is a retiree elected representative. The Fairfax County Director of Finance serves as an ex-officio member of the board.

*Professional Services*

Independent auditor, actuary and investment consultants are hired to provide service to the fund.

**Fairfax County Uniformed Retirement System (URS)***Plan Description*

The Fairfax County Uniformed Retirement System (URS) is a legally separate single-employer defined benefit pension plan. The plan covers uniformed employees including non-clerical employees of the Fire and Rescue Department and Office of Sheriff, Park Police, Helicopter Pilots, Animal Wardens and Game Wardens who are not covered by other plans of the reporting entity or the VRS.

Benefit provisions are established and may be amended by County ordinances. All benefits vest at five years of creditable service. To be eligible for normal retirement an individual must meet the following criteria: (a) attain the age of 55 with six years of creditable service, or (b) complete 25 years of creditable service. The normal retirement benefit is calculated using average final compensation and

years (or partial years) of creditable service at date of termination. Annual cost of-living adjustments are provided to retirees and beneficiaries equal to the lesser of 4.0 percent and the percentage increase in the Consumer Price Index for the Washington Consolidated Metropolitan Statistical Area. The plan provides that unused sick leave credit may be used in the calculation of average final compensation by projecting the final salary during the unused sick leave period. Those who commenced employment on or after January 1, 2013, may not use more than 2,080 hours of accrued sick leave toward service credit for retirement or DROP entry. To be eligible for early retirement, employees must have 20 years of creditable service. The benefit for early retirement is actuarially reduced and payable at early termination.

#### *Funding Policy*

All contribution requirements for URS are established and may be amended by County ordinances, including member contribution rates. Employees hired before July 1, 1981, were enrolled in Plan A. Plan A members were given the opportunity to enroll in Plan B as of July 1, 1981, and to enroll in Plan C as of April 1, 1997. From July 1, 1981, through March 31, 1997, all new hires were enrolled in Plan B. Plan B members were given the opportunity to enroll in Plan D as of April 1, 1997. From April 1, 1997, through December 31, 2012, all new hires were enrolled in Plan D. From January 1, 2013, forward all new hires are enrolled in Plan E. Plan A requires member contributions of 4.0 percent of compensation up to the Social Security wage base and 5.75 percent of compensation in excess of the wage base. Plan B requires member contributions of 7.08 percent of compensation up to the Social Security wage base and 8.83 percent of compensation in excess of the wage base. Plan C requires member contributions of 4.0 percent of compensation. Plan D and Plan E require contributions of 7.08 percent of compensation.

The County is required to contribute at an actuarially determined rate; the rate for the year ended June 30, 2017, was 31.49 percent of annual covered payroll. The decision was made to commit additional funding and a rate of 38.83 percent was adopted for fiscal year 2017. Since the URS's adjusted funded ratio (the ratio of the sum of the actuarial value of assets and commitments already made to fund changes to the actuarial accrued liability) fell below 90 percent, the contribution rate includes a margin to amortize this shortfall back to the 90 percent level. For fiscal year 2017, the amortization target was increased to a 97 percent level. Per the County's pension funding policy as approved by the Board of Supervisors as part of the FY 2016 Adopted Budget Plan and incorporated in the Fairfax County Code, the County will continue increasing the amortization target so that, at or before fiscal year 2020, 100 percent of the unfunded actuarial accrued liability is amortized and included in the contribution rate. The employer contribution made for the measurement period of the liability was \$65,548,338. The 2017 employer contribution totaled \$67,410,252.

*Schedule of Changes in Net Pension Liability and Related Ratios (Dollar amounts in thousands)*

CAFR Reporting Year Measurement Date June 30 of prior year		2017
<b>Total Pension Liability</b>		
Service cost	\$	43,408
Interest		136,679
Changes in benefit terms		806
Differences between expected and actual experience		(54,054)
Changes in assumptions		20,479
Benefit payments, including refunds of member contributions		(90,536)
<b>Net change in total pension liability</b>		<b>56,782</b>
<b>Total pension liability – beginning</b>		<b>1,883,675</b>
<b>Total pension liability – ending</b>	\$	<b>1,940,457</b>
<b>Plan Fiduciary Net Position</b>		
Contributions – employer	\$	65,548
Contributions – member		12,020
Net investment income		(13,447)
Benefit payments, including refunds of member contributions		(90,536)
Administrative expense		(500)
<b>Net change in plan fiduciary net position</b>		<b>(26,915)</b>
<b>Plan fiduciary net position – beginning</b>		<b>1,525,617</b>
<b>Plan fiduciary net position – ending</b>	\$	<b>1,498,702</b>
<b>Net pension liability – ending</b>	\$	<b>441,755</b>
Plan fiduciary net position as a percentage of the total pension liability		77.23%
Covered employee payroll	\$	168,808
<b>Net pension liability as a percentage of covered employee payroll</b>		<b>261.69%</b>

Source: Fairfax County Comprehensive Annual Financial Report for FY 2017

*Administration*

There are eight members of the URS Board of Trustees. Three members are appointed by the Board of Supervisors. Three members are employee elected representatives comprised of two members from the Fire and Rescue Department, and one member from the Sheriff's Department. The Fairfax County Director of Finance and Director of Human Resources serve as ex-officio members of the board.

*Professional Services*

An independent auditor and actuary are hired to provide service to the fund.

**Educational Employees' Supplementary Retirement System of Fairfax County (ERFC)***Plan Description*

Benefit provisions for ERFC and ERFC 2001 are established and may be amended by ERFC's Board of Trustees (ERFC Board) subject to approval by the School Board. All members are vested for benefits after five years of service. The ERFC benefit formula was revised effective July 1, 1988, following changes to VRS, which ERFC has historically supplemented. The benefit structure is designed to supplement VRS and Social Security benefits to provide a level retirement benefit throughout retirement.

ERFC 2001 has a stand-alone structure. Member contributions for ERFC and ERFC 2001 are made through an arrangement that results in a deferral of taxes on the contributions. Further details of member contributions may be found in Article III of the ERFC and ERFC 2001 Plan Documents.

ERFC and ERFC 2001 provide for a variety of benefit payment types. ERFC's payment types include Service Retirement, Reduced Service, Disability, Death-in-Service, and Deferred Retirement. ERFC 2001's payment types include Service Retirement, Death-in-Service, and Deferred Retirement. ERFC's minimum eligibility requirements for receipt of full benefits range from members attaining the age of 55 with 25 years of service to completing five years of service prior to age 65. The minimum eligibility requirements for full benefits for ERFC 2001 members are age 60 with five years of service or any age with 30 years of service. Annual post-retirement cost-of-living increases of 3 percent are effective each March 31. Participants in their first full year of retirement receive a 1.49 percent increase. Participants who retire on or after January 1 receive no cost-of-living increase that first March. Additional details regarding benefit payment types can be found in the actuarial valuation and the Plan Documents.

#### *Funding Policy*

All contribution requirements for ERFC plans are established and may be amended by the ERFC Board with the approval of the School Board. The requirements are based upon a fundamental financial objective of having rates of contribution that remain relatively level from generation to generation of employees. To determine the appropriate employer contribution rates and to assess the extent to which the fundamental financial objective is being achieved, ERFC has actuarial valuations prepared annually. The contribution requirements of members and the employer are established and may be amended by the ERFC Board, subject to School Board approval. Members are required to contribute 3 percent of annual salary. The employer is required to contribute at an actuarially determined rate, which presently is 5.6 percent. Employer contributions to the pension plan were \$80,094,538 and \$76,599,695 for the years ended June 30, 2017, and June 30, 2016, respectively.

The actuarial valuations are used to set the employer contribution rate for the two-year period beginning 18 months after the valuation date. As such, the December 31, 2013, valuation recommended that the contribution rate for the two-year period beginning July 1, 2015, to June 30, 2017, remain at 5.6 percent.

*Schedule of Changes in Net Pension Liability and Related Ratios (Dollar amounts in thousands)*

CAFR Reporting Year Measurement Date June 30 of prior year		2017
<b>Total Pension Liability</b>		
Service cost	\$	77,761
Interest		205,720
Differences between expected and actual experience		(11,012)
Changes of assumptions		45,752
Benefit payments, including refunds of member contributions		(170,348)
<b>Net change in total pension liability</b>		<u>147,873</u>
<b>Total pension liability – beginning</b>		<u>2,789,228</u>
<b>Total pension liability – ending</b>	\$	<u>2,937,101</u>
<b>Plan Fiduciary Net Position</b>		
Contributions – employer	\$	76,600
Contributions – member		41,384
Net investment income		(15,767)
Benefit payments, including refunds of member contributions		(170,348)
Administrative expense		(4,005)
<b>Net change in plan fiduciary net position</b>		<u>(72,136)</u>
<b>Plan fiduciary net position – beginning</b>		<u>2,179,724</u>
<b>Plan fiduciary net position – ending</b>	\$	<u>2,107,588</u>
<b>Net pension liability – ending</b>	\$	<u>829,513</u>
Plan fiduciary net position as a percentage of the total pension liability		<u>71.76%</u>
Covered employee payroll	\$	1,374,735
<b>Net pension liability as a percentage of covered employee payroll</b>		<u>60.34%</u>

Source: Fairfax County Comprehensive Annual Financial Report for FY 2017

*Administration*

The Board is composed of seven members: three are appointed by the School Board, and three are elected by active ERFC members. The six combined Board members recommend someone who is not affiliated with FCPS for the seventh position, which is subject to approval by the School Board.

*Professional Services*

An independent auditor and actuary are hired to provide service to the fund.

**Virginia Retirement Systems (VRS)***Plan Description*

FCPS contributes to VRS on behalf of its covered professional employees. VRS is a cost-sharing, multiple-employer retirement system, which administers two defined benefit plans and a hybrid plan that combines the features of a defined benefit plan and a defined contribution plan. These plans are administered by the State and provide coverage for State employees, public school board employees, employees of participating political subdivisions, and other qualifying employees. All full-time, salaried, permanent employees of VRS-participating employers are automatically covered under VRS. All employees hired after January 1, 2014, are automatically enrolled in the Hybrid Plan. Contributions made by members and participating VRS employers are invested to provide future retirement and disability benefits, annual cost of living adjustments, and death benefits to plan members and beneficiaries.

### *Funding Policy*

The contribution requirement for active employees is governed by Section 51.1-145 of the Code of Virginia 1950,, as amended, but may be affected by funding provided to school divisions by the Virginia General Assembly. Employees are required to contribute 5.0 percent of their compensation toward their retirement. Prior to July 1, 2012, all or part of the 5.0 percent member contribution may have been assumed by the employer. Beginning July 1, 2012, new employees were required to pay the 5.0 percent member contribution. In addition, for existing employees, employers were required to begin making the employee pay the 5.0 percent member contribution. This could be phased in over a period of up to 5 years and the employer is required to provide a salary increase equal to the amount of the increase in the employee-paid member contribution. Each school division's contractually required contribution rate for the year ended June 30, 2016, was 14.06 percent of covered employee compensation. This rate was based on an actuarially determined rate from an actuarial valuation as of June 30, 2013. The actuarial rate for the Teacher Retirement Plan was 18.20 percent. The actuarially determined rate, when combined with employee contributions, was expected to finance the costs of benefits earned by employee during the year, with an additional amount to finance any unfunded accrued liability. Based on the provisions of Section 51.1-145 of the Code, as amended, the contributions were funded at 89.84 percent of the actuarial rate for the year ended June 30, 2017. Employer contributions to the pension plan were \$209,938,736 and \$192,421,257 for the years ended June 30, 2017, and June 30, 2016, respectively.

### **Fairfax County Retirement Systems – Plan Revisions from the Board of Supervisors**

As directed by the Board of Supervisors, the Fairfax County Department of Human Resources contracted with a benefits consultant to conduct a comprehensive retirement study. Based on the results of this study, the Board of Supervisors, as part of their mark-up of the FY 2013 Adopted Budget Plan on April 24, 2012, reaffirmed the County's commitment to a defined benefit plan model for current employees and for new hires. The Board also directed staff to prepare revisions to the Fairfax County Code to incorporate several modifications to the retirement systems, to apply only to new employees who are hired after January 1, 2013. These changes included increasing the minimum retirement age from 50 to 55 in the Employees' system, increasing the rule of 80 to the rule of 85 in the Employees' system, removing the pre-Social Security Supplement from DROP accounts in the Employees' system and the Uniformed system, and placing a cap on the use of sick leave for retirement purposes at 2,080 hours for all three retirement systems.

### **Other Post-Employment Benefits (OPEB)**

In fiscal year 2008, the County and FCPS implemented the Governmental Accounting Standards Board Statement No. 45, Accounting and Financial Reporting by Employers for Benefits Postemployment Benefits Other Than Pensions. The County provides health care and life insurance benefits to eligible retirees and their spouses. Fairfax County is one of the founding participants in the Virginia Pooled OPEB Trust Fund sponsored by the Virginia Municipal League and the Virginia Association of Counties (VML/VACo). The Virginia Pooled OPEB Trust Fund was established as an investment vehicle for participating employers to accumulate assets to fund Other Public Employment Benefits (OPEB).

As of the July 1, 2017, actuarial valuation, the County had actuarial plan assets of \$236.88 million and reported a net OPEB asset of \$53.52 million, representing that the annual required contributions (ARC) were in excess of actual contributions. As of the July 1, 2017, actuarial valuation, the County had an actuarial accrued liability of \$307.30 million and an ARC of \$14.124 million.

FCPS also provides health insurance benefits to eligible retirees and their spouses and is a participant in the Virginia Pooled OPEB Trust Fund. As of the July 1, 2017, actuarial valuation, FCPS had actuarial plan assets of \$126.5 million in the pooled trust fund and reported a net OPEB asset of \$30.0 million. As of the July 1, 2017, actuarial valuation, FCPS had an actuarial accrued liability of \$392.1 million and an ARC of \$23.10 million.

For further information regarding the County's retirement systems, see "Basic Financial Statements – Notes to Financial Statements – Notes G and H" in Appendix IV.

### **CONTINGENT LIABILITIES AND CLAIMS**

The County is contingently liable with respect to lawsuits and other claims that arise in the ordinary course of its operations. See Note L in the County's Financial Statements in Appendix IV to this Official Statement for details as of the end of fiscal year 2017.

### **APPROVAL OF LEGAL PROCEEDINGS**

Legal matters incident to the authorization and issuance of the Bonds are subject to the approval of Norton Rose Fulbright US LLP, Washington, D.C., Bond Counsel, the proposed form of whose opinion is included herein as Appendix VI.

### **TAX MATTERS – SERIES 2019A BONDS**

#### **Opinion of Bond Counsel**

In the opinion of Norton Rose Fulbright US LLP, Bond Counsel, under current law, and subject to the provisions of this section, interest on the Series 2019A Bonds will not be includable in gross income of the owners of the Series 2019A Bonds for federal income tax purposes. Interest on the Series 2019A Bonds will be includable in the gross income of the owners thereof retroactive to the date of issue of the Series 2019A Bonds in the event of a failure by the County or the School Board of the County to comply with applicable requirements of the Internal Revenue Code of 1986, as amended (the "Code"), and their respective covenants regarding use, expenditure, and investment of the proceeds of the Series 2019A Bonds and timely payment of certain investment earnings to the United States Treasury. No opinion is rendered by Bond Counsel as to the effect on the exclusion from gross income of the interest on the Series 2019A Bonds for federal income tax purposes of any action taken or not taken without the approval of Bond Counsel or upon the advice or approval of counsel other than Bond Counsel.

Interest on the Series 2019A Bonds will not be an item of tax preference for purposes of the federal individual or corporate alternative minimum tax under the Code. For taxable years that began on or before December 31, 2017, interest on the Series 2019A Bonds will be included in the calculation of the alternative minimum tax liability imposed on corporations under the Code. The corporate alternative minimum tax has been repealed for taxable years beginning on or after December 31, 2017. The Code contains other provisions (some of which are noted below) that could result in tax consequences, as to which no opinion will be rendered by Bond Counsel, as a result of (i) ownership of the Series 2019A Bonds or (ii) inclusion in certain computations of interest that is excluded from gross income.

#### **Original Issue Discount**

The excess, if any, of the amount payable at maturity of any maturity of the Series 2019A Bonds purchased as part of the initial public offering over the issue price thereof constitutes original issue discount. The amount of original issue discount that has accrued and is properly allocable to an owner of

any maturity of the Bonds with original issue discount (a “Discount Bond”) will be excluded from gross income for federal income tax purposes to the same extent as interest on the Series 2019A Bonds. In general, the issue price of a maturity of the Series 2019A Bonds is the first price at which a substantial amount of Series 2019A Bonds of that maturity was sold (excluding sales to bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers), which may differ from the price shown on the inside cover page of this Official Statement, and the amount of original issue discount accrues in accordance with a constant yield method based on the compounding of interest. A purchaser’s adjusted basis in a Discount Bond is to be increased by the amount of such accruing discount for purposes of determining taxable gain or loss on the sale or other disposition of such Discount Bonds for federal income tax purposes.

A portion of the original issue discount that accrues in each year to an owner of a Discount Bond which is a corporation will be included in the calculation of the corporation’s federal alternative minimum tax liability for taxable years beginning on or before December 31, 2017. In addition, original issue discount that accrues in each year to an owner of a Discount Bond is included in the calculation of the distribution requirements of certain regulated investment companies and may result in some of the collateral federal income tax consequences discussed herein. Consequently, an owner of a Discount Bond should be aware that the accrual of original issue discount in each year may result in an alternative minimum tax liability, additional distribution requirements or other collateral federal income tax consequences although the owner of such Discount Bond has not received cash attributable to such original issue discount in such year.

The accrual of original issue discount and its effect on the redemption, sale, or other disposition of a Discount Bond that is not purchased in the initial offering at the first price at which a substantial amount of such Bonds is sold to the public may be determined according to rules that differ from those described above. An owners of a Discount Bond should consult his tax advisors with respect to the determination for federal income tax purposes of the amount of original issue discount with respect to such Discount Bond and with respect to state and local tax consequences of owning and disposing of such Discount Bond.

### **Bond Premium**

The excess, if any, of the tax basis of Series 2019A Bonds purchased as part of the initial public offering to a purchaser (other than a purchaser who holds such Series 2019A Bonds as inventory, stock in trade, or for sale to customers in the ordinary course of business) over the amount payable at maturity is “Bond Premium.” Bond Premium is amortized over the term of such Series 2019A Bonds for federal income tax purposes (or, in the case of a bond with bond premium callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). No deduction is allowed for such amortization of Bond Premium; however, Bond Premium is treated as an offset to qualified stated interest received on the Series 2019A Bonds. An owner of such Series 2019A Bonds is required to decrease his adjusted basis in such Series 2019A Bonds by the amount of amortizable Bond Premium attributable to each taxable year such Series 2019A Bonds are held. An owner of such Series 2019A Bonds should consult his tax advisors with respect to the precise determination for federal income tax purposes of the treatment of Bond Premium upon sale, redemption or other disposition of such Series 2019A Bonds and with respect to state and local income tax consequences of owning and disposing of such Series 2019A Bonds.

### **Backup Withholding**

Interest paid on the Series 2019A Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. While this reporting requirement does not by itself, affect the

excludability of interest on the Series 2019A Bonds from gross income for federal income tax purposes, the reporting requirement causes the payment of interest on the Series 2019A Bonds to be subject to backup withholding if such interest is paid to beneficial owners who (i) are not “exempt recipients,” and (ii) either fail to provide certain identifying information (such as the beneficial owner’s taxpayer identification number) in the required manner or have been identified by the Internal Revenue Service as having failed to report all interest and dividends required to be shown on their income tax returns. Generally, individuals are not exempt recipients, whereas corporations and certain other entities generally are exempt recipients. Amounts withheld under the backup withholding rules from a payment to a beneficial owner would be allowed as a refund or a credit against such beneficial owner’s federal income tax liability provided the required information is furnished to the Internal Revenue Service.

### **Other Tax Consequences**

Under existing law, the interest on the Series 2019A Bonds is excluded from Virginia taxable income for purposes of the individual income tax and the income taxation of corporations by the Commonwealth of Virginia under Sections 58.1-322 and 58.1-402 of the Code of Virginia of 1950, as amended (the “Virginia Code”), to the extent that such interest is excludable from gross income for federal income tax purposes.

The Code and the Virginia Code contain other provisions (some of which are noted below) that could result in tax consequences, upon which Bond Counsel expresses no opinion, as a result of ownership of the Series 2019A Bonds or the inclusion in certain computations of interest on the Series 2019A Bonds that is excluded from gross income for purposes of federal income taxation.

**PROSPECTIVE PURCHASERS OF THE SERIES 2019A BONDS SHOULD CONSULT THEIR TAX ADVISORS AS TO THE APPLICABILITY AND IMPACT OF ANY SUCH COLLATERAL TAX CONSEQUENCES.**

Ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, certain foreign corporations doing business in the United States, certain S Corporations with excess passive income, individual recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations and taxpayers who may be eligible for the earned income tax credit.

### **Future Tax Developments**

Future or pending legislative proposals, if enacted, regulations, rulings or court decisions may cause interest on the Series 2019A Bonds to be subject, directly or indirectly, to federal income taxation or to State or local income taxation, or may otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. Legislation or regulatory actions and future or pending proposals may also affect the economic value of the federal or State tax exemption or the market value of the Series 2019A Bonds. Prospective purchasers of the Series 2019A Bonds should consult their tax advisors regarding any future, pending or proposed federal or State tax legislation, regulations, rulings or litigation as to which Bond Counsel expresses no opinion.

## **TAX MATTERS – SERIES 2019B BONDS**

### **In General**

Interest on the Series 2019B Bonds will be includable in the gross income of the owners thereof for purposes of federal income taxation. See “– Certain U.S. Federal Income Tax Considerations” below.

### **Certain U.S. Federal Income Tax Considerations**

The following summary of certain United States federal income tax consequences of the purchase, ownership and disposition of the Series 2019B Bonds is based upon laws, regulations, rulings and decisions now in effect, all of which are subject to change (including changes in effective dates), which change may be retroactive, or possible differing interpretations. No assurance can be given that future changes in the law will not alter the consequences described herein. It deals only with the Series 2019B Bonds held as capital assets and does not purport to deal with persons in special tax situations, including but not limited to financial institutions, insurance companies, regulated investment companies, dealers in securities or currencies, persons holding the Series 2019B Bonds as a hedge against currency risks or as a position in a “straddle” for tax purposes, or persons whose functional currency is not the U.S. dollar. It also does not deal with holders other than investors who purchase Series 2019B Bonds in the initial offering at the first price at which a substantial amount of such substantially identical bonds are sold to the general public (except where otherwise specifically noted). Persons considering the purchase of the Series 2019B Bonds should consult their own tax advisors concerning the application of U.S. federal income tax laws to their particular situations as well as any consequences of the purchase, ownership and disposition of the Series 2019B Bonds arising under the laws of any other taxing jurisdiction.

As used herein, the term “U.S. Holder” means a beneficial owner of a Series 2019B Bond that is for U.S. federal income tax purposes (i) a citizen or resident of the United States, (ii) a corporation (including an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (iii) an estate, the income of which is subject to U.S. federal income taxation regardless of its source, or (iv) a trust if (a) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust, or (b) the trust was in existence on August 20, 1996, and properly elected to continue to be treated as a United States person. Moreover, as used herein, the term “U.S. Holder” includes any holder of a Series 2019B Bond whose income or gain in respect of its investment in a Series 2019B Bond is effectively connected with the U.S. trade or business. As used herein, the term “Non-U.S. Holder” means a beneficial Owner of a Series 2019B Bond (other than an entity that is classified as a partnership) that is not a U.S. Holder.

If a partnership (including for this purpose any entity treated as a partnership for United States federal income tax purposes) is the beneficial owner of any Series 2019B Bond, the treatment of a partner in that partnership will generally depend upon the status of such partner and the activities of such partnership. A partnership and any partner in a partnership holding Series 2019B Bonds should consult its own tax advisor.

### **Payments of Interest**

Payments of interest on a Series 2019B Bond generally will be taxable to a U.S. Holder as ordinary interest income at the time such payments are accrued or are received (in accordance with the

U.S. Holder's regular method of tax accounting), provided such interest is "qualified stated interest," as defined below.

### **Original Issue Discount**

The following summary is a general discussion of the U.S. federal income tax consequences to U.S. Holders of the purchase, ownership and disposition of Series 2019B Bonds issued with original issue discount ("OID Bonds"), if any. The following summary is based upon final Treasury regulations (the "OID Regulations") released by the Internal Revenue Service ("IRS") under the original issue discount provisions of the Code.

For U.S. federal income tax purposes, original issue discount is the excess of the stated redemption price at maturity of a bond over its issue price, if such excess equals or exceeds a *de minimis* amount (generally  $\frac{1}{4}$  of 1% of the bond's stated redemption price at maturity multiplied by the number of complete years to its maturity from its issue date or, in the case of a bond providing for the payment of any amount other than qualified stated interest (as defined below) prior to maturity, multiplied by the weighted average maturity of such bond). The issue price of each maturity of substantially identical Series 2019B Bonds equals the first price at which a substantial amount of such maturity of Series 2019B Bonds has been sold (ignoring sales to bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers), which may not be the same as the prices shown on the inside cover of this official statement. The stated redemption price at maturity of a Series 2019B Bond is the sum of all payments provided by the Series 2019B Bond other than "qualified stated interest" payments. The term "qualified stated interest" generally means stated interest that is unconditionally payable in cash or property (other than debt instruments of the issuer) at least annually at a single fixed rate. Payments of qualified stated interest on a Series 2019B Bond are generally taxable to a U.S. Holder as ordinary interest income at the time such payments are accrued or are received (in accordance with the U.S. Holder's regular method of tax accounting).

A U.S. Holder of an OID Bond must include original issue discount in income as ordinary interest income for U.S. federal income tax purposes as it accrues under a constant yield method in advance of receipt of the cash payments attributable to such income, regardless of such U.S. Holder's regular method of tax accounting. In general, the amount of original issue discount included in income by the initial U.S. Holder of an OID Bond is the sum of the daily portions of original issue discount with respect to such OID Bond for each day during the taxable year (or portion of the taxable year) on which such U.S. Holder held such OID Bond. The "daily portion" of original issue discount on any OID Bond is determined by allocating to each day in any accrual period a ratable portion of the original issue discount allocable to that accrual period. An "accrual period" may be of any length and the accrual periods may vary in length over the term of the OID Bond, provided that each accrual period is no longer than one year and each scheduled payment of principal or interest occurs either on the final day of an accrual period or on the first day of an accrual period. The amount of original issue discount allocable to each accrual period is generally equal to the difference between (i) the product of the OID Bond's adjusted issue price at the beginning of such accrual period and its yield to maturity (determined on the basis of compounding at the close of each accrual period and appropriately adjusted to take into account the length of the particular accrual period) and (ii) the amount of any qualified stated interest payments allocable to such accrual period. The "adjusted issue price" of an OID Bond at the beginning of any accrual period is the sum of the issue price of the OID Bond plus the amount of original issue discount allocable to all prior accrual periods minus the amount of any prior payments on the OID Bond that were not qualified stated interest payments. Under these rules, U.S. Holders generally will have to include in income increasingly greater amounts of original issue discount in successive accrual periods.

A U.S. Holder who purchases an OID Bond for an amount that is greater than its adjusted issue price as of the purchase date and less than or equal to the sum of all amounts payable on the OID Bond after the purchase date, other than payments of qualified stated interest, will be considered to have purchased the OID Bond at an “acquisition premium.” Under the acquisition premium rules, the amount of original issue discount which such U.S. Holder must include in its gross income with respect to such OID Bond for any taxable year (or portion thereof in which the U.S. Holder holds the OID Bond) will be reduced (but not below zero) by the portion of the acquisition premium properly allocable to the period.

U.S. Holders may generally, upon election, include in income all interest (including stated interest, acquisition discount, original issue discount, de minimis original issue discount, market discount, de minimis market discount, and unstated interest, as adjusted by any amortizable bond premium or acquisition premium) that accrues on a debt instrument by using the constant yield method applicable to original issue discount, subject to certain limitations and exceptions. This election will generally apply only to the debt instrument with respect to which it is made and may be revoked only with the consent of the IRS.

### **Market Discount**

If a U.S. Holder purchases a Series 2019B Bond, other than an OID Bond, for an amount that is less than its issue price (or, in the case of a subsequent purchaser, its stated redemption price at maturity) or, in the case of an OID Bond, for an amount that is less than its adjusted issue price as of the purchase date, such U.S. Holder will be treated as having purchased such Series 2019B Bond at a “market discount,” unless the amount of such market discount is less than a specified de minimis amount.

Under the market discount rules, a U.S. Holder will be required to treat any partial principal payment (or, in the case of an OID Bond, any payment that does not constitute qualified stated interest) on, or any gain realized on the sale, exchange, retirement or other disposition of, a Series 2019B Bond as ordinary income to the extent of the lesser of (i) the amount of such payment or realized gain or (ii) the market discount which has not previously been included in gross income and is treated as having accrued on such Series 2019B Bonds at the time of such payment or disposition. Market discount will be considered to accrue ratably during the period from the date of acquisition to the maturity date of the Series 2019B Bonds, unless the U.S. Holder elects to accrue market discount on the basis of semiannual compounding.

A U.S. Holder may be required to defer the deduction of all or a portion of the interest paid or accrued on any indebtedness incurred or maintained to purchase or carry a Series 2019B Bond with market discount until the maturity of such Series 2019B Bond or certain earlier dispositions, because a current deduction is only allowed to the extent the interest expense exceeds an allocable portion of market discount. A U.S. Holder may elect to include market discount in income currently as it accrues (on either a ratable or semiannual compounding basis), in which case the rules described above regarding the treatment as ordinary income or gain upon the disposition of the Series 2019B Bond and upon the receipt of certain cash payments and regarding the deferral of interest deductions will not apply. Generally, such currently included market discount is treated as ordinary interest for U.S. federal income tax purposes. Such an election will apply to all debt instruments acquired by the U.S. Holder on or after the first day of the first taxable year to which such election applies and may be revoked only with the consent of the IRS.

### **Premium**

If a U.S. Holder purchases a Series 2019B Bond for an amount that is greater than the sum of all amounts payable on the Series 2019B Bond after the purchase date, other than payments of qualified stated interest, such U.S. Holder will be considered to have purchased the Series 2019B Bond with

“amortizable bond premium” equal in amount to such excess. A U.S. Holder may elect to amortize such premium using a constant yield method over the remaining term of the Series 2019B Bond and may offset interest otherwise required to be included in respect of the Series 2019B Bond during any taxable year by the amortized amount of such excess for the taxable year. Bond premium on a Series 2019B Bond held by a U.S. Holder that does not make such an election will decrease the amount of gain or increase the amount of loss otherwise recognized on the sale, exchange, redemption or retirement of a Series 2019B Bond. However, if the Series 2019B Bond may be optionally redeemed after the U.S. Holder acquires it at a price in excess of its stated redemption price at maturity, special rules would apply which could result in a deferral of the amortization of some bond premium until later in the term of the Series 2019B Bond (as discussed in more detail below). Any election to amortize bond premium applies to all taxable debt instruments held by the U.S. Holder on or after the first day of the first taxable year to which such election applies and may be revoked only with the consent of the IRS.

The following rules apply to any Series 2019B Bond that may be optionally redeemed after the U.S. Holder acquires it at a price in excess of its stated redemption price at maturity. The amount of amortizable bond premium attributable to such Series 2019B Bond is equal to the lesser of (1) the difference between (A) such U.S. Holder’s tax basis in the Series 2019B Bond and (B) the sum of all amounts payable on such Series 2019B Bond after the purchase date, other than payments of qualified stated interest and (2) the difference between (X) such U.S. Holder’s tax basis in such Series 2019B Bond and (Y) the sum of all amounts payable on such Series 2019B Bond after the purchase date due on or before the early call date, other than payments of qualified stated interest. If a Series 2019B Bond may be redeemed on more than one date prior to maturity, the early call date and amount payable on the early call date that produces the lowest amount of amortizable bond premium, is the early call date and amount payable that is initially used for purposes of calculating the amount pursuant to clause (2) of the previous sentence. If an early call date is not taken into account in computing premium amortization and the early call is in fact exercised, a U.S. Holder will be allowed a deduction for the excess of the U.S. Holder’s tax basis in the Series 2019B Bond over the amount realized pursuant to the redemption. If an early call date is taken into account in computing premium amortization and the early call is not exercised, the Series 2019B Bond will be treated as “reissued” on such early call date for the call price. Following the deemed reissuance, the amount of amortizable bond premium is recalculated pursuant to the rules of this section “Premium.” The rules relating to Series 2019B Bonds that may be optionally redeemed are complex and, accordingly, prospective purchasers are urged to consult their own tax advisors regarding the application of the amortizable bond premium rules to their particular situation.

### **Disposition of a Series 2019B Bond**

Except as discussed above, upon the sale, exchange or retirement of a Series 2019B Bond, a U.S. Holder generally will recognize taxable gain or loss equal to the difference between the amount realized on the sale, exchange or retirement (other than amounts representing accrued and unpaid interest) and such U.S. Holder’s adjusted tax basis in the Series 2019B Bond. A U.S. Holder’s adjusted tax basis in a Series 2019B Bond generally will equal such U.S. Holder’s initial investment in the Series 2019B Bond increased by any original issue discount included in income (and accrued market discount, if any, if the U.S. Holder has included such market discount in income) and decreased by the amount of any payments, other than qualified stated interest payments, received and amortizable bond premium taken with respect to such Series 2019B Bond. Such gain or loss generally will be long-term capital gain or loss if the Series 2019B Bond has been held by the U.S. Holder at the time of disposition for more than one year. If the U.S. Holder is an individual, long-term capital gain will be subject to reduced rates of taxation. The deductibility of capital losses is subject to certain limitations.

### **Defeasance of Series 2019B Bonds**

Persons considering the purchase of a Series 2019B Bond should be aware that a defeasance of a Series 2019B Bond by the County prior to maturity could result in the realization of gain or loss by the beneficial owner of the Series 2019B Bond for federal income tax purposes, without any corresponding receipts of money by the beneficial owner. Such gain or loss generally would be subject to recognition for the tax year in which such realization occurs, as in the case of a sale or exchange. Owners are advised to consult their own tax advisers with respect to the tax consequences resulting from such events. See “THE BONDS – Make-Whole Optional Redemption – Series 2019B Bonds – *Defeasance of Series 2019B Bonds*” herein.

### **Medicare Tax**

For taxable years beginning after December 31, 2012, an additional 3.8% tax has been imposed on the net investment income (which includes interest, original issue discount and net gains from a disposition of a Series 2019B Bond) of certain individuals, trust and estates. Prospective investors in the Series 2019B Bonds should consult their tax advisors regarding the possible applicability of this tax to an investment in the Series 2019B Bonds.

### **Backup Withholding**

A beneficial owner of the Series 2019B Bonds who is a U.S. Holder may, under certain circumstances, be subject to “backup withholding” (currently at a rate of [28%]) on current or accrued interest on the Series 2019B Bonds or with respect to proceeds received from a disposition of the Series 2019B Bonds. This withholding applies if such beneficial owner of Series 2019B Bonds: (i) fails to furnish to the payor such beneficial owner’s social security number or other taxpayer identification number (“TIN”); (ii) furnishes the payor an incorrect TIN; (iii) fails to report interest properly; or (iv) under certain circumstances, fails to provide the payor or such beneficial owner’s broker with a certified statement, signed under penalty of perjury, that the TIN provided to the payor or broker is correct and that such beneficial owner is not subject to backup withholding. To establish status as an exempt person, a beneficial owner will generally be required to provide certification on IRS Form W-9 (or substitute form).

Backup withholding will not apply, however, if the beneficial owner is a corporation or falls within certain tax-exempt categories and, when required, demonstrates such fact. BENEFICIAL OWNERS OF THE SERIES 2019B BONDS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THEIR QUALIFICATION FOR EXEMPTION FROM BACKUP WITHHOLDING AND THE PROCEDURE FOR OBTAINING SUCH EXEMPTION, IF APPLICABLE. The backup withholding tax is not an additional tax and taxpayers may use amounts withheld as a credit against their federal income tax liability or may claim a refund as long as they timely provide certain information to the IRS.

### **Withholding on Payments to Nonresident Alien Individuals and Foreign Corporations**

Nonresident alien individuals and foreign corporations are generally subject to withholding of U.S. federal income tax by the payor at the rate of 30% on periodic income items arising from sources within the United States, provided such income is not effectively connected with the conduct of a United States trade or business. Assuming the interest income of such a beneficial owner of the Series 2019B Bonds is not treated as effectively connected income within the meaning of Section 864 of the Code, such interest will be subject to 30% withholding, or any lower rate specified in an income tax treaty, unless such income is treated as “portfolio interest.” Interest will be treated as portfolio interest if

(i) the beneficial owner provides a statement to the payor certifying, under penalties of perjury, that such beneficial owner is a Non-U.S. Holder and providing the name and address of such beneficial owner, (ii) such interest is treated as not effectively connected with the beneficial owner's United States trade or business, (iii) interest payments are not made to a person within a foreign country which the IRS has included on a list of countries having provisions inadequate to prevent United States tax evasion, (iv) interest payable with respect to the Series 2019B Bonds is not deemed contingent interest within the meaning of the portfolio debt provision, (v) such beneficial owner is not a controlled foreign corporation within the meaning of Section 957 of the Code and (vi) such beneficial owner is not a bank receiving interest on the Series 2019B Bonds pursuant to a loan agreement entered into in the ordinary course of the bank's trade or business.

Assuming payments on the Series 2019B Bonds are treated as portfolio interest within the meaning of Sections 871 and 881 of the Code, then no withholding under Section 1441 and 1442 of the Code, and no backup withholding under Section 3406 of the Code is required with respect to beneficial owners or intermediaries who have furnished Form W-8 BEN, Form W-8 BEN-E, Form W-8 EXP, or Form W-8 IMY, as applicable, provided the payor has no actual knowledge or reason to know that such person is a U.S. Holder.

A non-U.S. Holder whose income with respect to its investment in a Series 2019B Bond is effectively connected with the conduct of a U.S. trade or business would generally be taxed as if the holder was a U.S. person provided the holder provides to the Withholding Agent an IRS Form W-8ECI.

Generally, a non-U.S. Holder will not be subject to United States federal income taxes on any amount which constitutes capital gain upon retirement or disposition of a Series 2019B Bond, unless such non-U.S. Holder is an individual who is present in the United States for 183 days or more in the taxable year of the disposition and such gain is derived from sources within the United States. Certain other exceptions may be applicable, and a non-U.S. Holder should consult its tax advisor in this regard.

The Series 2019B Bonds will not be includable in the estate of a non-U.S. Holder unless, at the time of such individual's death, payments in respect of the Series 2019B Bonds would have been effectively connected with the conduct by such individual of a trade or business in the United States.

### **Foreign Account Tax Compliance Act**

Sections 1471 through 1474 of the Code impose a 30% withholding tax on certain types of payments made to a foreign financial institution, unless the foreign financial institution enters into an agreement with the U.S. Treasury to, among other things, undertake to identify accounts held by certain U.S. persons or U.S.-owned entities, annually report certain information about such accounts, and withhold 30% on payments to account holders whose actions prevent it from complying with these and other reporting requirements, or unless the foreign financial institution is otherwise exempt from those requirements. In addition, the Foreign Account Tax Compliance Act ("FATCA") imposes a 30% withholding tax on the same types of payments to a non-financial foreign entity unless the entity certifies that it does not have any substantial U.S. owners or the entity furnishes identifying information regarding each substantial U.S. owner. Failure to comply with the additional certification, information reporting and other specified requirements imposed under FATCA could result in the 30% withholding tax being imposed on payments of interest and principal under the Series 2019B Bonds and sales proceeds of Series 2019B Bonds held by or through a foreign entity. In general, withholding under FATCA currently applies to payments of U.S. source interest (including original issue discount) and will apply to (i) gross proceeds from the sale, exchange or retirement of debt obligations paid after December 31, 2018, and (ii) certain "pass-thru" payments no earlier than January 1, 2019. Prospective investors should consult their own tax advisors regarding FATCA and its effect on them.

## **ERISA Considerations**

The Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and section 4975 of the Code generally prohibit certain transactions between employee benefit plans under ERISA or tax qualified retirement plans and individual retirement accounts under the Code (collectively, the “Plans”) and persons who, with respect to a Plan, are fiduciaries or other “parties in interest” within the meaning of ERISA or “disqualified persons” within the meaning of the Code. In addition, each fiduciary of a Plan (“Plan Fiduciary”) must give appropriate consideration to the facts and circumstances that are relevant to an investment in the Series 2019B Bonds, including the role that such an investment in the Series 2019B Bonds would play in the Plan’s overall investment portfolio. Each Plan Fiduciary, before deciding to invest in the Series 2019B Bonds, must be satisfied that such investment in the Series 2019B Bonds is a prudent investment for the Plan, that the investments of the Plan, including the investment in the Series 2019B Bonds, are diversified so as to minimize the risk of large losses and that an investment in the Series 2019B Bonds complies with the documents of the Plan and related trust, to the extent that such documents are consistent with ERISA. All Plan Fiduciaries, in consultation with their advisors, should carefully consider the impact of ERISA and the Code on an investment in any Series 2019B Bonds.

## **FINANCIAL ADVISOR**

The County has retained PFM Financial Advisors LLC, Arlington, Virginia, as financial advisor (the “Financial Advisor”) in connection with the issuance of the Bonds. Although the Financial Advisor assisted in the preparation and review of this Official Statement, the Financial Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement. The Financial Advisor is a financial advisory, investment management, and consulting organization and is not engaged in the business of underwriting municipal securities.

## **VERIFICATION OF CERTAIN MATHEMATICAL COMPUTATIONS**

The accuracy of (i) the arithmetical computations of the maturing principal and interest earned on the federal securities in the escrow account established in the escrow agreement relating to the Refunded Bonds to pay when due or at their respective redemption dates, the principal of, premium, if any, and interest on the Refunded Bonds [and (ii) the mathematical computations supporting the conclusion that the Series 2019A Bonds are not “arbitrage bonds” within the meaning of Section 148 of the Code], have been verified by \_\_\_\_\_, \_\_\_\_\_. Such verification has been based upon information supplied by the Financial Advisor.

## **RATINGS**

The Bonds have been rated “\_\_\_\_\_” by Fitch Ratings (“Fitch”), “\_\_\_\_\_” by Moody’s Investors Service, Inc. (“Moody’s”), and “\_\_\_\_\_” by S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC (“S&P”). The County requested that the Bonds be rated and furnished certain information to Fitch, Moody’s, and Standard & Poor’s, including certain information that is not included in this Official Statement.

These ratings are not a recommendation to buy, sell, or hold the Bonds. Generally, rating agencies base their ratings on such materials and information provided by the County, as well as investigations, studies, and assumptions of the rating agencies. Such ratings may be changed at any time and no assurance can be given that they will not be revised downward or withdrawn entirely by any or all of such rating agencies, if, in the judgment of any or all, circumstances so warrant. Such circumstances

may include, without limitation, change in or unavailability of information relating to the County. Any such downward revision or withdrawal of any of such ratings may have an adverse effect on the market price of the Bonds.

### **SALE AT COMPETITIVE BIDDING**

The Bonds will be offered for sale at competitive bidding on a date determined pursuant to the provisions of the Notice of Sale relating to the Bonds (See Appendix VIII). After the Bonds have been awarded, the County will issue an Official Statement in final form to be dated the date of the award. The County will deem the Official Statement in final form as of its date, and the Official Statement in final form will be a “Final Official Statement” within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Official Statement in final form will include, among other matters, the identity of the winning bidder (the “Underwriters”), the expected selling compensation to the Underwriters and other information on the interest rates and offering prices or yields of the Bonds, all as supplied by the Underwriters.

### **CERTIFICATE CONCERNING OFFICIAL STATEMENT**

Concurrently with the delivery of the Bonds, the Chairman of the Board of Supervisors and the County Executive of the County will certify that, to the best of their knowledge, the Official Statement did not as of its date, and does not as of the date of delivery of the Bonds, contain any untrue statement of a material fact or omit to state a material fact that should be included therein for the purpose for which the Official Statement is to be used, or that is necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading. Such certificate will also state, however, that the Chairman of the Board of Supervisors and the County Executive of the County did not independently verify the information indicated in this Official Statement as having been obtained or derived from sources other than the County and its officers but that they have no reason to believe that such information is not accurate.

### **MISCELLANEOUS**

Any statements in this Official Statement involving matters of opinion or estimates, whether or not expressly so stated, are intended as such and not as representations of fact. No representation is made that any of the estimates will be realized.

### **FUTURE FINANCIAL INFORMATION**

The Securities and Exchange Commission has adopted Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the “Rule”). In general, the Rule prohibits an underwriter from purchasing or selling municipal securities such as the Bonds, unless it has determined that the issuer of such securities and/or other persons deemed to be material “obligated persons” have committed to provide to The Electronic Municipal Market Access (“EMMA”) system administered by the Municipal Securities Rulemaking Board (i) on an annual basis, certain financial information and operating data (“Annual Reports”), and, if available, audited financial statements, and (ii) notice of various events described in the Rule, if material (“Event Notices”).

The County will covenant in the Continuing Disclosure Agreement (the form of which appears in Appendix VII), to be dated the date of delivery of the Bonds, for the benefit of the holders of the Bonds, to provide to EMMA, annually, not later than March 31 of each year, commencing March 31, 2020, Annual Reports with respect to itself, as issuer. Similarly, the County will provide Event Notices with respect to the Bonds to EMMA.

In accordance with continuing disclosure undertakings (the “Sewer Undertakings”) relating to the County’s sewer revenue bonds, the County agreed to provide and file certain annual financial and statistical information (“Sewer System Annual Disclosure Reports”) relating to the County’s sanitary sewer system (the “System”) as well as the County’s audited financial statements for the System (“Sewer System Annual Financial Statements”). For the Fiscal Years ended June 30, 2009, and June 30, 2010, the County prepared and filed the Sewer System Annual Disclosure Reports for each year. Such filings, however, inadvertently did not include the prepared Sewer System Annual Financial Statements (the “2009 and 2010 Sewer System Annual Financial Statements”) required to be included in such filings pursuant to the terms of the Continuing Disclosure Undertakings, although the 2009 and 2010 Sewer System Annual Financial Statements were timely posted to the County’s website. As of June 5, 2014, the County filed the 2009 and 2010 Sewer System Annual Financial Statements. In addition, as a condition to the issuance of various series of revenue bonds (“UOSA Bonds”) issued by the Upper Occoquan Service Authority for the benefit of the County and other jurisdictions, the County has agreed pursuant to continuing disclosure undertakings (the “UOSA Undertakings”) to provide and file the Sewer System Annual Disclosure Reports and Sewer System Annual Financial Statements. The 2009 and 2010 Sewer System Annual Financial Statements were filed pursuant to the UOSA Undertakings but not in a timely manner and other filings were complete and timely but were not correctly cross-referenced to the UOSA Bonds. The County has implemented procedures to ensure the inclusion of necessary information in a timely manner in future filings required by the Sewer Undertakings and the UOSA Undertakings.

Pursuant to several continuing disclosure undertakings entered into relating to the Fairfax County Economic Development Authority’s Transportation Contract Revenue Bonds (Route 28 Project), the County provided all required information, except that it inadvertently did not include in its annual information required under such undertakings a description of the twenty largest owners of real property by assessed value in the State Route 28 Highway Transportation Improvement District. The County has implemented procedures to ensure the inclusion of such information in future filings.

In addition, pursuant to the Sewer Undertakings relating to certain sewer revenue bonds defeased on May 12, 2016 (the “Sewer Bonds Defeasance”), the County agreed to provide timely notice of the Sewer Bonds Defeasance. Pursuant to the escrow deposit agreement, dated May 12, 2016, between Fairfax County and its Escrow Agent, the Escrow Agent agreed to provide notice to EMMA of the Sewer Bonds Defeasance within two days of the date of the agreement. The Escrow Agent did not provide this notice within the two-day period. After inquiry from the County, the Escrow Agent did provide such notice, but not within the time periods required by the relevant Sewer Undertakings. The County has strengthened its procedures to ensure that event notices to be provided by outside entities on the County’s behalf are done within the required time periods.

Except as described under this caption, in the five years preceding the date of this Official Statement, the County has materially complied with its undertakings under the Rule.

#### **PRELIMINARY OFFICIAL STATEMENT DEEMED FINAL**

The distribution of this Preliminary Official Statement has been duly authorized by the Board of Supervisors of the County. The County deems this Preliminary Official Statement final as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission except for the omission of certain pricing and other information permitted to be omitted by Rule 15c2-12.

BOARD OF SUPERVISORS OF FAIRFAX  
COUNTY, VIRGINIA

By: \_\_\_\_\_, Chairman

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**FAIRFAX COUNTY, VIRGINIA**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS AND BASIC FINANCIAL STATEMENTS**  
**(Fiscal Year Ended June 30, 2018)**

### **BOOK-ENTRY ONLY SYSTEM**

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Bond certificate will be issued for each principal amount of Bonds of a Series and maturity bearing interest at a specified interest rate, each in the aggregate principal amount of such quantity of Bonds, and will be deposited with DTC.

DTC, the world’s largest depository, is a limited purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of the Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of the Bonds (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interest in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive bond certificates representing their ownership interests in the Bonds, except in the event that use of the book entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may

not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of the Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the County as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium, if any, and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detailed information from the County, on a payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC or the County, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC is the responsibility of the County, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the County. Under such circumstances, in the event that a successor depository is not obtained, certificates for the Bonds are required to be printed and delivered.

The County may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, certificates for the Bonds will be printed and delivered.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the County believes to be reliable, but the County takes no responsibility for the accuracy thereof.

January \_\_, 2019

Board of Supervisors of Fairfax County, Virginia  
Fairfax, Virginia

As bond counsel to Fairfax County, Virginia (the “County”), we have examined certified copies of the legal proceedings, including the election proceedings and other proofs submitted, relative to the issuance and sale of

\$ \_\_\_\_\_

**Fairfax County, Virginia**  
Public Improvement Bonds, Series 2019A (the “Bonds”)

The Bonds are dated the date of their delivery, mature in annual installments on October 1 in each of the years 2019 to 2038, inclusive, and bear interest, payable on the 1st days of April and October in each year, commencing October 1, 2019. The Bonds are subject to redemption prior to their respective maturities in the manner and upon the terms and conditions set forth in the resolution authorizing the issuance of the Bonds adopted by the Board of Supervisors of Fairfax County on December 4, 2018.

From such examination, we are of the opinion that:

(1) Such proceedings and proofs show lawful authority for the issuance and sale of the Bonds pursuant to the Constitution and laws of Virginia, and the Bonds constitute valid and binding general obligations of the County, for the payment of which the full faith and credit of the County are pledged, and all taxable property in the County is subject to the levy of an ad valorem tax, without limitation as to rate or amount, for the payment of the Bonds and the interest thereon, which tax shall be in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

(2) Except as provided in the following sentence, interest on the Bonds is not includable in the gross income of the owners thereof for federal income tax purposes under current law. Interest on the Bonds will be includable in the gross income of the owners thereof retroactive to the date of issue of the Bonds in the event of a failure by the County or the school board of the County to comply with applicable requirements of the Internal Revenue Code of 1986, as amended (the “Code”), and their respective covenants regarding use, expenditure, and investment of the proceeds of the Bonds and the timely payment of certain investment earnings to the United States Treasury, and we render no opinion as to the effect on the exclusion from gross income of the interest on the Bonds for federal income tax purposes of any action taken or not taken without our approval or upon the advice or approval of counsel other than us.

(3) Interest on the Bonds is not an item of tax preference for purposes of the federal individual or corporate alternative minimum tax.

The Code contains other provisions that could result in tax consequences, as to which we render no opinion, as a result of ownership of the Bonds or the inclusion in certain computations (including without limitation those related to the corporate alternative minimum tax) of interest that is excluded from gross income.

Respectfully submitted,

[Series 2019 B Bond Opinion To Come]

## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the “Disclosure Agreement”) is executed and delivered by Fairfax County, Virginia (the “County”), in connection with the issuance by the County of \$\_\_\_\_\_ aggregate principal amount of its Public Improvement Bonds, Series 2019A (the “Series 2019A Bonds”) and \$\_\_\_\_\_ aggregate principal amount of its [Taxable] Public Improvement Refunding Bonds, (the “Series 2019B Bonds” and together with the Series 2019A Bonds, the “Bonds”) pursuant to the provisions of a resolution (the “Resolution”) adopted on December 4, 2018, by the Board of Supervisors of the County. The proceeds of the Bonds are being used by the County to finance and refinance various public improvements in the County. The County hereby covenants and agrees as follows:

**SECTION 1. Purpose of the Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the County for the benefit of the holders of the Bonds and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below). The County acknowledges that it is undertaking primary responsibility for any reports, notices, or disclosures that may be required under this Agreement.

**SECTION 2. Definitions.** In addition to the definitions set forth in the Resolution, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Dissemination Agent” shall mean the County, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the County and which has filed with the County a written acceptance of such designation.

“Filing Date” shall have the meaning given to such term in Section 3(a) hereof.

“Fiscal Year” shall mean the twelve month period at the end of which financial position and results of operations are determined. Currently, the County’s Fiscal Year begins July 1 and continues through June 30 of the next calendar year.

“Holder” or “holder” shall mean, for purposes of this Disclosure Agreement, any person who is a record owner or beneficial owner of a Bond.

“Listed Events” shall mean any of the events listed in subsection (b)(5)(i)(C) of the Rule, which are as follows:

principal and interest payment delinquencies;

non-payment related defaults; if material;

unscheduled draws on debt service reserves reflecting financial difficulties;

unscheduled draws on credit enhancements reflecting financial difficulties;

substitution of credit or liquidity providers, or their failure to perform;

adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 570-TEB) or other material notices or determinations with respect to or events affecting the tax-exempt status of the Bonds;

modifications to rights of holders, if material;

bond calls, if material, and tender offers;

defeasances;

release, substitution, or sale of property securing repayment of the Bonds, if material;

rating changes;

bankruptcy, insolvency, receivership or similar event of the County; which event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets of business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court of governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County;

the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating any such actions, other than pursuant to its terms, if material; and

appointment of a successor or additional paying agent or the change of name of a paying agent, if material.

“Participating Underwriter” shall mean any of the original underwriters of the County’s Bonds required to comply with the Rule in connection with the offering of such Bonds.

“Repository” shall mean The Electronic Municipal Market Access (“EMMA”) system administered by the Municipal Securities Rulemaking Board. EMMA is recognized as a National Repository for purposes of the Rule.

“Rule” shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

### SECTION 3. Provision of Annual Reports.

A. The County shall, or shall cause the Dissemination Agent to, provide to each Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Such Annual Report shall be filed on a date (the “Filing Date”) that is not later than March 31 after the end of any Fiscal Year (commencing with its Fiscal Year ending June 30, 2019). Not later than ten (10) days prior to the Filing Date, the County shall provide the Annual Report to the Dissemination Agent (if

applicable). In such case, the Annual Report (i) may be submitted as a single document or as separate documents comprising a package, (ii) may cross-reference other information as provided in Section 4 of this Disclosure Agreement, and (iii) shall include the County's audited financial statements or, if audited financial statements are not available, such unaudited financial statements as may be required by the Rule. In any event, audited financial statements of the County must be submitted, if and when available, together with or separately from the Annual Report.

B. The annual financial statements of the County shall be prepared on the basis of generally accepted accounting principles and will be audited. Copies of the audited annual financial statements, which may be filed separately from the Annual Report, will be filed with the Repositories when they become publicly available.

C. If the County fails to provide an Annual Report to the Repository by the date required in subsection (A) hereto or to file its audited annual financial statements with the Repository when they become publicly available, the County shall, in a timely manner, send a notice to the Repository in substantially the form attached hereto as Exhibit B.

SECTION 4. Content of Annual Reports. Except as otherwise agreed, any Annual Report required to be filed hereunder shall contain or incorporate by reference, at a minimum, annual financial information relating to the County, including operating data, updating such information relating to the County as described in Exhibit A, all with a view toward assisting Participating Underwriters in complying with the Rule.

Any or all of such information may be incorporated by reference from other documents, including official statements of securities issues with respect to which the County is an "obligated person" (within the meaning of the Rule), which have been filed with the Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The County shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Listed Events. The County will provide within 10 business days to the Repository notice of any of the Listed Events.

SECTION 6. Termination of Reporting Obligation. The County's obligations under this Disclosure Agreement shall terminate upon the earlier to occur of the legal defeasance or final retirement of all the Bonds.

SECTION 7. Dissemination Agent. The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement and may discharge any such Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the County shall be the Dissemination Agent.

SECTION 8. Amendment. Notwithstanding any other provision of this Disclosure Agreement, the County may amend this Disclosure Agreement, if such amendment is supported by an opinion of independent counsel with expertise in federal securities laws, to the effect that such amendment is permitted or required by the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is

required by this Disclosure Agreement. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the County shall have no obligation under this Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. Any person referred to in Section 11 (other than the County) may take such action as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the County to file its Annual Report or to give notice of a Listed Event. The holders of not less than a majority in aggregate principal amount of Bonds outstanding may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to challenge the adequacy of any information provided pursuant to this Disclosure Agreement, or to enforce any other obligation of the County hereunder. A default under this Disclosure Agreement shall not be deemed an event of default under the Resolution or the Bonds of the County, and the sole remedy under this Disclosure Agreement in the event of any failure of the County to comply herewith shall be an action to compel performance. Nothing in this provision shall be deemed to restrict the rights or remedies of any holder pursuant to the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder, or other applicable laws.

SECTION 11. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the County, the Participating Underwriters, and holders from time to time of the County's Bonds, and shall create no rights in any other person or entity.

Date: \_\_\_\_\_, 2019

FAIRFAX COUNTY, VIRGINIA

By:

\_\_\_\_\_  
Joseph M. Mondoro  
Chief Financial Officer

**EXHIBIT A**

**CONTENT OF ANNUAL REPORT**

(a) **Financial Information.** Updated information concerning General Fund revenues, expenditures, categories of expenditures, fund balances, assessed value of taxable property, tax rates, major taxpayers, and tax levies and collections.

(b) **Debt Information.** Updated information concerning general obligation bonds indebtedness, including bonds authorized and unissued, bonds outstanding, the ratios of debt to the market value of taxable property, debt per capita, and debt service as a percentage of General Fund disbursements.

(c) **Demographic Information.** Updated demographic information respecting the County such as its population, public school enrollment, and per pupil expenditure.

(d) **Economic Information.** Updated economic information respecting the County such as income, employment, unemployment, building permits, and taxable sales data.

(e) **Retirement Plans.** Updated information respecting pension and retirement plans for County employees, including a summary of membership, revenues, expenses, and actuarial valuation(s) of such plans.

(f) **Contingent Liabilities.** A summary of material litigation and other material contingent liabilities pending against the County.

In general, the foregoing will include information as of the end of the most recent fiscal year or as of the most recent practicable date. Where information for the fiscal year just ended is provided, it may be preliminary and unaudited. Where information has historically been provided for more than a single period, comparable information will in general be provided for the same number of periods where valid and available. Where comparative demographic or economic information for the County and the United States as a whole is contemporaneously available and, in the judgment of the County, informative, such information may be included. Where, in the judgment of the County, an accompanying narrative is required to make data presented not misleading, such narrative will be provided.

**EXHIBIT B**

**NOTICE OF FAILURE TO FILE ANNUAL REPORT  
[AUDITED ANNUAL FINANCIAL STATEMENTS]**

**Re: FAIRFAX COUNTY VIRGINIA  
PUBLIC IMPROVEMENT BONDS,  
SERIES 2019A**

**And**

**[TAXABLE] PUBLIC IMPROVEMENT REFUNDING BONDS,  
SERIES 2019B**

**CUSIP NOS.:**

Dated: \_\_\_\_\_, 20\_\_

NOTICE IS HEREBY GIVEN that Fairfax County, Virginia has not provided an Annual Report [Audited Annual Financial Statements] as required by Section 3 of the Continuing Disclosure Agreement, which was entered into in connection with the above-named bonds issued pursuant to that certain Resolution adopted on December 4, 2018, by the Board of Supervisors of the County, the proceeds of which were used to finance and refinance various public improvements in the County. [The County anticipates that the Annual Report [Audited Annual Financial Statements] will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

FAIRFAX COUNTY, VIRGINIA

By

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Board Agenda Item  
December 4, 2018

ACTION - 2

Approval of Resolution Endorsing Projects Being Submitted for FY 2025 Regional Surface Transportation Program and Congestion Mitigation and Air Quality Federal Funding through the Northern Virginia Transportation Authority

ISSUE:

Board approval of a resolution (Attachment 1) authorizing the Fairfax County Department of Transportation (FCDOT) to apply for federal Congestion Mitigation Air Quality (CMAQ) and Regional Surface Transportation Program (RSTP) funding for FY 2025. Applications for federal funding will be submitted through the Northern Virginia Transportation Authority (NVTA). These projects are included in the Transportation Priorities Plan (TPP) adopted by the Board of Supervisors on January 28, 2014.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the Resolution (Attachment 1) endorsing Fairfax County projects for submission for NVTA's regional and federal CMAQ/RSTP funding programs.

TIMING:

Board of Supervisors' approval is requested on December 4, 2018, to meet the NVTA submission deadline of December 14, 2018. The Commonwealth Transportation Board (CTB) will subsequently consider the NVTA-approved list of projects for CMAQ and RSTP funding in June 2019, as part of its Six-Year Improvement Program (SYIP).

BACKGROUND:

The CMAQ Program provides federal funds for regions that are determined to be in non-attainment for air quality to assist them in complying with Clean Air Act requirements. The RSTP Program provides federal formula funds to the region to assist with the implementation of transportation capital projects.

The Board last endorsed CMAQ and RSTP applications for FY 2024 funds in December 2017. The Commonwealth's current SYIP, adopted by the CTB in June 2018, included CMAQ and RSTP funding through FY 2025.

For the purposes of preparing its recommended project lists, NVTA currently estimates that \$52.6 million will be available in Northern Virginia for distribution in the RSTP Program, and \$29.6 million will be available in the CMAQ Program. Staff recommends submitting the following projects for funding consideration (Attachment 2). The project requests for FY 2025 funding are a continuation of funding for projects included in the TPP. No new projects are being recommended.

**Table 1– List of Proposed Projects for CMAQ/RSTP Funding**

<b>Project Title</b>	<b>Proposed Funding Request</b>	<b>Priority</b>
Richmond Highway Widening (Mt Vernon Memorial Highway to Napper Road)	\$10.0	1
Richmond Highway Bus Rapid Transit	\$13.0	2
Soapstone Drive Extension (Dulles Toll Road (DTR) Overpass)	\$18.0	3
Fairfax County Parkway (Route 286) Widening (Route 123 to Route 29)/Popes Head Interchange	\$10.0	4
Seven Corners Ring Road (Phase 1A/Segment 1A)	\$9.0	5
Countywide Transit Stores	\$0.67	6
<b>Total CMAQ/RSTP Requested</b>	<b>\$60.67</b>	

**FISCAL IMPACT:**

Requests for regional and federal (CMAQ and RSTP) funding are shown by project in the table above. There is no Local Cash Match associated with either the CMAQ or RSTP funding and no impact to the General Fund. If the County is awarded funding, staff will submit Board items as needed to accept the awards and execute the Standard Project Administration Agreements with VDOT, and DRPT.

**ENCLOSED DOCUMENTS:**

Attachment 1 – Resolution of Endorsement of Projects Being Submitted for Regional and Federal Funding through the Northern Virginia Transportation Authority  
Attachment 2 – List of Projects with Brief Descriptions

**STAFF:**

Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT  
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT  
Todd Minnix, Chief, Transportation Design Division, FCDOT  
Karyn Moreland, Section Chief, Capital Projects and Operations Division, FCDOT  
Lisa Witt, Acting Section Chief, Administrative Section, FCDOT  
Brent Riddle, Senior Transportation Planner, Coordination and Funding, FCDOT  
Ray Johnson, Senior Transportation Planner, Coordination and Funding, FCDOT  
Noelle Dominguez, Senior Transportation Planner, Coordination and Funding, FCDOT

## **Fairfax County Board of Supervisors Resolution**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, December 4, 2018, at which meeting a quorum was present and voting, the following resolution was adopted.

### **RESOLUTION**

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby approves submission to the Northern Virginia Transportation Authority (NVTa) requests for funding from the federal Congestion Mitigation and Air Quality and Regional Surface Transportation Programs for FY 2025 for the following projects:

- Countywide Transit Stores
- Fairfax County Parkway Widening (Ox Road to Lee Highway), and Fairfax County Parkway/Popes Head Road Interchange Improvement
- Richmond Highway Bus Rapid Transit
- Richmond Highway Widening (Mount Vernon Highway to Napper Road)
- Seven Corners Ring Road (Phase 1A/Segment 1A)
- Soapstone Drive Extension (Dulles Toll Road (DTR) Overpass)

Adopted this 4<sup>th</sup> day of December 2018, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

**ATTACHMENT 2**

**List of Recommended Projects for Congestion Mitigation Air Quality/Regional Surface Transportation Program (CMAQ/RSTP) Consideration (FY2025)**

<b>Project</b>	<b>Project Description</b>	<b>Funding Request in Millions</b>	<b>Priority</b>
Richmond Highway Widening (Mt Vernon Memorial Highway to Napper Road)	The Richmond Highway widening project is 2.9 miles in length and is located between Mt. Vernon Memorial Highway (south) and Napper Road. This project will provide a six-lane facility complementing the existing Richmond Highway project currently under construction from Telegraph Road to Mt. Vernon Memorial Highway. This project includes both pedestrian and bicycle facilities and provision for future bus rapid transit.	\$10.0	1
Richmond Highway Bus Rapid Transit (BRT), Huntington Metrorail Station to Fort Belvoir)	The BRT project includes median running BRT from the Huntington Metrorail Station to Fort Belvoir. The project will include: new transit stations, facilities for bicycle, pedestrian and vehicle travel modes.	\$13.0	2
Soapstone Drive Extension (Dulles Toll Road (DTR) Overpass)	The Soapstone Drive Extension is a new roadway, approximately one-half mile long between Sunrise Valley Drive and Sunset Hills Road. The project will include a new bridge crossing over the Dulles Toll Road. This project includes both pedestrian and bicycle facilities.	\$18.0	3
Fairfax County Parkway Widening (Ox Road to Lee Highway), and Fairfax County Parkway/Popes Head Road Interchange Improvement	The project provides for the widening of Fairfax County Parkway (Route 286) from Route 123 to 2,000 feet north of Route 29 from four lanes (divided) to six lanes (divided). This improvement will provide or upgrade pedestrian and bicycle amenities. The project provides for an interchange at the intersection of Fairfax County Parkway, Popes Head Road and Shirley Gate Extension, including pedestrian and bicycle accommodations, and future connection to Shirley Gate Road to the east.	\$10.0	4
Seven Corners Ring Road (Phase 1A/Segment 1A)	This project will design the first phase of the new interchange. This phase consists of a new road connecting Route 7, on the western side of the existing Seven Corners Interchange, with a bridge over Route 50, around the interchange to Sleepy Hollow Road, back to Route 7 on the eastern side of the interchange and terminating with a bridge that goes over Route 50. Project will also include new signalized crosswalks with VDOT Wilson Boulevard replacement bridge. The entire project includes bicycle and pedestrian accommodations.	\$9.0	5

Countywide Transit Stores	Six transit stores provide transit information, trip planning, fare media, and ridesharing information to area residents and visitors seeking alternatives to driving alone. From FY 2002 through FY 2024, CMAQ funding has been allocated to the operation of the countywide transit stores.	\$0.67	6
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ACTION - 3

Approval of and Authorization to Execute a Standard Project Administration Agreement with the Virginia Department of Transportation for Implementation of the Fair Lakes Boulevard Walkway Project and Approval of Supplemental Appropriation Resolution AS 19136 (Springfield District)

ISSUE:

Board of Supervisor's approval of, and authorization for, the Director of the Fairfax County Department of Transportation (FCDOT) to execute a Standard Project Administration Agreement, substantially in the form of Attachment 2, for the Fair Lakes Boulevard Walkway Project (Project) and approval of a Supplemental Appropriation Resolution AS 19136 (Attachment 3) to accept grant funding in the amount of \$322,000. The required Local Cash Match of \$80,500 and \$310,000 in other local funds needed to complete the project have been identified in Fund 40010, County and Regional Transportation Projects.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve a resolution (Attachment 1), authorizing the Director of the Department of Transportation to enter a Standard Project Administration Agreement (SPA) with the Virginia Department of Transportation (VDOT), substantially in the form of Attachment 2, as well as approve Supplemental Appropriation Resolution AS 19136 (Attachment 3) for the development of the Fair Lakes Boulevard Walkway Project. Required Local Cash Match of \$80,500 and additional local funds of \$310,000 for a total of \$390,500 have been identified in Fund 40100, County and Regional Transportation Projects. There are no positions associated with this award.

TIMING:

Board approval is requested on December 4, 2018, to allow the County to enter into an agreement with VDOT to implement the Fair Lakes Boulevard Walkway Project.

BACKGROUND:

On October 24, 2017, the Board of Supervisors endorsed the County's applications for Transportation Alternatives (TA) Projects. The TA set-aside program, included in the FAST Act, replaced The Transportation Alternatives Program (TAP), originally included in the Federal Surface Transportation Act, Moving Ahead for Progress in the 21st Century (MAP-21). The TA set-aside is similar in nature to TAP. At a minimum, applicants are required to provide 20 percent local share match, with grant awards

covering the remaining 80 percent. In this instance, additional local funding is necessary to complete the project.

The project will construct a walkway on south side of Fair Lakes Boulevard from Stringfellow Road to the Fair Lakes Shopping Center. The project completes a missing link in the pedestrian network in the Fair Lakes area. The project also will facilitate safer access to Fairfax Connector bus service, particularly Routes 605, the 630 series, and 640. The Fair Lakes Boulevard Walkway Project was awarded a \$322,000 grant. Fairfax County will administer the construction of the proposed improvements in accordance with all applicable federal, state and local laws and regulations. VDOT will maintain the project in accordance with 1.I. of the project agreement.

FISCAL IMPACT:

Grant funding of \$322,000 is available from VDOT, with a Local Cash Match requirement of \$80,500. An additional \$310,000 is also necessary to complete construction of the project. The Local Cash Match and the other local funds needed have been identified in Fund 40010, County and Regional Transportation Projects. Appropriation to the Federal-State Grant Fund totals \$307,000 as VDOT expenses are not accounted for in the County's financial system. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards. This grant does not allow for the recovery of indirect costs.

ENCLOSED DOCUMENTS:

Attachment 1: Resolution to Enter Standard Project Administration Agreement with the Virginia Department of Transportation  
Attachment 2: Standard Project Administration Agreement for Fair Lakes Boulevard Walkway Project (including Related Appendices)  
Attachment 3: Supplemental Appropriation Resolution AS 19136

STAFF:

Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Todd Minnix, Chief, Transportation Design Division (CPTED), FCDOT  
Todd Wigglesworth, Chief, Coordination and Funding Division (CFD), FCDOT  
Brent Riddle, Transportation Planner, CFD, FCDOT

ASSIGNED COUNSEL:

Joanna Faust, Assistant County Attorney

## **Fairfax County Board of Supervisors Resolution**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center in Fairfax, Virginia, on Tuesday, December 4, 2018, at which meeting a quorum was present and voting, the following resolution was adopted:

### **AGREEMENT EXECUTION RESOLUTION**

**A RESOLUTION FOR THE BOARD OF SUPERVISORS OF THE COUNTY OF  
FAIRFAX, VIRGINIA  
AS AN ENDORSEMENT OF THE  
Fair Lakes Boulevard Walkway  
PROJECT**

**WHEREAS**, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation (VDOT) to establish a project(s), if not already established, in the County of Fairfax.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors requests the Commonwealth Transportation Board to establish a project(s), if not already established, for the implementation of, Fair Lakes Boulevard Walkway project (VDOT project # EN18-029-424, UPC 113610) (“Project”).

**BE IT FURTHER RESOLVED THAT**, the Board of Supervisors hereby agrees to provide its share of the local contribution, in accordance with the Project Administration Agreements (“PAA”, attached) and associated financial documents (Appendix A), executed pursuant to this Resolution.

**BE IT FURTHER RESOLVED THAT**, the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County’s Department of Transportation to execute, on behalf of the County of Fairfax, the PAA with the Virginia Department of Transportation for the implementation of the Project to be administered by Fairfax County.

Adopted this 4<sup>th</sup> day of December 2018, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

**STANDARD PROJECT ADMINISTRATION AGREEMENT**  
**Federal-aid Projects**

Project Number	UPC	Local Government
EN18-029-424 Fair Lakes Blvd Walkway	113610	Fairfax County

THIS AGREEMENT, made and executed in triplicate this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the County of Fairfax, Virginia, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance each Project; and

WHEREAS, the LOCALITY is committed to the development and delivery of each Project described in Appendix A in an expeditious manner; and;

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state, and local law and regulations.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The LOCALITY shall:
  - a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties. Each Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards or supplementary standards approved by the DEPARTMENT
  - b. Meet all funding obligation and expenditure timeline requirements in accordance with all applicable federal and state laws and regulations, and Commonwealth Transportation Board and DEPARTMENT policies and as identified in Appendix A to this Agreement. Noncompliance with this requirement can result in deallocation of the funding, rescinding of state funding match, termination of this Agreement, or DEPARTMENT denial of future requests to administer projects by the LOCALITY.

- c. Receive prior written authorization from the DEPARTMENT to proceed with preliminary engineering, right-of-way acquisition and utility relocation, and construction phases of each Project.
- d. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.
- e. Maintain accurate and complete records of each Project's development and documentation of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for no less than three (3) years following acceptance of the final voucher on each Project.
- f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and an up-to-date project summary and schedule tracking payment requests and adjustments. A request for reimbursement shall be made within 90 days after any eligible project expenses are incurred by the Locality. For federally funded projects and pursuant to 2 CFR 200.338, Remedies for Noncompliance, violations of the provision may result in the imposition of sanctions including but not limited to possible denial or delay of payment of all or a part of the costs associated with the activity or action not in compliance.
- g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if, due to action or inaction solely by the LOCALITY, federally funded Project expenditures incurred are not reimbursed by the Federal Highway Administration (FHWA), or reimbursements are required to be returned to the FHWA, or in the event the reimbursement provisions of Section 33.2-214 or Section 33.2-331 of the Code of Virginia, 1950, as amended, or other applicable provisions of federal, state, or local law or regulations require such reimbursement.
- h. On Projects that the LOCALITY is providing the required match to state or federal funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.
- i. Administer the Project in accordance with all applicable federal, state, or local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of federal or state-aid reimbursements
- j. Provide certification by a LOCALITY official that all LOCALITY administered Project activities have been performed in accordance with all federal, state, and local laws and regulations. If the locality expends over

\$750,000 annually in federal funding, such certification shall include a copy of the LOCALITY's single program audit in accordance with 2 CFR 200.501, Audit Requirements.

- k. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.
  - l. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.
  - m. Ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964, regulations of the United States Department of Transportation (USDOT), Presidential Executive Orders and the Code of Virginia relative to nondiscrimination.
2. The DEPARTMENT shall:
- a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal and state laws and regulations or as otherwise agreed to, in writing, between the parties and provide necessary coordination with the FHWA as determined to be necessary by the DEPARTMENT.
  - b. Upon receipt of the LOCALITY's invoices pursuant to paragraph 1.f., reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.
  - c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.
  - d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with federal and state laws and regulations.
  - e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.

3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.
4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the Code of Virginia, 1950, as amended.
5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.
6. Nothing in this Agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
7. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.
8. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than the Parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, received a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

- 9 This Agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.f, 1.g., and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination, the DEPARTMENT shall retain ownership of plans, specifications, and right of way, unless all state and federal funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way, unless otherwise mutually agreed upon in writing.
10. Prior to any action pursuant to paragraphs 1.b or 1.g of this Agreement, the DEPARTMENT shall provide notice to the LOCALITY with a specific description of the breach of agreement provisions. Upon receipt of a notice of breach, the LOCALITY will be provided the opportunity to cure such breach or to provide a plan to cure to the satisfaction to the DEPARTMENT. If, within sixty (60) days after receipt of the written notice of breach, the LOCALITY has neither cured the breach, nor is diligently pursuing a cure of the breach to the satisfaction of the DEPARTMENT, then upon receipt by the LOCALITY of a written notice from the DEPARTMENT stating that the breach has neither been cured, nor is the LOCALITY diligently pursuing a cure, the DEPARTMENT may exercise any remedies it may have under this Agreement.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

**COUNTY OF FAIRFAX, VIRGINIA:**

\_\_\_\_\_

\_\_\_\_\_  
Typed or printed name of signatory

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this Agreement.

**COMMONWEALTH OF VIRGINIA, DEPARTMENT OF  
TRANSPORTATION:**

\_\_\_\_\_  
Chief of Policy  
Commonwealth of Virginia  
Department of Transportation

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

**Attachments**

Appendix A – UPC 113610

**Appendix A**
**Date:** 10/16/2018

Project Number: EN18-029-424      UPC: 113610      CFDA # 20.205      Locality: Fairfax County

Project Location ZIP+4: 22033-2895	Locality DUNS# 074837626	Locality Address (incl ZIP+4): 4050 Legato Road, Suite 400 Fairfax, VA 22033-2895
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**Project Narrative**

Scope:	Fair Lakes Boulevard Walkway
From:	Fair Lakes Boulevard at Stringfellow Rd
To:	Fair Lakes Boulevard at Fairstone Dr
Locality Project Manager Contact info:	Todd Minnix 703-877-5749 <a href="mailto:Wesley.Minnix@fairfaxcounty.gov">Wesley.Minnix@fairfaxcounty.gov</a>
Department Project Coordinator Contact Info:	Derick Undan 703-259-3347 <a href="mailto:Rhoderick.Undan@vdot.virginia.gov">Rhoderick.Undan@vdot.virginia.gov</a>

**Project Estimates**

	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$282,500	\$75,000	\$340,000	\$697,500
Estimated VDOT Project Expenses	\$5,000	\$0	\$10,000	\$15,000
Estimated Total Project Costs	\$287,500	\$75,000	\$350,000	\$712,500

**Project Cost and Reimbursement**

Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	\$235,000	Local Funds	100%	\$235,000	\$0	
	\$52,500	Transportation Alternatives	20%	\$10,500	\$42,000	
				\$0	\$0	
<b>Total PE</b>	\$287,500			\$245,500	\$42,000	\$37,000
Right of Way & Utilities	\$75,000	Local Funds	100%	\$75,000	\$0	
				\$0	\$0	
<b>Total RW</b>	\$75,000			\$75,000	\$0	\$0
Construction	\$350,000	Transportation Alternatives	20%	\$70,000	\$280,000	
				\$0	\$0	
<b>Total CN</b>	\$350,000			\$70,000	\$280,000	\$270,000
<b>Total Estimated Cost</b>	\$712,500			\$390,500	\$322,000	\$307,000

**Total Maximum Reimbursement by VDOT to Locality (Less Local Share)**

\$322,000

**Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)**

\$307,000

**Project Financing**

Transportation Alternatives (80%)	Local Match (20%)	Local Funds (100%)				Aggregate Allocations
\$322,000	\$80,500	\$310,000				\$712,500

**Program and Project Specific Funding Requirements**

- This project shall be administered in accordance with VDOT's Locally Administered Projects Manual and Transportation Alternatives Program Guide.
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality shall complete project scoping on or before 10/30/2019.
- This is a limited funds project. The LOCALITY shall be responsible for any additional funding in excess of \$322,000.
- Reimbursement for eligible expenditures shall not exceed funds allocated each year by the Commonwealth Transportation Board in the Six Year Improvement Program.
- Eligible VDOT project expenses will be recovered as follows: 80% will be deducted from the federal allocation and 20% will be deducted from reimbursement requests.
- Any ineligible items identified throughout project development will not be reimbursable.
- The DEPARTMENT will conduct all environmental studies necessary to complete an environmental document in compliance with the National Environmental Policy Act. The LOCALITY is responsible for implementing any environmental commitments from the environmental document. In addition, the LOCALITY is responsible for obtaining any water quality permits and conducting any required hazardous materials due diligence efforts. VDOT's estimated cost for the environmental document and studies will be provided to the locality and deducted from the project funds.
- For Transportation Alternatives projects, the LOCALITY shall maintain the project or have it maintained in a manner satisfactory to the DEPARTMENT for its useful life and make ample provisions each year for such maintenance unless otherwise agreed to by the DEPARTMENT. Failure to do so, or the sale of a TAP funded improvement prior to the expectations as identified in the TAP Guide, may require repayment of federal funds.
- In accordance with CTB policy, the project must be under construction by October 1, 2022 or the federal Transportation Alternatives funding may be subject to de-allocation.
- All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.

This attachment is certified and made an official attachment to this document by the parties to this agreement.

Authorized Locality Official and Date

Tom Biesiadny

Typed or printed name of person signing

Authorized VDOT Official and Date

Ray Burkhardt

Typed or printed name of person signing

Revised: July 3, 2018

**SUPPLEMENTAL APPROPRIATION RESOLUTION AS 19136**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax Virginia on December 4, 2018, 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 2019, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund: 500-C50000, Federal-State Grant Fund

Agency: G4040, Department of Transportation \$307,000

Grant: 1400148-2019, Fair Lakes Boulevard Walkway

Reduce Appropriation to:

Agency: G8787, Unclassified Admin \$307,000

Fund: 500-C50000, Federal-State Grant Fund

Source of Funds: Virginia Department of Transportation, \$307,000

A Copy - Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors

Board Agenda Item  
December 4, 2018

ACTION - 4

Approval of and Authorization to Execute a Project Administration Agreement with the Town of Vienna for the Construction of Pedestrian Enhancement Improvements on Old Courthouse Road (Hunter Mill District)

ISSUE:

Board of Supervisors' approval of, and authorization for, the Director of the Department of Transportation (FCDOT) to execute a Project Administration Agreement (PAA) with the Town of Vienna, in substantially the form of Attachment II, for the construction of pedestrian enhancement improvements on Old Courthouse Road from Westbriar Drive/Fairway Drive to Freedom Hill Park entrance (Project).

RECOMMENDATION:

The County Executive recommends that the Board approve a resolution, substantially in the form of Attachment I, authorizing the FCDOT Director to execute the PAA with the Town of Vienna for the administration of the Project.

TIMING:

Board action is requested on December 4, 2018, to ensure that the Project advances expeditiously.

BACKGROUND:

As part of the Transportation Priorities Plan (TPP) approved by the Board of Supervisors in January 2014, \$1.5 million was included for pedestrian enhancement improvements on Old Courthouse Road. FCDOT staff has been coordinating with the Town of Vienna staff to advance projects in both the County and the Town that the Board approved in the TPP. On July 28, 2015, the Board approved an agreement for the Town of Vienna to administer design of the Project in an amount not to exceed \$200,000.

Full design is near completion and the Project is ready to advance to the next phase. Staff from FCDOT and the Town of Vienna have coordinated the scope and budget for the construction agreement, and are ready to proceed to execution after Board approval. The Town of Vienna's Town Council will consider approval of this agreement on December 10, 2018.

Originally, the scope of this Project included bike shoulders along Old Courthouse

Board Agenda Item  
December 4, 2018

Road. Research and field work clarified that bike shoulders were not feasible within this area given the site conditions and monetary constraints. The existing trail is not compliant with current standards. It generally provides for two to three feet in width, creating a less than desirable walk through the area. In addition, the existing trail does not comply with the Americans with Disabilities Act (ADA). County staff decided to redefine the project, to upgrade the existing trail to a sidewalk creating a more pedestrian friendly link with Tysons, as well as a better walking route to and from Westbriar Elementary School. Town staff noted that they would like to add another block of sidewalk to connect this project to a Safe Routes to School grant that will upgrade pedestrian facilities coming from farther west in the Town. This would connect both projects and bring the sidewalk to current standards. As the project site lies largely within the Town of Vienna, the County and the Town negotiated an agreement to have the project managed by the Town and implemented in two phases: Phase I (design of pedestrian improvements) and Phase II: (land acquisition, utilities, and construction).

The plans have been reviewed and are in process of getting final approval, which would complete Phase I by the end of 2018. With approval of this item, Phase II would begin and start with land acquisition and needed utility relocation.

FISCAL IMPACT:

The Board approved \$1.5 million total for this Project, and the Town of Vienna has completed design in the amount of \$198,757. The total project estimate for the construction phase is \$2,282,838, which is \$432,838 more than the original estimate. The Town has agreed to provide \$550,000 toward Project cost, and this leaves a balance of \$1,732,838 for the County to fund. The Board has approved \$1.3 million for construction in the TPP and staff is proposing to fund the remaining \$432,838. FCDOT Funding for the Project comes from Fund 40010 (County and Regional Transportation Projects).

According to the Funding Allocation Policy approved by the Board in March 2011, the FCDOT Director has authority to authorize increases in project cost between \$250,000 and \$1 million, provided the Board is notified. This board item serves as notification to the Board.

The Town of Vienna bears any cost overruns, unanticipated expenses, or funding shortages, if any, under this agreement (Attachment II). Any unexpended funds from the \$1,732,838 will be returned to the County no later than 90 days after construction of the Project has been completed and final expenses have been paid in full. There is no impact to the General Fund.

Board Agenda Item  
December 4, 2018

ENCLOSED DOCUMENTS:

Attachment I – Resolution to Execute Project Administration Agreement  
Attachment II – Project Administration Agreement with the Town of Vienna

STAFF:

Robert A. Stalzer, Deputy County Executive  
Joe Mondoro, Chief Financial Officer  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Eric M. Teitelman, P.E., Chief, Capital Projects and Traffic Engineering Division  
(CPTED), FCDOT  
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT  
Vanessa Aguayo, Capital Projects and Traffic Engineering Division, FCDOT  
Ray Johnson, Coordination and Funding Division, FCDOT  
Christina Farrar, Coordination and Funding Division, FCDOT

ASSIGNED COUNSEL:

Joanna Faust, Assistant County Attorney

## **Fairfax County Board of Supervisors Resolution**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, December 4, 2018, at which meeting a quorum was present and voting, the following resolution was adopted.

### **AGREEMENT EXECUTION RESOLUTION**

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County's Department of Transportation to execute, on behalf of the County of Fairfax, a Project Administration Agreement with the Town of Vienna for the construction of pedestrian improvements on Old Courthouse Road to be administered by the Town of Vienna and provide its share of the Project contribution in accordance with the Project Administration Agreement.

Adopted this 4th day of December 2018, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

**PROJECT ADMINISTRATION AGREEMENT**

**BETWEEN FAIRFAX COUNTY and the TOWN OF VIENNA**

For the land acquisition, utility relocation, and construction of pedestrian enhancement improvements on Old Courthouse Road in the Town of Vienna, Virginia and the County of Fairfax, Virginia.

THIS AGREEMENT, made and executed in duplicate on this the \_\_\_\_ day of \_\_\_\_\_, 2018, ("Effective Date") between the COUNTY OF FAIRFAX, VIRGINIA (the "County"), and the TOWN OF VIENNA, VIRGINIA (the "Town"), collectively referred to as "Parties".

**WITNESSETH:**

WHEREAS, the County's Transportation Priorities Plan, approved on January 28, 2014, includes funding for the design, construction, and implementation of pedestrian enhancement improvements on Old Courthouse Road, located in the County, and the Town; and

WHEREAS, the County and the Town entered into an agreement on August 3, 2015, for the preliminary engineering and design of pedestrian enhancement improvements on Old Courthouse Road in the County, and the Town; and

WHEREAS, the County and Town have agreed that the Town will perform, or will engage third parties to perform, the implementation of the pedestrian enhancement improvements on Old Courthouse Road, including but not limited to, administration, land acquisition, utility relocation, and construction,) (the "Project"), substantially in accordance with the design dated September 10, 2018 shown in Appendix A ("Project Scope and Budget"); and

WHEREAS, the Parties have agreed that the Town's construction Contractor and Construction Manager will coordinate with both Town and County staffs for the construction of the Project; and

WHEREAS, the Parties have agreed that the Town's Construction Manager will, on behalf of the County, monitor the Contractor, construction schedule and process as more fully described below; and

WHEREAS, the County and the Town enter into this Agreement to set forth their respective obligations regarding the Project; and

WHEREAS, funds in the amount of \$1,732,838 shown in Appendix A have been allocated by the County to finance the Project and constitute the maximum amount the County will contribute to the Project ("County Contribution"); and

WHEREAS, the location of the pedestrian enhancement improvements is on Old Courthouse Road, running along Old Courthouse Road from County Parcel # 0293-01-0028 and continuing south-west to Town parcels numbered 0293-06-0031, 0293-06-0032, 0293-06-0033, 0293-06-0034, 0293-06-0035, 0293-06-0057, 0293-06-058A, 0293-06-0059, and 0293-06-0049, which is more specifically shown on the Fairfax County Real Property Identification Map as Tax Map No. 29-3, and is described on the final design dated September 10, 2018 in the Project Scope and Budget; and

WHEREAS, the Fairfax County Water Authority ("Fairfax Water") has reviewed and agreed to the location of the trail on its property as shown in the Project Scope and Budget; and

WHEREAS, the County's and Town's governing bodies have, by resolutions, which are attached hereto as Appendices B and C, respectively, authorized their respective designees to execute this Agreement; and

WHEREAS, Section 15.2-1108 and Section 15.2-1202 of the Code of Virginia authorizes both the County and the Town to enter into this Agreement;

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the Parties hereto agree as follows:

A. The Town shall:

1. Complete the work identified in Appendix A. All work shall be completed in accordance to scheduled construction activities established by the Parties, and all applicable federal, state, and local laws and regulations, including the Virginia Public Procurement Act. The Town shall be the executing agency for all contracts, purchase orders and other agreements as it relates to land acquisition within the Town and as stipulated in final design plans, utilities, and construction and construction of the Project.
2. Prepare and execute all aspects of the PROJECT for the portion of the PROJECT located within the County in accordance with all applicable standards of the Virginia Department of Transportation (VDOT), Fairfax Water, and the County.

3. Work with the County and Fairfax Water in good faith to resolve any feasibility issues that may develop.
4. Provide a quarterly summary of progress and project expenditures to the County in addition to, as needed, meetings with the designated County project manager, and as may be necessary Fairfax Water's representative, to discuss Project issues and progress. The County reserves the right to request that the Town provide to the County additional information and/or documentation to substantiate the quarterly summary.
5. Obtain County approval before modifying the design of the PROJECT as described in Appendix A. Prior to approval for such modification, or if the Town's proposed modification affects that portion of the Project on Fairfax Water property, the County will consult with Fairfax Water, and work with the Town on obtaining any required approvals as appropriate. The Town understands that if the Town takes any step to construct or implement change that, in the County's sole discretion, significantly deviates from the final design described in Appendix A, the County may withdraw from the Project and notify the Town of its decision. Within 30 days after the County's notification, the Town shall reimburse to the County all monies provided to the Project by the County.
6. Commence with the bidding, award, and administration of the construction contract for the Project following the Parties' agreement that the design phase has concluded.
7. Provide the County with 30 days' prior notice of its intent to enter into a contract for the construction of the Project.
8. Provide the following services during the construction phase of the Project and all activities associated the tasks set forth in Appendix A: project management, budgetary controls, any further preliminary engineering, survey and field engineering, acquisition of land, utilities relocation, construction, contract administration, and inspection activities for the Project as required, including VDOT review and acceptance of the construction, as required.
9. Provide monthly updates to the County on Project status, and include milestones, if applicable, for the County's review and comment. Such milestones shall be within the Town's discretion, but shall not be less than at 15, 50 and 90-percent completion of the construction phase.

10. Perform, or engage third parties to perform, and remit all payments for all work associated with the Project, to include administration costs and inspection services and activities for the Project as required.
11. Be permitted to include work beyond the scope of the Project, provided that none of the County Contribution is used for any work outside of the agreed scope of the Project.
12. Be responsible for all Project cost overruns that exceed the County Contribution of \$1,732,838 for the Project. The Town, in its sole discretion, may expend more than the County Contribution for the Project, but the Town is responsible for all expenses above the County Contribution for the Project, whether such additional expenses are the result of cost overruns or Town enhancements or modifications.
13. Prior to incurring any amount in excess of the County Contribution, notify the County of additional Project expenses, whether resulting from unanticipated circumstances or other causes, and provide the County with detailed estimates of the additional costs.
14. Return any unexpended portion of the County Contribution to the County no later than 90 days after the Project has been completed and final expenses have been paid in full.
15. Retain all invoices and all records of payments for any and all materials and services rendered for the Project, and any related expenses for completion of the Project, and provide copies of any such invoices and records of payments to the County within three business days after such request.
16. Submit monthly summaries as referenced in Section A, Paragraph 9. Failure to submit a monthly summary for three consecutive months shall constitute the Town's abandonment of its obligations under this Agreement. Upon notification by the County to the Town of such abandonment, the Town will immediately return any amount of the County Contribution not expended in accordance with this Agreement and, within 14 days of such abandonment or cessation, transmit all invoices and records of payments related to the Project to the County.
17. Provide maintenance of the Project facility upon its completion on parcels within Town limits. These parcels include: 0293-06-0031, 0293-06-0032, 0293-06-0033, 0293-06-0034, 0293-06-0035, 0293-06-0057, 0293-06-058A, 0293-06-0059, and 0293-06-0049, which is more

specifically shown on the Fairfax County Real Property Identification Map as Tax Map No. 29-3.

18. Ensure that all contracts with contractors:

- i. Require the contractor to indemnify and hold harmless the County for claims arising out of or related to such contract;
  - ii. Require the contractor to maintain commercial insurance at levels appropriate to the Project but not less than \$1,000,000 per occurrence for Commercial General Liability, \$1,000,000 for Commercial Automobile Liability, and \$1,000,000 per claim for Professional Liability where appropriate; and
  - iii. List the County as an additional insured on commercial general and automobile liability insurance policies covering any portion of the Project.
19. For construction of the County Portions, the Town will, through its staff, its Contractor and its Construction Manager, provide the following:
- i. Hold a preconstruction meeting to include the Parties, contractor, and Construction Manager and the County, as appropriate.
  - ii. Review and approve all submittals, Requests for Information (RFIs), proposed change orders and/or any contract amendments, in coordination with County staff for approval.
  - iii. Schedule all inspections in coordination with County staff.
  - iv. Coordinate issuance of the Certificate of Completion and Project Acceptance with County staff.
  - v. Provide a summary of expenses to the County on a quarterly basis for costs of construction, construction management, inspections, and staff time to provide services stated in this Agreement. The Town will include, with its expense summaries, copies of any invoices from the Contractor and Construction Manager and a statement of Town staff time incurred including tasks that were performed.
  - vi. Bill Town staff time at the same rate as the Town's Construction Division's time is billed to other departments in the Town.
  - vii. If the construction bid results in higher costs than previously estimated for the project based on final design as shown in Appendix A, the overall

Project budget shall be discussed with and agreed to by the County prior to authorization of any additional County funds.

- viii. Track expenses to be sure that all work can be completed for the amounts in the Project Scope and Budget as set forth in Appendix A. If the Town determines that work is needed for which the billing exceeds the amount in Appendix A, it will provide acceptable prior notice to the County and will not proceed with such work until so directed in writing by the County.

B. The County shall:

1. Provide to the Town for the Project in accordance with this Agreement the cost of the Project outlined in Appendix A.
2. Review plans and cost estimates and provide comments to the Town within 30 days after the receipt of the plans and cost estimates.
3. Fifteen days prior to the Town's letting of the construction contract for the Project, remit the County Contribution to the Town.
4. Participate in monthly, or as needed, meetings with the designated Town project manager, and/or the Fairfax Water representative, to discuss project progress.
5. The County's obligations to pay for all work shall include the actual costs of contractors and consultants used for the construction by the Town as provided in this Agreement, the actual cost for Town staff time, and reimbursement of other expenses, as set forth in Appendix A. If costs are higher than the estimates given in Appendix A, the Town shall notify the County of any difficulty in proceeding with the project at such cost, and the Parties will work cooperatively to resolve the issue.
6. Respond in a timely way to any questions from Town staff regarding change orders, contract amendments, or any other matters requiring input from City staff.
7. Have no responsibility for construction of the Town portion of the Project, including any portion of the Project for which the Town requires construction that is located in the County.

Provide maintenance of the Project facility upon its completion on parcels within County limits. These parcels include: 0293-01-0028, which is more specifically shown on the Fairfax County Real Property Identification Map as Tax Map No. 29-3.

## C. The Parties shall:

1. Maintain all records for the Project for a period of not less than three years from Project completion. All such records shall be subject to audit by either party.
2. Work cooperatively to complete the Project in a timely and expeditious manner and in accordance with all applicable laws and regulations.
3. Complete all work to be performed under the agreement in accordance with all laws and regulations applicable to each and/ or both parties.
4. Hold progress meetings or teleconferences at least monthly to review the Project status.
5. Upon notification of discovery of any hazardous substances in or on the property, immediately confer to determine the scope of any investigation and the requisite response action.
6. Meet and confer to resolve any dispute that may arise between the Parties. Nothing herein limits the rights of either party to resolve disputes by means not described or provided for in this Agreement.

D. All requirements for funds to be borne by the County shall be subject to annual appropriations by the Fairfax County Board of Supervisors.

E. Either party may terminate this Agreement prior to construction award upon 30 days' advance written notice. Any portion of the County Contribution not spent or incurred as a debt to a third party prior to termination shall be returned to the County within 90 days of termination.

F. THIS AGREEMENT shall not be construed as a waiver of the sovereign immunity of Fairfax County.

G. All notices under this Agreement shall be sent via U.S. Mail, postage prepaid, and email for

Fairfax County to:

Tom Biesiadny  
Director  
Department of Transportation  
4050 Legato Road, Suite 400  
Fairfax, VA 22033-2895  
[Tom.biesiadny@fairfaxCounty.gov](mailto:Tom.biesiadny@fairfaxCounty.gov)

Vanessa Aguayo  
Transportation Planner  
Department of Transportation  
Fairfax, VA 22033-2895  
[Vanessa.aguayo@fairfaxCounty.gov](mailto:Vanessa.aguayo@fairfaxCounty.gov)

and for the Town of Vienna to:

Michael J. Gallagher, PE  
Director of Public Works  
Town of Vienna  
127 Center Street S.  
Vienna, VA 22180  
[Michael.Gallagher@viennava.gov](mailto:Michael.Gallagher@viennava.gov)

- H. THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors and assigns.
- I. THIS AGREEMENT may be modified in writing upon mutual agreement of both parties.
- J. THIS AGREEMENT shall not be construed as creating any personal liability on the part of any officer, employee, agent of the parties, nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

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IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed  
as of the day, month, and year first herein written.

**COUNTY OF FAIRFAX, VIRGINIA:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Tom Biesiadny  
Director, Department of Transportation

\_\_\_\_\_  
Typed or Printed Name of Signatory  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

**TOWN OF VIENNA, VIRGINIA:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or Printed Name of Signatory  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

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## Appendix A (Project Scope and Budget

343

Place Holder for Appendix B (County Resolution)

344

Place Holder for Appendix C (Town Resolution)

<b>Project Number:</b> TBD	<b>Locality:</b> Town of Vienna & Fairfax County <b>UPC: 106049</b>
<b>Project Title:</b> Old Courthouse Road Pedestrian Access Improvements Phases 1 and 2	
<b>Project Description:</b> Remove an existing asphalt path and install new curb, gutter, sidewalk, and on-road bike lane along approximately 2,000 linear feet of Old Courthouse Road within the Town of Vienna and Fairfax County.	
<b>From:</b> 403 Old Courthouse Road NE  <b>To:</b> 8530 Old Courthouse Road	
<b>Detailed Scope of Services</b>	
Construct approx. 2,000 l.f. of new curb, gutter and sidewalk along Old Courthouse Road within the Town of Vienna and Fairfax County based on final design plans entitled 'Old Courthouse Road Pedestrian Access Improvements Phase 1 and 2' dated June 2018 prepared by Rinker Design and Associates. This scope includes Right of Way acquisition, Utility Relocation and Construction costs, as well as construction engineering support and Town of Vienna project management costs.	
The total projected cost is \$2,382,838 based on an estimate prepared September 2018 assuming 2019 construction. The Town of Vienna will contribute \$550,000 to the project and Fairfax County will contribute \$1,732,838	

Project Number:	N/A	UPC Number:	N/A
Project Location:	Town of Vienna, Virginia	Designed By:	Rinker Design Associates, P.C.
VDOT District:	N/A - County/Town Project	Designer:	Rinker Design Associates, P.C.
Project Manager:	Michael Gallagher, P.E.	Date:	September 2018

**OLD COURTHOUSE ROAD PEDESTRIAN ENHANCEMENT PROJECT QUANTITY LIST: TOTAL ESTIMATE**

ITEM	VDOT ITEM CODE	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE*	AMOUNT
<b>GENERAL CONSTRUCTION AND EARTHWORK</b>						
1	00100	MOBILIZATION	LS	1	\$ 81,302.77	\$ 81,302.77
2	00101	CONSTRUCTION SURVEYING	LS	1	\$ 10,300.00	\$ 10,300.00
3	00110	CLEARING AND GRUBBING	AC	0.76	\$ 15,270.00	\$ 11,605.20
4	00120	REGULAR EXCAVATION	CY	1852	\$ 76.35	\$ 141,400.20
4A	ATTD	NS EARTHWORK CONTINGENCY	CY	250	\$ 76.35	\$ 19,087.50
5	00140	BORROW EXCAVATION	CY	1555	\$ 10.18	\$ 15,829.90
6	00118	NS EXCAVATION REMOVE/HAUL AWAY EXCESS CUT	CY	1793	\$ 15.00	\$ 26,895.00
<b>PAVEMENT ITEMS</b>						
7	10636	ASPHALT CONCRETE TY. SM-9.5D	TON	626.4	\$ 106.89	\$ 66,955.90
8	16390	ASPHALT CONCRETE TY. BM-25.0A	TON	305.4	\$ 106.89	\$ 32,644.21
9	10128	AGGR. BASE MATL. TY. I NO. 21B	TON	1206.9	\$ 22.91	\$ 27,650.08
10	14270	AGGR. MATL. NO. 25 OR 26	TON	7.2	\$ 35.00	\$ 252.00
<b>INCIDENTAL ITEMS</b>						
11	10625	FLEXIBLE PAVE. PLANING 0" - 2"	SY	3773	\$ 3.56	\$ 13,431.88
12	12600	STD. COMB. CURB & GUTTER CG-6	LF	401	\$ 48.36	\$ 19,392.36
13	12720	NS COMB. CURB & GUTTER (MODIFIED CG-6)	LF	1216	\$ 48.36	\$ 58,805.76
14	12720	NS COMB. CURB & GUTTER (MODIFIED CG-6 FOR TRANSITION)	LF	10	\$ 48.36	\$ 483.60
15	12725	NS RADIAL COMB. CURB & GUTTER (MODIFIED RADIAL CG-6)	LF	223	\$ 48.36	\$ 10,784.28
16	12920	ENTRANCE GUTTER CG-9B	SY	228	\$ 86.53	\$ 19,728.84
17	14100	REMOVAL OF SIDEWALK (ASPHALT TRAIL)	SY	485	\$ 2.04	\$ 989.40
18	14100	REMOVAL OF SIDEWALK (CONCRETE)	SY	15	\$ 2.04	\$ 30.60
19	14120	REMOVE CURB AND GUTTER	LF	100	\$ 2.04	\$ 204.00
20	14300	CEMENT CONCRETE SIDEWALK 4"	SY	984	\$ 76.35	\$ 75,128.40
21	14310	2" HES (FOR DRIVEWAY TIE IN)	SY	180	\$ 70.00	\$ 12,600.00
22	14440	SAW CUT (SIDEWALK AND ASPHALT TRAIL)	LF	19	\$ 0.10	\$ 1.90
23	14450	SAW CUT CURB AND GUTTER	LF	5	\$ 0.10	\$ 0.50
24	24410	DEMOLITION OF PAVEMENT	SY	496	\$ 3.05	\$ 1,512.80
25	24500	NS REMOVE CONCRETE STEPS/CONCRETE DITCH/CONCRETE TRESTLE	SY	108	\$ 2.04	\$ 220.32
26	24500	NS REMOVE CONCRETE DRIVEWAY	SY	164	\$ 2.04	\$ 334.56
27	24500	NS REMOVE ASPHALT DRIVEWAY	SY	713	\$ 2.04	\$ 1,454.52
28	24500	NS REMOVE DRIVE WAY CULVERTS	LF	173	\$ 25.45	\$ 4,402.85
29	24505	NS RELOCATE EXIST. MAILBOX	EA	9	\$ 365.00	\$ 3,285.00
30	51910	SAW CUT PAVEMENT (ROADWAY)	LF	2355	\$ 0.10	\$ 235.50
31	51910	SAW CUT (ASPHALT DRIVEWAY/PARKING LOT)	LF	164	\$ 0.10	\$ 16.40
32	51910	SAW CUT (CONCRETE DRIVEWAY)	LF	67	\$ 0.10	\$ 6.70
33	13245	NS SIDEWALK CG-12B CURB RAMPS (PRICE TO INCLUDE 4" 21B STONE & DETECTABLE WARNING SURFACE)	SY	87	\$ 81.44	\$ 7,085.28
<b>EROSION &amp; SEDIMENT CONTROL</b>						
34	27012	TOPSOIL CL. A 2"	SY	2420	\$ 3.56	\$ 8,615.20
35	27300	SOD	SY	2420	\$ 10.18	\$ 24,635.60
38	24502	REMOVE TREES (2" - 6" DIA.)	EA	4	\$ 178.15	\$ 712.60
39	24502	REMOVE TREES (6" - 18" DIA.)	EA	9	\$ 509.00	\$ 4,581.00
40	24502	REMOVE TREES (18" - 30" DIA.)	EA	3	\$ 1,476.10	\$ 4,428.30
41	24502	REMOVE SHRUBS	EA	3	\$ 50.90	\$ 152.70
42	24502	GRIND TREE STUMP BELOW GRADE (SMALLER THAN 18" DIA.)	EA	13	\$ 101.80	\$ 1,323.40
43	24502	GRIND TREE STUMP BELOW GRADE (18" - 30" DIA.)	EA	3	\$ 178.15	\$ 534.45
44	ATTD	TREES (2" CALIPHER MIN. & 1 YEAR MAINTENANCE)	EA	35	\$ 375.00	\$ 13,125.00
45	23604	NS FENCE TREE PROTECTION FENCE	LF	550	\$ 9.67	\$ 5,318.50
46	27505	TEMPORARY SILT FENCE	LF	1973	\$ 9.67	\$ 19,078.91
47	27275	NS EROSION CONTROL CULVERT INLET PROTECTION EC-6	EA	10	\$ 152.70	\$ 1,527.00
48	27451	DROP INLET PROTECTION (TY. A OR TY. B)	EA	27	\$ 152.70	\$ 4,122.90
49	27275	NS EROSION CONTROL CULVERT OUTLET PROTECTION EC-1	EA	10	\$ 500.00	\$ 5,000.00
50	27415	CHECK DAM (ROCK) TY. II	EA	40	\$ 254.69	\$ 10,187.60
<b>DRAINAGE ITEMS</b>						
51	00588	UNDERDRAIN UD-4 (PERFORATED)	LF	1848	\$ 25.45	\$ 47,031.60
52	00588	UNDERDRAIN UD-4 (NON-PERFORATED)	LF	271	\$ 25.45	\$ 6,896.95
53	01152	15" CONC. PIPE	LF	1234	\$ 86.53	\$ 106,778.02
54	01182	18" CONC. PIPE	LF	190	\$ 96.71	\$ 18,374.90
55	01242	24" CONC. PIPE	LF	28	\$ 127.25	\$ 3,563.00
56	02222	34" X 22" ELLIPTICAL CONC. PIPE	LF	3	\$ 147.61	\$ 442.83
57	06151	15" END SECTION ES-1	EA	1	\$ 559.90	\$ 559.90
58	06240	24" END SECTION ES-1	EA	1	\$ 1,018.00	\$ 1,018.00
59	06750	DROP INLET DI-2B L=10'	EA	2	\$ 4,326.50	\$ 8,653.00
60	06751	DROP INLET DI-2B L=12'	EA	1	\$ 4,326.50	\$ 4,326.50
61	06817	DROP INLET DI-3B L=4' (MONOLITHIC BOX)	EA	2	\$ 4,326.50	\$ 8,653.00
62	06818	DROP INLET DI-3B L=6'	EA	2	\$ 4,326.50	\$ 8,653.00
63	06819	DROP INLET DI-3B L=8'	EA	1	\$ 4,326.50	\$ 4,326.50
64	06821	DROP INLET DI-3B L=12'	EA	1	\$ 4,326.50	\$ 4,326.50
65	06822	DROP INLET DI-3B L=14'	EA	1	\$ 4,326.50	\$ 4,326.50
66	06827	DROP INLET DI-38B L=6' (WITH 1/2" STEEL PLATE)	EA	1	\$ 4,326.50	\$ 4,326.50
67	06835	DROP INLET DI-3C L=6' (MONOLITHIC BOX)	EA	1	\$ 4,326.50	\$ 4,326.50
68	06835	DROP INLET DI-3C L=6'	EA	1	\$ 4,326.50	\$ 4,326.50
69	06836	DROP INLET DI-3C L=8' (MONOLITHIC BOX)	EA	1	\$ 4,326.50	\$ 4,326.50

70	07508	DROP INLET DI-7 TYPE III GRATE	EA	1	\$	4,326.50	\$	4,326.50
71	09148	EROSION CONTROL STONE CLASS A1 EC-1	TON	3	\$	101.80	\$	305.40
72	09215	PAVED DITCH PG-5	SY	46	\$	76.35	\$	3,512.10
73	---	NUTRIENT CREDITS	LB	0.59	\$	19,000.00	\$	11,210.00
<b>PAVEMENT MARKING &amp; SIGNAGE</b>								
74	50108	SIGN PANEL	SF	12	\$	50.00	\$	600.00
75	50430	SIGN POST SIP-1, 2" 14 GA.	LF	154	\$	25.00	\$	3,850.00
76	50432	SIGN POST SIP-1, 2 1/16 10 GA.	LF	6	\$	27.00	\$	162.00
77	50434	SIGN POST SIP-1, 2 1/2" 10 GA.	LF	1	\$	40.93	\$	40.93
78	50436	SIGN POST SIP-1, 2 1/2" 12 GA.	LF	98	\$	35.00	\$	3,430.00
79	50485	CONCRETE FOUNDATION SIP-1, TYPE A	EA	18	\$	465.33	\$	8,375.94
80	50486	CONCRETE FOUNDATION SIP-1, TYPE B	EA	1	\$	510.56	\$	510.56
81	50759	RELOCATE EXIST. SIGN PANEL (COST OF POSTS AND FOUNDATIONS TO BE REMOVED INCLUDED)	EA	16	\$	178.15	\$	2,850.40
82	50860	REMOVE EXPOSED SIGN STRUCT. (INCLUDES SIGNS, POSTS, AND FOUNDATIONS)	EA	4	\$	178.15	\$	712.60
83	51951	INSTALL SIGN (ROADWAY SIGNS)	EA	3	\$	455.00	\$	1,365.00
84	54032	TY. B CL. I PAVE. LINE MARK. 4" (YELLOW)	LF	4048	\$	1.50	\$	6,072.00
85	54034	TY. B CL. I PAVE. LINE MARK. 6" (WHITE)	LF	4181	\$	2.00	\$	8,362.00
86	54040	TY. B CL. I PAVE. LINE MARK. 12" (WHITE)	LF	108	\$	36.03	\$	3,891.24
87	54042	TY. B CL. I PAVE. LINE MARK. 24" (WHITE)	LF	126	\$	24.00	\$	3,024.00
88	54250	PAVEMENT MESSAGE MARK. BICYCLE ARROW	EA	13	\$	350.00	\$	4,550.00
89	54254	PAVEMENT MESSAGE MARK. BICYCLE LANE SYMBOL	EA	13	\$	350.00	\$	4,550.00
90	54401	TY. B CL. I PAVE. MESSAGE MARK. "SCHOOL" (WHITE)	EA	1	\$	1,500.00	\$	1,500.00
<b>TRANSPORTATION MANAGEMENT PLAN AND SEQUENCE OF CONSTRUCTION</b>								
91	24265	NS MAINTENANCE OF TRAFFIC [PEDESTRIAN IMPROVEMENTS]	LS	1	\$	80,000.00	\$	80,000.00
92	24265	NS MAINTENANCE OF TRAFFIC [WATERLINE RELOCATION]	LS	1	\$	40,000.00	\$	40,000.00
<b>UTILITIES (BY CONTRACTOR)</b>								
93		WATERLINE RELOCATION (ESTIMATE PROVIDED BY TOWN CONTRACTOR)	LS	1	\$	501,500.00	\$	501,500.00
<b>*Unit Prices provided by the Town of Vienna based on Annual On-Call Task Order</b>								
					SUB TOTAL (WITHOUT MOBILIZATION)		\$ 1,626,055.46	
					SUB TOTAL (WITH MOBILIZATION)		\$ 1,702,358.23	
					CONTINGENCY (10%)		\$ 210,735.82	
					<b>TOTAL \$</b>		<b>1,913,094.06</b>	

<b>UTILITIES (BY OTHERS)</b>								
94		DOMINION ENERGY PROJECT PORTION OF COST PER PROVIDED P/EI, EXPIRES OCTOBER 2018	LS	1	\$	65,000.00	\$	65,000.00
95		VERIZON PROJECT PORTION OF COST PER PROVIDED P/EI, EXPIRES OCTOBER 2018	LS	1	\$	18,000.00	\$	18,000.00
96		WASHINGTON GAS (100% UTILITY COST)	LS	1	\$	50.00	\$	50.00
97		COX COMMUNICATIONS (100% UTILITY COST)	LS	1	\$	50.00	\$	50.00
					SUB TOTAL		\$ 83,000.00	
					20% CONTINGENCY		\$ 16,600.00	
					<b>TOTAL UTILITIES BY OTHERS \$</b>		<b>99,600.00</b>	

<b>RIGHT OF WAY</b>								
98		RIGHT OF WAY SERVICES	LS	1	\$	48,000.00	\$	48,000.00
99		FAIRFAX WATER PROPERTY (EXPECTED TO BE DONATED)	LS	1	\$	--	\$	--
100		AMBERWOOD HOMEOWNERS ASSOCIATION, INC.	SF	186	\$	30.00	\$	5,580.00
					SUB TOTAL		\$ 53,580.00	
					10% CONTINGENCY		\$ 5,358.00	
					<b>TOTAL RIGHT OF WAY \$</b>		<b>58,938.00</b>	

<b>CONSTRUCTION ENGINEERING SUPPORT &amp; CEI</b>								
101		UTILITY START/OUT & UTILITY MONITORING	LS	1	\$	57,000.00	\$	57,000.00
102		CONSTRUCTION ENGINEERING SUPPORT	LS	1	\$	46,000.00	\$	46,000.00
103		VDOT LUP ASSISTANCE, STREET ACCEPTANCE, GENERAL COUNTY PERMIT	LS	1	\$	17,000.00	\$	17,000.00
104		DIRECT COSTS	LS	1	\$	5,000.00	\$	5,000.00
					SUB TOTAL		\$ 125,000.00	
					10% CONTINGENCY		\$ 12,500.00	
					<b>EST. ENGINEERING COSTS \$</b>		<b>137,500.00</b>	

Town of Vienna CEI/Overnight (5%) \$ 108,706.60

**PROJECT TOTAL \$ 2,382,838.66**

**2019 EXCALCATION (3.5%) \$ 2,351,324**

ACTION – 5

Approval of a Resolution Endorsing Projects for Submission to the Northern Virginia Transportation Commission for the Fiscal Year 2020 I-66 Inside the Beltway Commuter Choice Program (Providence and Dranesville Districts)

ISSUE:

Board approval of a resolution authorizing the County to apply for regional funding for Fiscal Year (FY) 2020 through the Northern Virginia Transportation Commission (NVTC) to fund three projects that will increase travel options for commuters on I-66 Inside the Beltway.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve a resolution (Attachment 1) endorsing three Fairfax County transportation projects for submission for NVTC's I-66 Inside the Beltway Commuter Choice Program funding for FY 2020 and authorizing the Director of the Department of Transportation to sign and submit the applications.

TIMING:

Board of Supervisors' approval is requested on December 4, 2018, to meet the NVTC application deadline of January 16, 2019.

BACKGROUND:

At its meeting on November 1, 2018, NVTC approved the issuance of the FY 2020 Commuter Choice Program Call for Projects. Funding is provided by toll revenues from I-66 Inside the Beltway to fund multimodal transportation projects. Project applications are due to NVTC by close of business on January 16, 2019, with a resolution of endorsement from each locality's governing body.

NVTC staff will prepare a list of eligible candidate projects for consideration by the Commission at its meeting in May 2019, with a recommendation that these projects be submitted to the Commonwealth Transportation Board for approval in June 2019.

The FY 2020 I-66 Commuter Choice Program will follow the selection process prescribed in the Memorandum of Agreement between the Commonwealth Transportation Board (CTB), the Virginia Department of Transportation (VDOT), and NVTC as of January 5, 2017, whereby eligible projects are evaluated, prioritized, selected and then submitted to the CTB for approval. Available revenues for FY 2020 are approximately \$20 million. It is anticipated that NVTC will receive an update on the exact amount of available revenues from VDOT in January 2019.

Projects recommended for NVTC consideration for FY 2020 funding have been included as Attachment 1. Fairfax County's total request for funding from NVTC is \$10,312,000 million.

County staff recommends the following projects for submission to NVTC:

- Renewal of existing grant funds for the expansion of the Fairfax Connector Route 699, and adding three additional trips in the morning and evening peak hours (\$2,512,000).
- Express bus service operating from the Stringfellow Road Park-&-Ride Lot to the L'Enfant Plaza area in the District of Columbia (\$4,800,000).
- Vienna Metrorail Trail from Blake Lane to Vienna Metrorail Station (\$3,000,000).

These projects are described in further detail in Attachment 2.

This year's project selection process includes a new requirement that the funding priority by entities submitting multiple applications be listed in the Resolution approved by each jurisdiction's governing body. Following action by the Board of Supervisors, staff will pursue NVTC FY 2020 I-66 Commuter Choice inside the Beltway funding. County staff recommends the priority order listed above.

FISCAL IMPACT:

If selected and approved, annual estimated costs of \$10,312,000 for the aforementioned projects will be reimbursed by NVTC as part of the I-66 Commuter Choice Program. This funding will be included in subsequent budget processes. There is no General Fund impact.

ENCLOSED DOCUMENTS:

Attachment 1 - Resolution of Endorsement of Projects Being Submitted for FY 2020, I-66 Commuter Choice inside the Beltway funding  
Attachment 2 – List of Projects with Descriptions

STAFF:

Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation, FCDOT  
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT  
Dwayne Pelfrey, Chief, Transit Services Division, FCDOT  
Karyn Moreland, Section Chief, Capital Projects and Operations Division, FCDOT  
Michael Felschow, Planning Section Chief, Transit Services Division  
Malcolm Watson, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Emily Harwood Smith, Assistant County Attorney

## RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, December 4, 2018, at which a quorum was present and voting, the following resolution was adopted.

**WHEREAS**, the Northern Virginia Transportation Commission (NVTC) approved the issuance of the FY 2020 I-66 Inside the Beltway Commuter Choice Program Call for Projects at its meeting on November 1, 2018.

**WHEREAS**, the FY 2020 I-66 Commuter Choice Program will follow the selection process prescribed in the Memorandum of Agreement between the Commonwealth Transportation Board (CTB), Virginia Department of Transportation, and NVTC (January 5, 2017), whereby eligible projects are evaluated, prioritized, selected and then submitted to the CTB for approval, with funding provided by toll revenues from I-66 Inside the Beltway.

**WHEREAS**, new to this year's project selection process is the requirement that the funding priority by the County be listed in the Resolution approved by the Fairfax County Board of Supervisors.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of Fairfax County, Virginia, hereby authorizes the Director of the Fairfax County Department of Transportation to submit to the Northern Virginia Transportation Commission a request for funding from the I-66 Commuter Choice Program for FY 2020 for the following projects listed in priority order:

- Renewal and expansion of Fairfax Connector Route 699. Adding three additional morning and afternoon trips during peak hours.
- Express bus service operating from the Stringfellow Road Park-&-Ride Lot to the L'Enfant Plaza area in the District of Columbia.
- Vienna Metrorail Station Bike Trail from Blake Lane to Vienna Metrorail Station.

This Resolution shall take effect immediately.

A Copy Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors

## **List of Projects for I-66 FY 2020 Commuter Choice Program**

**Project:** Route 699 – Fairfax Connector Bus Service from Fairfax County Government Center to the Foggy Bottom area in the District of Columbia: \$2,512,000

**Project Description:** This is an existing service that has seen consistent growth since its inception in December 2017. The success of the service has resulted in some trips now operating with passenger required to stand on several morning and afternoon trips. The route currently has ten morning inbound trips to the Foggy Bottom area and ten afternoon outbound trips to the Fairfax County Government Center. FCDOT is proposing to seek funding to continue this service and to fund three additional morning and afternoon trips, along with the purchase of an additional vehicle, to address capacity issues.

**Project:** Route 697 – Express Bus Service from Stringfellow Road Park-and-Ride to the L'Enfant Plaza area in the District of Columbia \$4,800,000:

**Project Description:** Implement express bus service operating between from the Stringfellow Road Park-and-Ride Lot in Fair Lakes to the L'Enfant Plaza area in the District of Columbia (DC). The route will feature ten morning inbound trips to the L'Enfant Plaza area and ten afternoon outbound trips to the Stringfellow Road Park-and-Ride Lot. The route will serve this major employment center, as well as a major intermodal center (Metrorail, Metrobus, Virginia Railway Express) providing connections throughout the DC area.

The requested funds will fund the operation of the route and the purchase of six buses to operate the service, including one spare bus.

**Project:** Vienna Metrorail Trail (I-66 Trail Segment) \$3,000,000

**Project Description:** Construct 5,000 feet of a ten foot wide paved trail from Nutley Street at Vienna Metro Station to Blake Lane. The I-66 Trail will provide funding to complete a high quality, long distance active transportation route along the I-66 corridor, conveniently connecting a large segment of Fairfax County population to transit facilities, employment centers, recreational destinations, and other jurisdictions.

The requested funding will be used for the design and construction of the proposed I-66 trail segment. The trail will provide an alternative to single occupant trips on I-66 both outside and inside the Beltway.

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ACTION - 6

Endorsement of the Chief Administrative Officers' Task Force Recommendation  
Regarding the Preliminary FY 2020 Virginia Railway Express Capital and Operating  
Budget

ISSUE:

Board endorsement of the Chief Administrative Officers' (CAO) Task Force initial recommendation regarding the proposed FY 2020 Virginia Railway Express (VRE) budget.

RECOMMENDATION:

The County Executive recommends that the Board endorse the CAO Task Force's primary recommendation on the FY 2020 VRE budget. The recommendation is to concur with the VRE Operations Board's recommendation to help balance the FY 2020 budget with a passenger fare increase of three percent, as part of their six-year financial plan.

It is anticipated that additional recommendations will be presented to help balance the budget before the VRE Operations Board considers adoption of the FY 2020 budget on December 14, 2018. Some of the major strategies include: updating contractual costs with actual cost-driver indices when they become available (Consumer Price Index for Keolis and Association of American Railroads Index for Norfolk Southern), reviewing VRE departmental operational costs, implementing various marketing strategies to improve ridership, identifying qualifying one-time items for use of the previous fiscal year surplus, and continuing to evaluate projected ridership and revenue trends. County staff concurs with evaluating these strategies to balance the FY 2020 VRE budget.

TIMING:

The Board should act on this item on December 4, 2018, because this is the last Board meeting before the VRE Operations Board considers adoption of the FY 2020 VRE budget on December 14, 2018.

BACKGROUND:

The VRE Chief Executive Officer presented the preliminary FY 2020 budget to the VRE Operations Board on September 21, 2018. The FY 2020 budget included an unfunded amount of approximately \$1.9 million. VRE's FY 2020 fare revenue is budgeted at \$44.3 million, an increase of \$1.9 million or 4.5 percent over the approved FY 2019 level. This increase is driven by three factors: limiting the proposed fare increase to

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three percent; a higher number of service days in FY 2020 (252 versus 250); and shifts in riders' purchase of fare media that increase the average fare paid per trip. Lower federal and state operating and capital revenue for VRE and contractual increases also contributed to the shortfall.

During FY 2020 budget year, VRE will operate 32 revenue trains each day and continue its safety and customer service outreach programs. The FY 2020 capital budget will focus on state of good repair of equipment and facilities and replacement of the mid-day storage facility.

The budget was referred to the local jurisdictions for review and comment. Beginning June 12, 2018, a staff task force, organized by CAOs of the VRE jurisdictions, has reviewed the preliminary budget and continues to meet with VRE staff to discuss it in detail.

The CAO Task Force is preparing a final report summarizing its review of the FY 2020 budget and offering any further recommendations that may be developed. The Task Force and VRE staff met four times to discuss recommendations. The CAOs will meet in mid-December 2018, before the December VRE Operations Board meeting, to officially review the Task Force's recommendation(s) and receive the VRE staff response. After the multiple meetings, phone conversations and on-line discussions between the Task Force and VRE staff, it is anticipated that VRE staff will deliver a balanced budget to the VRE Operations Board by December 16, 2018. Although the Task Force's report is not finalized, it is expected to contain the following primary recommendation for the budget. The recommendation is as follows:

1) Help Balance the FY 2020 Budget With a Three Percent Fare Increase

VRE service currently must be supported within the limits of jurisdictional budget constraints and a competitive and equitable fare structure. Fare and subsidy levels must also be routinely increased to at least partially accommodate ongoing contractual increases. VRE's Financial Plan forecast was the first step in quantifying the need for additional ongoing dedicated funding sources to support both the operating and capital needs of the commuter rail service. The FY 2019 six-year financial forecast projected a fare increase of three percent for FY 2020. VRE has had four fare increases in the last six fiscal years (FY 2013, FY 2014, FY 2016 and FY 2018) to maintain the current level of service at a reasonable cost to the rider. When considering the various factors stated above, VRE staff calculated a projected shortfall for the FY 2020 budget of \$1.9 million. One of the staff's main proposals for reducing the deficit is the three percent fare increase which will yield approximately \$500,000. Other potential proposals for reducing the remainder of the shortfall include continuing to review Departmental expenses on a line item basis for potential cost savings, continuing to review for potential one-time qualifying expenses, adjusting for impact of changes in cost-driving indices, reviewing contingency calculation for appropriateness, implementing various marketing strategies to improve ridership, and reviewing and integrating the Capital

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Improvement Program (CIP) and its effect on the overall budget.

In 2018, the Virginia General Assembly passed HB 1539/SB 856 which provides \$15 million annually for VRE, through the Commuter Rail Operating and Capital (C-ROC) fund, from the imposition of a floor on the regional gas tax. VRE's preliminary budget does not include recommendations for the use of the new C-ROC funds. VRE staff has had significant discussions, which are still on-going, with the Operations Board and the jurisdiction staff regarding these funds. When final decisions are reached, the FY 2020 budget can be modified to reflect these decisions. However, based on projections to date, it seems clear the initial FY 2019 – FY 2020 C-ROC funds would not be used to support VRE operations, nor is there an immediate need to leverage the funds in the form of a debt issuance. Instead, the initial FY2019 – FY 2020 C-ROC funds are likely to be programmed for critical capital projects on a pay-as-you-go basis.

FISCAL IMPACT:

The preliminary FY 2020 VRE budget includes an estimated total jurisdictional subsidy of \$17,770,000, unchanged from FY 2019. Based on the most recent information received, Fairfax County's portion of the total FY 2020 local subsidy is expected to be comparable to last year's FY 2019 subsidy and not to exceed \$5.7 million. Fairfax County's FY 2020 subsidy level should be available in mid-December 2018 upon completion of the jurisdictional subsidy calculations based on the VRE Passenger Survey held on October 3, 2018.

When the final amount of Fairfax County's share is known, the local subsidy will be updated in Fund 40000, County Transit Systems, and included in the FY 2020 Adopted Budget Plan approved by the Board of Supervisors. The Board is not being asked to approve Fairfax County's FY 2020 VRE subsidy at this time.

ENCLOSED DOCUMENTS:

None

STAFF:

Robert A. Stalzer, Deputy County Executive  
Joe Mondoro, Chief Financial Officer, Department of Management and Budget  
Tom Biesiadny, Director, Department of Transportation, FCDOT  
Todd Wigglesworth, Division Chief, Coordination and Funding Division, FCDOT  
Mike Lake, Senior Transportation Planner, Coordination and Funding Division, FCDOT

ACTION - 7

Approval of Comments on Richmond Highway Corridor Improvements Project Draft Environmental Assessment (EA) (Lee and Mount Vernon Districts)

ISSUE:

The Virginia Department of Transportation (VDOT) is working on a project to accommodate travel demand and improve safety on a 2.9-mile section of Richmond Highway between Napper Road and Jeff Todd Way. This project is consistent with the Fairfax County Comprehensive Plan, including the Richmond Highway cross-section, implementation of transit-oriented redevelopment, and the planned Bus Rapid Transit (BRT) system. As part of the National Environmental Policy Act (NEPA) process, VDOT released a Draft EA for comment by the public/stakeholders and held a NEPA Public Hearing/Public Information Meeting (PIM) at Mount Vernon High School on October 29, 2018. It is important for Fairfax County to transmit environmental comments through this process, so they are considered for inclusion in the final EA and final design.

RECOMMENDATION:

The County Executive recommends that the Board approve the letter, included as Attachment 1, containing Fairfax County's comments on the Richmond Highway Corridor Improvements Project Draft EA Document.

TIMING:

Board approval is requested on December 4, 2018, so that the comments can be transmitted to VDOT before the December 6, 2018, deadline.

BACKGROUND:

The *Route 1 Multimodal Alternatives Analysis (AA)*, published in January 2015 by the Virginia Department of Rail and Public Transportation (DRPT), in cooperation with Fairfax County, made the following major design recommendations for Richmond Highway:

- Median-running BRT in Fairfax County (with a Metrorail extension to Hybla Valley in the long-term);
- Continuous pedestrian and bicycle facilities; and
- Widening Richmond Highway to a consistent six-lane cross-section.

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In May 2015, the Board endorsed the AA and authorized the amendment of the Comprehensive Plan to assess and refine the recommendations of the AA from Huntington to Accotink Village, Fort Belvoir.

to

After the resolution, the County undertook an extensive planning effort, referred to as “Embark Richmond Highway”, that resulted in a Comprehensive Plan Amendment approved by the Board in March 2018. The Amendment established a vision for redevelopment, revised land use recommendations in several Community Business Centers (CBCs) along Richmond Highway, and set a recommended cross-section for Richmond Highway that includes cycle tracks and sidewalks on both sides of the road.

VDOT’s Richmond Highway Corridor Improvements Project will implement major elements of the Comprehensive Plan, including cycle tracks and sidewalks, and the widening of Richmond Highway to a consistent six-lane cross-section, and reserve a median to accommodate a future BRT system. The section of Richmond Highway north of Napper Road and south of I-495 was already six lanes in 2015 and the section south of Jeff Todd Way and north of Telegraph Road was widened to six lanes in 2017. Consequently, this project will result in three travel lanes per direction from I-495 to Armistead Road.

VDOT’s Draft EA comes to the following conclusions about the environmental impacts of the “Build Alternative,” or decision to implement the project:

- The Build Alternative would not cause any violation of federal, state or local law or requirements imposed for the protection of the environment.
- The Build Alternative would have no adverse effect on historic properties along Richmond Highway in the Study Area, a finding in which the State Historic Preservation Officer (SHPO) has concurred.
- With one exception, the Build Alternative would not use any Section 4(f) properties along the study highway. The one exception is the Original Mount Vernon High School (OMVHS), owned by Fairfax County. However, the alternative would have a *de minimis* impact on that property. Section 4(f) properties include public and private historic properties, publicly owned parks, recreation areas, as well as wildlife and water fowl refuges.
- Although the Build Alternative would result in approximately 40 residential displacements, the number is not significantly high given the urban setting of the project. Furthermore, County staff will continue to work with VDOT staff to try to reduce this number, and all displacements can be relocated in accordance with federal relocation requirements.
- No disproportionately high or adverse environmental effects on minority or low-income populations would occur under the Build Alternative.

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- All applicable air quality requirements of NEPA and federal and state transportation conformity regulations would be met. As such, the Build Alternative would not cause or contribute to a new violation, increase the frequency or severity of any violation, or delay timely attainment of the National Ambient Air Quality Standards established by the US Environmental Protection Agency (USEPA).
- Although noise impacts would occur along the Richmond Highway in the Study Area, these impacts can be mitigated by installing new barriers where they are determined to be feasible and reasonable. Since this is already an existing heavily traveled highway, future build condition noise levels would not be substantially higher than no-build condition noise levels.

The Draft EA document can be accessed at:

[http://www.virginiadot.org/projects/resources/NorthernVirginia/Environmental\\_Assessment\\_with\\_appendices.pdf](http://www.virginiadot.org/projects/resources/NorthernVirginia/Environmental_Assessment_with_appendices.pdf)

The Richmond Highway Corridor Improvements Project is a VDOT project, in partnership with Fairfax County. The current overall project cost estimate is \$390 million.

Key milestones for the project are:

October 29, 2018	NEPA Public Hearing & Public Information Meeting #4
Winter 2018/19	FHWA Environmental Decision
Spring 2019	Design Public Hearing/Approve Design
Summer 2019	Begin Right of Way Acquisition
Summer 2020	Begin Utility Relocation
Summer 2023	Begin Construction
2026	Project Open to Traffic

The attached comment letter condenses input from multiple County agencies, including Department of Transportation (FCDOT), Department of Planning and Zoning (DPZ), Department of Public Works and Environmental Services (DPWES), Park Authority (FCPA), and Health Department (HD). The letter highlights several key items for VDOT to address as the project proceeds. These include:

- Consider relocating or modifying two stormwater facilities planned for the Woodlawn CBC;
- Avoid, minimize, and reduce property impacts to minority and low-income communities, including Spring Garden Apartments;

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- Create visual amenities and landscaped design elements associated with stormwater facilities consistent with the recently adopted Embark Plan;
- Avoid impacts to Resource Protection Areas (RPAs) and Environmental Quality Corridors (EQCs), wherever possible, including locating stormwater facilities in them;
- Ensure migratory fish passage before, during and after construction along the Richmond Highway Corridor;
- Preserve and avoid sites listed on or eligible for the National Register of Historic Places (NRHP), especially the Woodlawn Plantation which is designated a National Historic Landmark; and
- Consider mitigation alternatives to noise walls where roadway noise is elevated. Noise walls that are installed should have attractive designs consistent with existing buffer walls and the planned character of Richmond Highway.

FISCAL IMPACT:

There is no fiscal impact resulting from this action. Funding is still being sought for full implementation of the project.

ENCLOSED DOCUMENTS:

Attachment 1: Draft Comment Letter to VDOT on Richmond Highway Corridor Improvements Project Draft EA

STAFF:

Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, FCDOT  
Gregg Steverson, Chief, Transportation Planning Division, FCDOT  
Leonard Wolfenstein, Chief, Transportation Planning Section, FCDOT  
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Andrea Dorlester, Manager, Park Planning Branch, FCPA  
Jonathan Buono, Park Planner, FCPA  
Kevin Wastler, Environmental Health Supervisor, HD



COMMONWEALTH OF VIRGINIA

## County of Fairfax

BOARD OF SUPERVISORS

Attachment 1

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SHARON BULOVA  
CHAIRMAN

December 6, 2018

Ms. Anissa Brown  
District Assistant Environmental Manager  
4975 Alliance Drive  
Fairfax, Virginia 22033

Reference: Fairfax County Comments on Richmond Highway Corridor Improvements Project Draft  
Environmental Assessment (EA)

Dear Ms. Brown:

On December 4, 2018, the Fairfax County Board of Supervisors approved the following comments regarding the Richmond Highway Corridor Improvements Project Draft EA. The Richmond Highway Corridor is important to Fairfax County, as evidenced by the County's significant planning effort and adoption of the Embark Comprehensive Plan earlier this year. The County strongly supports the Commonwealth's efforts to accommodate future travel demand and improve transportation safety in the corridor. Decisions made in this Corridor Improvement Project will have a significant impact on the daily lives of Fairfax County citizens and others who work in and visit Fairfax County. Therefore, we believe there are several key items that need to be addressed as part of this process:

- Land Use/Local Plans
  - Virginia Department of Transportation (VDOT) should consider relocating or modifying two stormwater facilities planned for the Woodlawn Community Business Center (CBC). These planned stormwater facilities would preclude redevelopment and realization of the County's land use plans for those parcels. VDOT should consider various approaches to reduce their impact on development potential such as relocating them outside of the CBC, where high-density redevelopment is envisioned, or designing them in a way that preserves redevelopment potential.
  - The Local Plans section language should be updated to recognize that the Embark Plan Amendment was adopted into the Fairfax County Comprehensive Plan in March 2018. The following language is proposed:  
*"The Study Area is within the Mount Vernon and Lower Potomac Planning Districts. Fairfax County's recently amended Comprehensive Plan (March 2018) for the Richmond Highway Corridor makes land use recommendations based on six Community Business Centers (CBCs) within the Mount Vernon Planning District (Figure 3-1). Three of these CBCs are within the Study Area: Hybla Valley / Gum Springs, South County Center, and Woodlawn. The areas between these CBCs are classified as Suburban Neighborhoods Areas. Development recommendations for the CBCs are intended to foster transit-oriented redevelopment, revitalization, and creation of distinctive urban environments (Fairfax County, 2018)."*
  - The EA language should be updated in several places to recognize that the Study Area is within both Fairfax County's Mount Vernon and Lower Potomac Planning Districts.

- Socioeconomic Resources
  - Fairfax County encourages VDOT to avoid, minimize, and reduce property impacts to minority and low-income communities, including Spring Garden Apartments.
- Natural Resources
  - VDOT should consider and avoid impacts to Resource Protection Areas (RPAs), as defined by the Chesapeake Bay Preservation Ordinance, wherever possible. Fairfax County requests that VDOT avoid locating stormwater facilities in RPAs, which would have negative impacts. The EA acknowledges that RPAs, will be impacted as a result of the proposed work, but does not specify how much RPA will be impacted based on total area. The EA simply mentions that this project, as a public improvement, is exempt under the Code.
  - VDOT should consider and avoid impacts to Environmental Quality Corridors (EQCs), as defined by the Fairfax County Comprehensive Plan, wherever possible. Fairfax County requests that VDOT avoid locating stormwater facilities in EQCs, which would have negative impacts. The EA does not address the EQC Policy of the Fairfax County Comprehensive Plan. Like the Chesapeake Bay Preservation Ordinance, this policy addresses water quality, floodplain protection, habitat protection and slope protection as a means of conserving riparian buffers. In most instances within the proposed project area, this buffer would be like the RPA, but may extend beyond the limits of the RPA under some conditions. The omission of information regarding impacts to riparian buffers for these streams as defined under the Chesapeake Bay Preservation Ordinance, at a minimum, seems to be an oversight. These additional impacts should be addressed to achieve appropriate stream protections and/or mitigation.
  - Efforts should be made to ensure migratory fish passage before, during and after construction along the Richmond Highway Corridor. Further, any restorative activities related to stream channels throughout the project should assume anadromous fishes may attempt to access perennial water bodies upstream of Richmond Highway Corridor, and ensure that the life history needs of this valuable State resource are met. Monitoring by George Mason University 2004-7 repeatedly confirmed the annual presence of spawning anadromous fishes at and upstream of Richmond Highway at Dogue Creek. It is highly probable that there are undocumented spawning populations at or near the North Branch of Dogue Creek and Little Hunting Creek as well.
  - VDOT should consider discussing short-term versus long-term wetland impacts in the EA. The limits of disturbance are likely to extend beyond the limits of the roadway improvements. It is not clear if the wetland impact area noted in the EA represents construction and/or post-construction impacts.
  - Wetland mitigation is encouraged within the watersheds to be impacted, if at all practicable. Other impacts to the streams noted are not fully addressed.
  - If any direct or indirect impacts are identified during the design phase of the VDOT project, to include stormwater detention and release onto parkland, those impacts should be avoided. The Fairfax County Park Authority recommends mitigation for unavoidable impacts to natural resources. The study area contains small portions of three Park Authority parks, Little Hunting Creek Park (0.2 acres), Vernon Heights Park (<0.01 acres), and Pole Road Park (0.1 acres); the EA concludes that none would be impacted. Other Park Authority parks near the project, but not within the study area, include Woodlawn, Martin Luther King Jr., George Washington, and Mount Vernon Manor parks. Park amenities within these sites are diverse and include natural resources, recreational facilities, and significant historic sites.

- Stormwater

- VDOT should follow the Fairfax County Comprehensive Plan, Area Plan stormwater guidance for this project and coordinate with the Fairfax County Stormwater Planning Division regarding stormwater management issues. The Fairfax County Comprehensive Plan, 2017 Edition, AREA IV Richmond Highway Corridor Planning District, as amended through 5-1-2018, Corridor-wide Guidelines, Environment, Pages 15-17, recommends environmentally-friendly, on-site stormwater quantity and quality controls to replicate natural hydrologic conditions and reduce runoff volumes in furtherance of stream protection and/or restoration.
- VDOT should accommodate stormwater management needs for both this project and the planned Bus Rapid Transit (BRT) system.
- Fairfax County encourages measures that would create visual amenities and landscaped design elements in concert with stormwater quality and quantity measures consistent with the recently adopted Embark plan.
- Fairfax County supports VDOT's intention to meet requirements on the Virginia Runoff Reduction Method (VRRM) to address both water quality and volume controls to better replicate predevelopment conditions. Relying on the VRRM to support an overall stormwater management plan that seeks to replicate pre-development conditions is supported by the guidance of the Fairfax County Comprehensive Plan.
- Fairfax County recommends stormwater management measures above the minimum requirements. Efforts to reduce stormwater runoff volumes and velocities through on-site practices are important in light of the degraded conditions of the streams in this area. Low impact development (LID) practices can reduce runoff volumes entering local streams by evapotranspiring water, filtering water through vegetation and/or soil, returning water into the ground, or reusing water. LID practices and nonstructural approaches incorporated within site designs/layouts may also be appropriate.
- Fairfax County encourages VDOT to respect the existing drainage divide between Dogue Creek and Little Hunting Creek regarding stormwater runoff. Most of the project is split between the Dogue Creek and Little Hunting Creek watersheds.

- Cultural Resources

- The Historic Huntley viewshed is within the study area and should be mentioned in this section.
- Sites listed on or eligible for the National Register of Historic Places (NRHP), especially the Woodlawn Plantation which is designated a National Historic Landmark, should be preserved and avoided; if not feasible, proper mitigation should be explored. Four sites are in the Area of Potential Effect (APE): Woodlawn Plantation, added to the NRHP in 1979, Woodlawn Cultural Landscape Historic District, added in 2018, the Original Mount Vernon High School, added in 2018, and the Sharpe Stable Complex, which is potentially individually eligible. These sites, especially the Woodlawn Plantation, have a nationally recognized significance and as such should receive the highest level of mitigation and protection. Any physical or visual impact on these areas should be minimized. The importance of NRHP sites and the implications of their listing is noted in the Fairfax County Comprehensive Plan, 2017 Edition, AREA IV, Mount Vernon Planning District, as amended through 1-23-2018, Overview, District-wide Recommendations, Pages 16-17.
- Fairfax County requests that the Fairfax County Architectural Review Board (ARB) be consulted for any physical or visual impact from the proposed project in or adjacent to Historic Overlay Districts (HODs). The Woodlawn HOD is directly within the APE. The Fairfax County Comprehensive Plan, 2017 Edition, AREA IV, Mount Vernon Planning District, as amended through 1-23-2018, Overview, District-wide Recommendations, Pages 16-17, notes the HOD is a

zoning tool used to regulate construction and changes to existing structures to ensure compatibility with heritage resources and requiring changes be reviewed and approved by the county's ARB. As a county designated and protected area, every effort should be made to avoid any physical or viewshed impact on the Woodlawn HOD especially, as Richmond Highway bisects the HOD.

- Fairfax County recommends that the Archeological Collections Branch of the Fairfax County Park Authority be consulted for the ground disturbance of any property near a historic site.
  - Fairfax County recommends a Phase I archaeological survey to determine the presence or absence of valuable sites, including architectural assessments of all structures more than 50 years old in areas previously un-surveyed or undisturbed. Please contact the Park Authority's Archaeology and Collections Branch Manager at 703-246-5758 to discuss ways that this might be accomplished without impact to the project schedule.
  - Consultation with the Virginia Department of Historic Resources (VDHR) is recommended in accordance with Section 106 of the National Historic Preservation Act if required.
  - The Fairfax County Park Authority requests to review detailed plans during the final design phase, to provide a more detailed analysis of potentially impacted cultural resources. VDOT should also be aware that there are specific archaeological requirements under Section 106 of the National Historic Preservation Act, which are associated with federally licensed or funded development. The project options have been subjected to archival review.
- Noise
    - Where roadway noise is elevated, VDOT should consider mitigation alternatives to noise walls. Noise walls that are installed should have attractive designs consistent with existing buffer walls and the planned character of Richmond Highway. Attractive designs may utilize stamped concrete, decorations, or native vegetation, and should be designed to be as short as possible in height and length and located between the sidewalk and adjacent land uses, rather than separating the sidewalk and separated bike lane from the road. A graphic depicting a typical barrier which might be employed in the corridor would be helpful.
    - If further noise evaluations show an increased impact to Vernon Heights Park, Little Hunting Creek Park, or Pole Road Park during the design phase, the Fairfax County Park Authority requests that excess noise is mitigated in accordance with all applicable federal, state, and local laws and regulations. The EA concludes that modeled noise at the three county parks is below the Federal Highway Administration (FHWA) noise abatement criteria for Activity C receptors.

Fairfax County appreciates the work that has been undertaken to date in this study and the opportunity to provide comments. We look forward to providing further comments as part of the upcoming Design Public Hearing scheduled in Spring 2019 and as part of the subsequent implementation. We also look forward to working closely with the Commonwealth and developing a mutually beneficial project to County residents and the region.

Ms. Anissa Brown  
December 6, 2018  
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If you have any questions or need additional information, please contact Zachary Krohmal of the Department of Transportation at [Zachary.Krohmal@fairfaxcounty.gov](mailto:Zachary.Krohmal@fairfaxcounty.gov) or 703-877-5839.

Sincerely,

Sharon Bulova  
Chairman

cc: Members, Fairfax County Board of Supervisors  
Bryan Hill, County Executive  
Robert A. Stalzer, Deputy County Executive  
Catherine A. Chianese, Assistant County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Gregg Steverson, Chief, Transportation Planning Division, FCDOT  
Zachary Krohmal, Transportation Planner, FCDOT  
Ajmal (AJ) Hamidi, Transportation Planner, FCDOT  
Doug Miller, Transportation Planner, FCDOT  
Dan Reinhard, Project Manager, VDOT, Northern Virginia

ACTION – 8

Approval to Join Other Communities in Reply Comments and Otherwise Participate in a Federal Communications Commission Rulemaking Regarding Local Cable Franchising (MB Docket No. 05-311)

ISSUE:

Approval to:

- Participate in a joint filing of reply comments with the Federal Communications Commission (“FCC”) opposing proposed reinterpretations of federal law that would reduce both local revenues and local regulatory authority with respect to cable companies and cable systems.
- Participate in meetings with FCC Commissioners and staff and make additional FCC filings in response to the FCC’s Second Notice of Proposed Rulemaking in MB Docket No. 05-311, as needed to protect the interests of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to join with other local communities in filing reply comments with the FCC, participating in meetings with FCC Commissioners and staff, and making additional filings in response to the FCC’s Second Notice of Proposed Rulemaking in MB Docket No. 05-311 as necessary or appropriate to protect the County’s interests.

TIMING:

Board action is requested on December 4, 2018, so that reply comments for this rulemaking can be filed by December 14, 2018.

BACKGROUND:

On September 25, 2018, the FCC issued a Second Further Notice of Proposed Rulemaking (“2d FNPRM”) proposing to redefine “franchise fees” to include almost every nonmonetary benefit received under a cable franchise, including public, educational, and governmental (“PEG”) channels; the County’s institutional network (“I-Net”); free service to schools and government buildings; and potentially other franchise provisions such as customer service rules and undergrounding costs. The proposed redefinition would make the value of all those benefits count toward the federal cap on franchise fees at 5% of gross revenues from cable service. Moreover, the FCC proposes valuing these non-monetary benefits not at the cable operator’s cost, but at market value. Cable operators might claim a very high market value, for example, for the ten channels currently set aside for PEG use in Fairfax County.

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The County's cable operators do not pay a franchise fee to the County. Instead, they pay the Virginia communications sales and use tax ("CST"). Under the federal Cable Act, a tax of general applicability like the CST is excluded from franchise fees. Nonetheless, cable operators may argue that the market value of all the items described above exceeds 5%. In that event, the County could lose some of the benefits that cable providers have agreed to provide in their franchise agreements. Moreover, cable operators may take the position that certain taxes do constitute "franchise fees" and should also be counted against the 5% cap. The County currently receives \$17.6 million per year in CST revenues.

The additional 3% PEG grant revenues paid by Cox and Verizon, currently about \$7 million per year, would be excluded from the calculation of franchise fees under the FCC's proposed rules only to the extent those revenues are used for PEG capital costs. The FCC has indicated that I-Net costs would *not* be considered PEG capital costs for this purpose.

The 2d FNPRM also aims to expand the FCC's "mixed-use network rule" to prohibit local communities from regulating any facilities and equipment used in the provision of non-cable services. The extension of this rule to facilities and equipment (as distinct from non-cable *services*) endangers the County's long-standing oversight over the physical plant of cable operators, since the same physical plant is used for both cable and non-cable services. Such a ruling could limit the County's inspection program, which in FY 2018 identified and corrected over 3,000 violations, many of them safety-related.

The FCC's attempt to rewrite franchise contracts and deprive local communities of the benefits for which they negotiated is inconsistent with the plain language of the Cable Communications Policy Act of 1984, as amended, 47 U.S.C. § 521 *ff.* ("Cable Act"), and its legislative history, as well as the FCC's own earlier orders. It would overturn, without justification, 35 years of standard practice by localities and cable operators in franchise negotiations.

In the 2d FNPRM, the FCC creates distinctions that are not in the statute, such as a distinction between franchise requirements that benefit the local franchising authority and those that do not – and then misapplies its new distinctions by assuming, for example, that local governments are the sole beneficiaries of many franchise provisions. The 2d FNPRM does not accurately take into consideration how franchise negotiations are actually conducted, and denies the long-standing difference between a locality's regulatory authority and its proprietary powers.

From a policy standpoint, the 2d FNPRM's proposals would also harm local governments and the public, to the benefit of the cable companies. The FCC ignores the real benefits of PEG-related contract provisions in areas such as governmental transparency, educational programming for schools, opportunities for members of the public to make themselves heard, and training for future communications-related jobs.

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The FCC also ignores the cost savings that can be achieved through institutional networks, which can take advantage of economies of scale when they are constructed and maintained as part of a cable system. The FCC's regulatory interference in the market would benefit no one but cable companies.

The proposed reply comments would further address some or all of these issues, and additional issues already raised by the industry in comments, such as the American Cable Association's argument that build-out requirements should also be counted against franchise fees.

The County has previously acted in this proceeding to protect its interests and those of its residents. In 2005, when the FCC opened this docket, Fairfax County filed comments and reply comments. In addition, Fairfax County joined local communities and other parties in appealing the FCC's first Report and Order.

Now that the cable industry has stated its positions in the opening comments, staff recommends the County join with Anne Arundel County *et al.*, contributing toward the cost and assisting the coalition in preparing reply comments. The coalition is represented by Best Best & Krieger, a law firm specializing in cable and telecommunications regulation. Staff would review and approve the reply comments to ensure they reflect the County's positions on the issues discussed. County staff should also be authorized to participate in subsequent meetings with FCC Commissioners and staff and make additional FCC filings in response to the FCC's Second Further Notice of Proposed Rulemaking in MB Docket No. 05-311, as needed to protect the interests of the County.

FISCAL IMPACT:

The County will contribute approximately \$10,000 toward the cost of the joint filing, to be funded by the Cable Communications Fund.

ENCLOSED DOCUMENTS:

None

STAFF:

Joseph M. Mondoro, Deputy County Executive  
Michael S. Liberman, Director, Department of Cable and Consumer Services  
Frederick E. Ellrod III, Director, Communications Policy and Regulation Division

ASSIGNED COUNSEL:

Erin C. Ward, Deputy County Attorney

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ACTION - 9

Endorsement of Alternative for the Balls Hill Road and Old Dominion Drive Roadway Spot Improvement Project (Dranesville District)

ISSUE:

Board endorsement of Alternative A.1 – T-Intersection Improved for the Balls Hill Road and Old Dominion Drive Roadway Spot Improvement project. This project will provide congestion relief, safety, and mobility improvements for all modes of transportation at the intersection.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors endorse Alternative A.1 T-Intersection Improved for the Balls Hill Road and Old Dominion Drive intersection. This recommendation is based on the conclusions and recommendations in the Balls Hill Road and Old Dominion Drive Roadway Spot Improvement Report (See Attachment 1).

TIMING:

The Board should take action on December 4, 2018, to advance the Balls Hill Road and Old Dominion Drive Roadway Spot Improvement project to the design and construction phases.

BACKGROUND:

In April 2016, Fairfax County Department of Transportation (FCDOT) initiated a study for the intersection of Balls Hill Road and Old Dominion Drive to identify potential solutions to address recurring congestion at the intersection. The study evaluated solutions that have minimal property impacts and addressed the anticipated traffic growth within the study area.

The existing intersection is located in a residential area and is subject to significant peak hour commuter traffic on weekdays. The intersection is signalized with an inefficient four-way split phase operation, due to its severely skewed roadway geometry. The current intersection operates with a level of service (LOS) F in both the AM and PM peak hours.

Several conceptual alternatives with various operational configurations were developed and screened to address the intersection's operational and capacity issues. Five alternatives were selected and analyzed.

Based on the analysis methodology, Alternative A.1 – T-Intersection Improved is recommended as the Preferred Alternative for further consideration of design and implementation (See Attachment 2: Map of Alternative A.1 T-Intersection Improved). This alternative offers significant LOS improvements in the study area. The alternative effectively splits the existing heavily congested, skewed study intersection into two smaller signalized intersections with improved signal phasing, and geometry. Therefore, the congestion is better managed during peak hours, and the alternative minimizes unnecessary vehicle stops/delays. The turn lane geometry is also improved for greater roadway safety.

Additionally, there are two properties (Mehr Farms east of the intersection and Summerstone south of the intersection) that are in different phases of by-right development at or near the intersection. Specifically, the Summerstone property is located within the right-of-way needed for Alternative A.1 – T-Intersection Improved. Summerstone's site plan was approved by the County in April 2018. Due to the rapid development of the Summerstone property and limited options in the alternatives within this study, the County has worked with the developer to acquire the Summerstone property on October 19, 2018.

#### Public Outreach Activities

On June 28, 2018, FCDOT conducted a citizen information meeting (CIM) for the project. The meeting provided a forum to inform the public of the project's purpose, study methodologies, alternatives analyzed, and preliminary results, as well as to answer citizens' questions and receive input and feedback. The CIM was advertised using email distribution lists available through the community as well as through the FCDOT's website. Graphics illustrating existing conditions and the alternatives analyzed were on display for citizens to review.

Additionally, the project schedule was also addressed at the CIM and is estimated to be as follows:

- |                             |                                  |
|-----------------------------|----------------------------------|
| • Fall 2018                 | Finalize Study with Public Input |
| • Spring 2019 – Spring 2023 | Preliminary Engineering Design   |
| • Spring 2021 – Spring 2023 | Right-of-Way Acquisition         |
| • Spring 2023 – Fall 2024   | Construction                     |

General comments received from the June 28<sup>th</sup> meeting are as follows:

- Many would like an improvement for congestion at this intersection
- Improvement will ease cross-neighborhood access for residents

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- Providing different modes of transportation or accessibility such as pedestrian facilities will reduce vehicular traffic at the intersection
- Alternative A.1 T-Intersection Improved provides an open space opportunity

Finally, on November 28, 2018, FCDOT conducted another CIM to follow up with citizens on the project. The meeting provided a forum of the project's purpose, study methodologies, alternatives analyzed, and to identify the preferred alternative, Alternative A.1 T-Intersection Improved. In addition to this, the meeting also addressed citizens' questions from the June 28 CIM. The CIM was advertised using email distribution lists available through the community as well as through the FCDOT's website. Graphics illustrating existing conditions and the alternatives analyzed were on display for citizens to review.

FISCAL IMPACT:

The Board of Supervisors approved \$20.5 million of local funding for the Balls Hill Road at Old Dominion Drive intersection improvement on May 15, 2018. These funds are provided in Fund 40010 (County and Regional Transportation Projects).

ENCLOSED DOCUMENTS:

Attachment 1: Excerpt from Draft Final Report, Section 1 - Introduction and Summary  
Attachment 2: Map of Alternative A.1 T-Intersection Improved  
Attachment 3: Summary Evaluation Matrix

STAFF:

Robert A. Stalzer, Deputy County Executive  
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Eric Teitelman, Chief, PE, Capital Projects and Operations Division, FCDOT  
Karyn L. Moreland, PE, Chief, Capital Projects Section, FCDOT  
William P. Harrell, Transportation Planner, FCDOT  
Audra K. Bandy, PE, Transportation Planner, FCDOT  
Gibran Abifadel, Transportation Planner, FCDOT

## **1. INTRODUCTION AND SUMMARY**

### **1.1 PURPOSE AND STUDY OBJECTIVES**

This report presents the results of a traffic study for Fairfax County Department of Transportation (FCDOT) for the intersection of Balls Hill Road and Old Dominion Drive. This study was initiated by FCDOT to identify potential solutions to recurring weekday peak hour commuter congestion at the study intersection. The intersection is located in the Dranesville District of Fairfax County, Virginia. The purpose of this study is to determine possible solutions that have minimal property impacts and account for the anticipated traffic growth within the study area.

### **1.2 EXECUTIVE SUMMARY**

The existing intersection is located in a residential area (with schools to the north) and is subject to significant peak hour commuter traffic on weekdays. The intersection is signalized with inefficient 4-way split phase operation. The intersection is severely skewed and currently operates with level of service (LOS) F in both the AM and PM peak hours, with significant queuing (greater than 2,000 feet) on the heaviest approach during each peak. There were 28 crashes recorded in the 5-year period evaluated for this study; fixed object off-road, angle, and rear-end crashes were the most frequent type. There are no bicycle or pedestrian facilities and currently there are no programmed improvements from them at this intersection. The projected 2040 No Build AM/PM peak hour conditions are expected to deteriorate to even more severe LOS F with worsened queuing. Additionally, there are two properties that are in different phases of a by-right development that are currently occurring at or near the intersection. Based on the scope of work for this study, the following scenarios were identified to be studied in this report:

- 2016 Existing Conditions
- 2040 No-Build Conditions
- 2040 Analyze up to Three (3) Conceptual Alternatives (later an additional fourth alternative)

Several conceptual alternatives with various operational configurations, such as signalization, roundabouts, and a mix of both, were developed and screened in order to address the intersection's operational and capacity issues. Four alternatives were carried forward for a more detailed evaluation (along with the No Build option) in the study horizon year. The conclusions of this study are summarized in the Summary Evaluation Matrix (Table 17 in Section 12). The Summary Evaluation Matrix compiles the relevant traffic operations (LOS and queuing), property impacts, right-of-way needs, planning level costs, and overall positives (pros) and negatives (cons) for the following alternatives evaluated herein under projected 2040 horizon year AM/PM peak hour conditions:

- No-Build
- Alternative A – T-Intersection
- Alternative B – Roundabout
- Alternative C – Addition of Dedicated Left Turn Lanes

- Alternate A.1 – T-Intersection Improved

The contents of the Summary Evaluation Matrix were utilized by JMT and FCDOT to identify Alternative A.1 - T-Intersection Improved ([Attachment 3 in BOS] Section 6.3, Figure 12 of Report) as the Preferred Alternative. Based on the analysis methodology, Alternative A.1– T-Intersection Improved is recommended as the Preferred Alternative for further consideration of design/implementation. This Preferred Alternative offers significant level of service improvements in the study area under projected 2040 Build year AM and PM peak hours. The alternative effectively splits the existing heavily congested, skewed study intersection into two smaller signalized intersections with improved signal phasing, and geometry, therefore the congestion is better managed during peak hours and minimizes unnecessary vehicle stops/delays. The turn lane geometry is also improved for greater roadway safety. This report will also provide additional details and discussion all of the alternatives analyzed and the technical methodologies to reach the conclusion.



# Attachment 3

Balls Hill Rd and Old Dominion Dr Roadway Spot Improvement Summary Evaluation Matrix												
SCENARIO	AM Level of Service & Overall Intersection Delay <sup>(1)</sup>	PM Level of Service & Overall Intersection Delay <sup>(1)</sup>	AM/PM 95 <sup>th</sup> % Queue <sup>(4)</sup>	Estimated # of Property Impacts*	Estimated # of Property Takes	Stormwater Management Facilities	Preliminary Estimated Right-of-Way Needed**		Cost Estimate <sup>(4)(7)</sup>	Pros	Cons	
						S.F./Acres/ LF of 60" U.G. Pipe	S.F.	Acres	Revised July 2017, w/ New Right-of-Way Costs, Mehr's Farm Overlay and New Concept C(9)			
No-Build - 2040	F 221.1	F 210.5	WB - 3,909'	0	0	N/A	0	0	N/A	<ul style="list-style-type: none"><li>Keeps historic look</li><li>No Construction</li><li>No Cost (retiming effort by VDOT)</li><li>No Right-of-Way acquisition or easements</li></ul>	<ul style="list-style-type: none"><li>Increased aggravation for residents and through traffic</li><li>Does not solve delay/queuing issue</li></ul>	
Alternative A - T-Intersection <sup>(5)</sup>	North Intersection B 14.5 South Intersection C 28.9	North Intersection C 21.4 South Intersection C 20.5	WBT/R - 328' EBT - 394'	20 (15 Partial Right-of-Way + 5 Easements)	1***	0 <sup>(5)</sup>	50,000	1.15	\$13,413,000	<ul style="list-style-type: none"><li>Solves delay/queuing issues</li><li>Does relatively better job keeping historic look</li><li>Small Right-of-Way footprint compared to Alternative B</li><li>County gains &gt; 1.5 miles of 5' bike lanes</li><li>County gains approximately 3,000 LF of walkways</li></ul>	<ul style="list-style-type: none"><li>Impacts estimated 21 parcels</li><li>Very tight design radii</li><li>Puts major intersection in front of Korean Pres Church</li><li>Requires SWM basin outside of Right-of-Way, complicated by Mehrs Farm</li><li>Introduces unconventional intersection geometry @ Balls Hill/Dulaney intersection</li></ul>	
Alternative B - Roundabout <sup>(2)(5)</sup>	C 31.6	C 23.0	EB - 784'	9 (9 Partial Right-of-Way)	4	0 <sup>(5)</sup>	79,000	1.81	\$12,071,000	<ul style="list-style-type: none"><li>Improves LOS to C / C in 2040 AM / PM</li><li>Reduced queuing</li><li>Maintains VDOT design standard (horiz. curvature)</li><li>Can be landscaped to keep historic look, be an area amenity</li><li>Traffic calming effect</li><li>Lowest Cost</li><li>County gains approximately 2,000 LF of walkways</li><li>Improves alignment at southern Old Dominion/Balls Hill Intersection</li></ul>	<ul style="list-style-type: none"><li>Impacts estimated 13 parcels</li><li>Driver roundabout learning curve?</li><li>May have significant grading issues due to topo, particularly for approach realignments</li></ul>	
Alternative C - Addition of Dedicated Left-turn Lanes <sup>(5)</sup>	D 46.5	E 55.8	WB - 2,969'	21 (20 Partial Right-of-Way + 1 Easement)	1***	0 <sup>(5)</sup>	48,000	1.10	\$12,610,000	<ul style="list-style-type: none"><li>Improves LOS to D / E in 2040 AM / PM</li><li>No major road link realignments (widens along existing alignment)</li><li>Does relatively better job keeping historic look</li><li>Smaller Right-of-Way footprint compared to Alternative B</li><li>County gains approximately 1 mile of 5' bike lanes</li><li>Lower Cost (relative to Alt. A)</li><li>County gains approximately 3,000 LF of walkways</li></ul>	<ul style="list-style-type: none"><li>Impacts estimated 22 parcels</li><li>Does not eliminate inefficient left-turn (quasi u-turn) for the Old Dominion Dr. approaches</li><li>May have significant impact to church frontage</li><li>Requires SWM basin outside of Right-of-Way, complicated by Mehrs Farm</li></ul>	
Alternative A.1 T-Intersection <sup>(9)</sup>	North Intersection B 14.5 South Intersection C 28.9	North Intersection C 21.4 South Intersection C 20.5	WBT/R - 328' EBT - 394'	19 (14 Partial Right-of-Way + 5 Easements)	2***	500 LF	61,000	1.40	\$14,959,000	<ul style="list-style-type: none"><li>Solves delay/queuing issues</li><li>Does relatively better job keeping historic look</li><li>Small Right-of-Way footprint compared to Alternative B</li><li>County gains &gt; 1.5 miles of 5' bike lanes</li><li>County gains approximately 2,700 LF of walkways</li><li>Improves alignment at southern Old Dominion/Balls Hill intersection</li><li>Southern Balls Hill Rd. stub connecting to Dulaney Dr. allows for possible driveway connection to potential future new development (R. Mudd property), across from Mehr's Farm</li></ul>	<ul style="list-style-type: none"><li>Impacts estimated 21 parcels</li><li>Very tight design radius (northern section of project)</li><li>Puts major intersection in front of Korean Pres Church</li><li>Highest Cost</li></ul>	

## Notes:

- (1) LOS E or better is considered acceptable.
- (2) For roundabouts, v/c <= 0.85 is considered acceptable (Per FHWA guidance).
- (3) Per VDOT TOSAM, 2040 roundabout environmental factor input = 1.05.
- (4) Only the longest queue from either AM or PM of the intersection approaches is reported. Reported queues may be the sum of the nodes for the subject approach.
- (5) For Concepts A and C, Storm Water Management (SWM) quantities shown as zero b/c location has yet to be determined; however, a placeholder SWM cost estimate is still included in both Concept A and C costs above.  
For Concept B, the SWM area is assumed to fit within the gore areas immediately north and south of the roundabout, within existing Right-of-Way. These estimates are preliminary and are subject to change when SWM facilities are advanced further in the design phase.
- (6) Cost estimates do not include the re-configuration of Greyson Woods Lane at Old Dominion Dr.
- (7) The Right-of-Way element of the cost estimate does not include unanticipated damages to the property as well as to any improvements that have not been constructed.
- (8) No additional traffic analysis was conducted per Amendment #1.
- (9) Additional revisions in December 2017 per county request for alternatives A.1 Alternatives 1 and 2, with updated cost including unground detention and Right-of-Way acreage update that's incorporates Mehr's Farm survey and other roadway alignment changes.

\* "Property Impacts" defined as parcels from which right-of-way and/or easements are anticipated to be needed.  
 \*\* Does not include estimated easements or areas for Storm water Management Facilities which lie outside of Right-of-Way footprint.  
 \*\*\* Indicates no total property takes from Mehr's Farm development.

CONSIDERATION - 1

Approval of the Amendments to the Bylaws for the Trails, Sidewalks and Bikeways Committee

ISSUE:

Proposed amendments to the bylaws for the Trails, Sidewalks and Bikeways Committee.

TIMING:

Board consideration is requested on December 4, 2018.

BACKGROUND:

The Fairfax County Countywide Trails Committee was created by the Board of Supervisors in 1978 to report to the Board for the purpose of providing citizen input and oversight to planning and developing a countywide trails system. In 1994, the Committee adopted a Charter and the name was changed to Countywide Non-Motorized Transportation Committee. Subsequently in 2006, the Committee updated its Charter and Bylaws to change the name to the Trails and Sidewalks Committee and to add a representative from the Fairfax Area Disability Service Board.

The Committee approved the proposed amendments to the bylaws on October 10, 2018. The current proposed amendments will:

- convert the Bylaws into the standard format for all Fairfax County Boards, Authorities and Commissions,
- include new provisions for Committees in accordance with the standard format,
- change the Committee name to Trails, Sidewalks and Bikeways Committee,
- add a representative from the Fairfax Alliance for Better Bicycling, and,
- add provisions for removal of members.

County guidelines require the Board of Supervisors to approve bylaws of Boards, Authorities and Commissions and subsequent amendments.

FISCAL IMPACT:

None.

Board Agenda Item  
December 4, 2018

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed Amended Bylaws for the Trails, Sidewalks and Bikeways Committee

STAFF:

Robert A. Stalzer, Deputy County Executive

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

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

Chris Wells, Bicycle and Pedestrian Programs, FCDOT

ASSIGNED COUNSEL:

Erin C. Ward, Deputy County Attorney

## **FAIRFAX COUNTY TRAILS, SIDEWALKS AND BIKEWAYS COMMITTEE BY-LAWS**

### **ARTICLE I-NAME**

The name of this organization is the Fairfax County Trails, Sidewalks and Bikeways Committee, hereinafter referred to as the "Committee." This By-Laws replaces the former Fairfax County Trails and Sidewalks Committee By-Laws.

### **ARTICLE II - PURPOSE**

The Committee has been established by the Board of Supervisors of Fairfax County, Virginia, ("Board") pursuant to Virginia law for the purpose of providing citizen input and oversight to planning and developing a non-motorized transportation system and trails serving the needs of pedestrians, bicyclists, and equestrians. Magisterial District members advise on request for waivers to the Comprehensive Plan.

### **ARTICLE III - MEMBERSHIP AND TERM OF OFFICE**

Appointments. Appointments to the Committee shall be determined by the Board. The Committee shall consist of one member from each magisterial district, one at-large member, and one member from each of the following organizations: Northern Virginia Builders Industry Association, Fairfax County Federation of Citizens Associations, Fairfax County Park Authority, Northern Virginia Regional Park Authority, Washington Area Bicyclist Association, the Clifton Horse Society, the Fairfax Area Disabilities Services Board, and the Fairfax Alliance for Better Bicycling. Regular appointments to the Committee shall be for terms of two years. In the event a Committee member cannot serve or resigns from office, the County staff coordinator shall advise the Clerk to the Board of the vacancy in writing.

In the event a member completes his or her term of office, remains qualified to serve as a Committee member, and the Board has not appointed a successor member, then that person may continue to serve as a member until such time as the member is reappointed or a successor member is appointed.

### **ARTICLE IV - OFFICERS AND THEIR DUTIES**

Elections. The Committee shall be served by three officers: the Chairperson, the Vice Chairperson, and the Secretary. The Chairperson shall be elected by the Committee members annually and such election shall be scheduled at the first meeting of each calendar year. Two months prior to the election meeting, a slate of candidates shall be nominated from the floor. After nomination, each candidate shall be polled on his or her willingness and ability to serve as Chairperson of the Trails, Sidewalks and Bikeways Committee. At the meeting immediately following the election of the Chairperson, the Chairperson shall appoint the Vice Chairperson and Secretary. Each candidate shall be polled on his or her willingness and ability to serve as an officer of the Committee.

Chairperson. The Chairperson presides over meetings of the Committee and is eligible to vote at all times. The Chairperson has the authority to delegate appropriate functions to Committee member(s) and to request staff assistance from the County staff supporting the Committee.

Vice-Chairperson. In the absence of the Chairperson at a meeting, the Vice-Chairperson shall perform the duties and exercise the powers of the Chairperson. In the event that neither the Chairperson nor the Vice-Chairperson is available, the member present with the longest tenure on the Committee shall act as Chairperson.

Secretary. The secretary, or a duly appointed agent, shall be responsible for recording the minutes of meetings.

Replacement Officers. If an office becomes vacant for any reason, it shall be filled by an election at the next regular meeting having a majority of members present. The newly elected officer shall complete the unexpired term of the officer succeeded. Prior to the election of any replacement officer, all members shall be provided with notice of the proposed election before the meeting at which the replacement is elected.

## ARTICLE V - MEETINGS

VFOIA. All meetings shall be conducted in accordance with the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 *et seq.*, as amended ("VFOIA"), and except for closed sessions, all meetings shall be open to the public. Pursuant to Virginia Code § 2.2-3701, "meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Notice. All meetings shall be preceded by a notice stating the date, time, and location of its meetings. Notice of a meeting shall be given at least three working days prior to the meeting. Notice, reasonable under the circumstances of emergency meetings, shall be given contemporaneously with the notice provided to Committee Members. Notices of all meetings shall be provided to the Office of Public Affairs for posting at the Government Center and on the County Web site. Also, notices for all meetings shall be placed at a prominent public location by the Director of the Department of Transportation. All meetings shall be conducted in places that are accessible to persons with disabilities, and all meetings shall be conducted in public buildings whenever practical. The Committee may hold public hearings and report its findings to the Board of Supervisors on Committee issues that affect the public interest.

Frequency. The Committee shall meet monthly or as determined by the Chairperson. Meetings shall be held at a time agreed to by a majority of the Committee, and at a place arranged by the staff of supporting County department.

Voting. A quorum is necessary for a vote. A majority of the Committee shall constitute a quorum, and the vote of a majority of the quorum shall be necessary for any action taken. In making any recommendations, adopting any plan, or approving any proposal, action shall be taken by a majority vote of Committee members present and voting. Upon the request of any member, the vote of each member on any issue shall be made a matter of record. There shall be no proxies. All votes of Committee members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy.

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

Public Access. For any meeting, at least one copy of the agenda and all agenda packets and, unless exempt under VFOIA, all materials furnished to Committee members shall be made available for public inspection at the same time such documents are furnished to the Committee members. Any person may photograph, film, record, or otherwise reproduce any portion of a meeting required to be open, but such actions may not interfere with any Committee proceedings.

Records. The Secretary or an appointed representative shall insure that minutes of meetings are recorded, and those minutes shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. Such minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The supporting County department shall provide staff support to review and approve records and minutes of the meeting.

## **ARTICLE VI - ATTENDANCE AND PARTICIPATION**

Any Committee member who misses three consecutive meetings or more than half of scheduled meetings within a 12-month period, or who fails to participate in the work of the Committee without good cause acceptable to a majority of the other Committee members may be subject to removal from the Committee.

## **ARTICLE VII - REMOVAL**

Any Committee member(s) may be recommended to the Board for removal from the Committee for cause by a two-thirds majority vote of all of the Committee members.

## **ARTICLE VIII - COMMITTEES**

Standing. The Chairperson appoints standing committees and a Chairperson for each committee with the consent of the majority of the Committee members present and voting.

Special. The Chairperson may appoint special committees and the Chairperson for each with the approval of a majority of the Committee members present and voting.

All meetings of any such committees shall comply with the notice and other requirements of VFOIA. To the extent that is practicable, any such committees shall be composed of at least four members. Committee meetings may be held at the call of the Chairperson or at the request of two members, with notice to all members.

## **ARTICLE IX - ANNUAL REPORT**

The Committee shall prepare an annual written report that describes the actions and activities of the Committee and plans for future actions and activities. This report shall be provided to the Clerk to the Board for distribution to the members of the Board and to the County Executive.

## **ARTICLE X - COMPLIANCE WITH LAW AND COUNTY POLICY**

The Committee shall comply with all Virginia laws, including, but not limited to, VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§2.2-3100 *et seq.*, as amended, with all County ordinances, and with all County policies concerning the activities of its boards, authorities, and Committees. In case of a conflict between a provision of these Bylaws and any applicable ordinance or law, the provisions of the applicable ordinance or law, as the case may be, shall be controlling.

## **ARTICLE XI - AMENDMENT OF BYLAWS**

These Bylaws may be amended by the Committee by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board. Any such amendments to the Bylaws shall become effective upon approval by the Board.

INFORMATION - 1

Fairfax-Falls Church Community Services Board Fee Schedule

Since its establishment in 1969, the Fairfax-Falls Church Community Services Board (CSB) has complied with Section 37.2-504 (A) (7) of the Code of Virginia, which states the CSB shall prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the CSB Board and establish procedures for the collection of the same.

The CSB ensures compliance with the Code of Virginia by: (1) conducting a review of fee-related materials by a Committee comprised of CSB Board members and CSB staff; (2) publicizing the proposed changes in English, Spanish, Vietnamese and Korean (e.g., on the [Fairfax-Falls Church CSB](#) webpage and in CSB News); (3) posting a Notice of Public Comment and accepting written comments regarding proposed changes; and (4) accepting comments during a public CSB Board meeting.

In accordance with the CSB's Memorandum of Agreement with the Board of Supervisors as well as State regulations, on October 24, 2018, the CSB Board approved a Fee Schedule with revisions to selected service charges.

The services on the Fee Schedule include outpatient, residential, and ancillary services. Fees for Virginia Medicaid State Plan Option services are set at the Medicaid reimbursement rate. Fees for outpatient services are traditionally cost-based and recorded in increments that are consistent with Current Procedural Terminology (CPT) maintained by the American Medical Association to uniformly describe medical (including psychiatric), surgical, and diagnostic services. Fees for residential services are primarily income-based due to the extended length of stay for residential treatment or the permanency of a community-living setting for individuals with an intellectual disability. Ancillary charges include usual and customary fees such as those to cover administrative costs such as copying records or returned checks and as prescribed by Fairfax County Code and/or the Code of Virginia.

The current proposed changes to the CSB Fee Schedule are primarily attributable to revising Medicaid and Medicare reimbursement rates for select services.

Unless otherwise directed by the Board of Supervisors, the County Executive will direct staff to proceed with the implementation of the revised Fee Schedule. Sufficient advance notice of fee changes must be given to consumers.

Board Agenda Item  
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FISCAL IMPACT:

The fee-related documents provide the CSB with uniform mechanisms to maximize revenues from clients, Medicaid, Medicare, and other health insurance plans. The FY 2019 Adopted Budget Plan for the CSB includes \$15.8 million in estimated fee revenues. No material change is anticipated as a result of the proposed revisions.

ENCLOSED DOCUMENT:

Attachment 1 - CSB Fee Schedule

Attachment 2 - Summary of CSB Fee Related Changes

STAFF:

Tisha Deeghan, Deputy County Executive

Daryl Washington, Executive Director, Fairfax-Falls Church CSB

Michael Goodrich, Deputy Director Administration Operations, Fairfax-Falls Church CSB

Service	Billing Procedure Code	Subject to Ability to Pay Scale	Effective February 1, 2018	Effective February 1, 2019
Adolescent Day Treatment - SA	-	Yes	\$4.80 per 15 minutes	\$4.80 per 15 minutes
Adult Day Treatment - MH	H0035-HB	Yes	\$34.78 per unit	\$34.78 per unit
A New Beginning Residential Treatment	H0010 - HB	Yes	\$238.30 per day	\$393.50 per day
GAP Case Management - Regular Intensity	H0023-UB	Yes	\$195.90 per month	\$195.90 per month
GAP Case Management - High Intensity	H0023-UC	Yes	\$220.90 per month	\$220.90 per month
Case Management - MH	H0023	Yes	\$326.50 per month	\$326.50 per month
Case Management - DD	T1017	Yes	\$326.50 per month	\$326.50 per month
Case Management - SA	H0006	Yes	\$243.00 per month	\$243.00 per month
Congregate Residential ID Waiver Services	97535	No	\$17.71 per hour	\$17.71 per hour
Contracted Residential Treatment - Intermediate Rehabilitation/Reentry		Yes	\$163 per day	\$163 per day
Crisis Intervention - Addl 30 Min	90840	Yes		\$71.28 each
Crisis Intervention	H0036 or 90839	Yes	\$30.79 per 15 minutes	\$37.30 per 15 minutes
Crisis Stabilization - Adult Residential	H2019	Yes	\$89 per hour	\$89 per hour
Crossroads Adult Residential Treatment	H0010 - HB	Yes	\$186.52 per day	\$393.50 per day
Detoxification, Medical, Residential-setting	H2036 - HB	Yes	\$750 per day	\$750 per day
Detoxification, Social, Residential-setting	H2036 - HB	Yes	\$750 per day	\$750 per day
Drop-In Support Services, ID	-	Yes	Rate set by vendor(s) but no less than \$2 per hour and for those with incomes above 150% of FPL, apply 20% liability (based on ATP Scale) of the CSB contracted negotiated rate. If below 150% of FPL, charge \$2 per hour.	Rate set by vendor(s) but no less than \$2 per hour and for those with incomes above 150% of FPL, apply 20% liability (based on ATP Scale) of the CSB contracted negotiated rate. If below 150% of FPL, charge \$2 per hour.
Family Therapy w/out client	90846	Yes	\$111.24 per event	\$115.19 per event
Family Therapy w/ client	90847	Yes	\$115.43 per event	\$119.82 per event
Group Therapy/Counseling	90853	Yes	\$27.86 per event	\$28.74 per event
Head Start - Services to	-	No	\$25 per 15 minutes	\$25 per 15 minutes
Independent Evaluations	-	No	\$75 each	\$75 each
Individual Therapy/Counseling (16 to 37 minutes)	90832	Yes	\$69.08 per event	\$71.28 per event
Individual Therapy/Counseling (38 to 52 minutes)	90834	Yes	\$91.82 per event	\$95.33 per event
Individual Therapy/Counseling (53 minutes or greater)	90837	Yes	\$137.74 per event	\$143.01 per event
Initial Evaluation/Assessment	90791	Yes	\$150 per event	\$150 per event
Injection Procedure	96372	Yes	\$30.20 per event	\$30.20 per event
Intensive Community Treatment	H0039	Yes	\$153 per hour	\$153 per hour
Intensive Outpatient - SA	H0015	Yes	\$250.00 per day	\$250.00 per day
Interactive Complexity*	90785	Yes	\$15 add on to other clinic services when there is a factor that complicates the psychiatric service or increases the work intensity of the psychotherapy service	\$15.90 add on to other clinic services when there is a factor that complicates the psychiatric service or increases the work intensity of the psychotherapy service
Lab Tests	-	No	Actual Cost	Actual Cost

Service	Billing Procedure Code	Subject to Ability to Pay Scale	Effective February 1, 2018	Effective February 1, 2019
Late Cancellation or No Show	-	Yes	\$25.00	\$25.00
Legal Testimony	-	Yes	\$25 per 15 minutes	\$25 per 15 minutes
Mental Health Skill-building Service	H0046	Yes	\$91 per unit	\$91 per unit
Multi-Family Group Therapy	90849	Yes	\$25 per event	\$41.78 per event
Neurological Testing		Yes	\$1168 per event	\$1168 per event
New Generations Residential Treatment	H0010	Yes	\$393.50 per month	\$393.50 per month
Nursing Assessment		Yes		
Nursing Subsequent Care	99211	Yes	\$29 per event	\$29 per event
Peer Support Services - Individual/SA	T1012	Yes	\$6.50 per 15 minutes	\$6.50 per 15 minutes
Peer Support Services - Group/SA	S9445	Yes	\$2.70 per 15 minutes	\$2.70 per 15 minutes
Peer Support Services - Individual/MH	H0024	Yes	TBD by Medicaid	\$6.50 per 15 minutes
Peer Support Services - Group/MH	H0025	Yes	TBD by Medicaid	\$2.70 per 15 minutes
Physical Exam (Physician)	99385-99387	Yes	\$167 per event	\$167 per event
Psychiatric Evaluation	90792	Yes	\$219 per event	\$219 per event
Psychiatric Evaluation & Management High Complexity - New Patient	99205	Yes	\$234.95 per event	\$236.10 per event
Psychiatric Evaluation & Management Low Complexity - New Patient	99203	Yes	\$124.25 per event	\$124.43 per event
Psychiatric Evaluation & Management Moderate Complexity - New Patient	99204	Yes	\$187.06 per event	\$188.16 per event
Psychiatric Evaluation & Management High Complexity	99215	Yes	\$164.91 per event	\$166.00 per event
Psychiatric Evaluation & Management Low Complexity	99213	Yes	\$83.79 per event	\$83.92 per event
Psychiatric Evaluation & Management Moderate Complexity	99214	Yes	\$122.82 per event	\$123.44 per event
Psychological Testing	-	No	\$150 per event	\$150 per event
Psychological Testing Battery	96101	Yes	\$851 per event	\$851 per event
Psychosocial Rehabilitation	H2017	Yes	\$24.23 per unit	\$24.23 per unit
Psychological Assessment, Adult Therapeutic Day Treatment	H0032 - U7	Yes	\$36.53 Per event	\$36.53 Per event
Psychological Assessment, Psychosocial Rehab	H0032 - U6	Yes	\$24.23 per event	\$24.23 per event
Psychological Assessment, GAP SMI Short Form	H0032 - UB	Yes	\$37.00 per event	\$37.00 per event
Psychological Assessment, GAP SMI Long Form	H0032 - UC	Yes	\$75.00 per event	\$75.00 per event
Psychological Assessment, Intensive Community Treatment	H0032 - U9	Yes	\$153.00 per event	\$153.00 per event
Psychological Assessment, Mental Health Skill Building	H0032 - U8	Yes	\$91.00 per event	\$91.00 per event
Release of Information: Individual	-	No	50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs	18¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs
Release of Information: Research	-	No	\$10.00	\$10.00
Release of Information: Third Party	-	No	\$10 admin fee 50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs	\$10 admin fee 37¢ per pg up to 50 pgs; 18¢ per pg for > = 51 pgs
Release of Information: Worker's Compensation	-	No	\$15.00	\$15.00
Residential Fee ID Community Living Services	-	No	75% of gross income	75% of gross income
Residential Fee MH/SA Community Living Services	-	No	30% of gross income	30% of gross income
Returned Check (due to insufficient funds or closed account)	-	No	\$50.00	\$50.00
Skilled Nursing Waiver LPN Services	T1003	No	\$7.99 per 15 min	\$7.99 per 15 min
Skilled Nursing Waiver RN Services	T1002	No	\$9.22 per 15 min	\$9.22 per 15 min
Telehealth Facility Fee	GT Modifier	No	\$20.00	\$20.00
Transportation	-	No	\$100 per month	\$100 per month

ATTACHMENT 1

Service	Billing Procedure Code	Subject to Ability to Pay Scale	Effective February 1, 2018	Effective February 1, 2019
Turning Point Program	-	Yes	\$285.71 per month	\$285.71 per month
Urine Collection & Drug Screening- Retests Only	-	Yes	\$25.00	\$25.00
Wraparound Fairfax	-	No	\$1270 per month	\$1270 per month
DDW Case Management		No	\$242.73 per month	\$242.73 per month
DDW Group Home Residential 5 person Tier 1	H2022-U2	No	\$221.80 per day	\$221.80 per day
DDW Group Home Residential 5 person Tier 2	H2022-U2	No	\$249.07 per day	\$249.07 per day
DDW Group Home Residential 5 person Tier 3	H2022-U2	No	\$276.33 per day	\$276.33 per day
DDW Group Home Residential 5 person Tier 4	H2022-U2	No	\$325.40 per day	\$325.40 per day
DDW Group Home Residential 6 person Tier 1	H2022-U3	No	\$214.99 per day	\$214.99 per day
DDW Group Home Residential 6 person Tier 2	H2022-U3	No	\$238.84 per day	\$238.84 per day
DDW Group Home Residential 6 person Tier 3	H2022-U3	No	\$266.10 per day	\$266.10 per day
DDW Group Home Residential 6 person Tier 4	H2022-U3	No	\$316.88 per day	\$316.88 per day
DDW Group Home Residential 7 person Tier 1	H2022-U4	No	\$208.17 per day	\$208.17 per day
DDW Group Home Residential 7 person Tier 2	H2022-U4	No	\$228.61 per day	\$228.61 per day
DDW Group Home Residential 7 person Tier 3	H2022-U4	No	\$255.88 per day	\$255.88 per day
DDW Group Home Residential 7 person Tier 4	H2022-U4	No	\$308.36 per day	\$308.36 per day
PERS Medication Monitoring	S5185	No	\$58.41	\$58.41
PERS Monitoring	S5161	No	\$35.05	\$35.05
PERS Installation	S5160	No	\$58.41	\$58.41
PERS Installation & Medication Monitoring	S5160-U1	No	\$87.62	\$87.62
DDW Skilled Nursing, Registered Nurse	S9123	No	\$11.28 per 15 min	\$11.28 per 15 min
DDW Skilled Nursing, Licensed Practicle Nurse	S9124	No	\$9.78 per 15 min	\$9.78 per 15 min
DDW Transition Services	T2038	No	Unit varies/\$5000 yearly limit	Unit varies/\$5000 yearly limit
DDW Assistive Technology, Maintenance Costs Only	T1999-U5	No	Unit varies/\$5000 yearly limit	Unit varies/\$5000 yearly limit

## Summary of Changes to CSB 2018-2019 Fee Related Documents

### Ability to Pay Scale

- **Synchronizes** the Ability to Pay Scale income levels with the Federal Poverty Levels published by the federal government every January.

### Fee Schedule

- **Updates** Outpatient, Residential, and ARTS service fees to maximize Medicare and Medicaid reimbursement.

### Fee and Subsidy Related Procedures Regulation 2120.1

- **Delete** “if disability based” in Section VII of the Regulation. Medicare-enrolled clients will have a 0% liability.
- **Delete** “Examples include where there is probable cause to believe that no intervention would have resulted in serious physical harm to the individual or others or where the person requesting the civil commitment assessment is no the individual being evaluated” in Section XIII of the Regulation.
- **Add** “when the individual is able, by clinical standards, to provide informed consent” to Section XIII of the Regulation.

INFORMATION – 2

Presentation of the Fiscal Year (FY) 2018 Comprehensive Annual Financial Report (CAFR)

Annually, pursuant to the *Code of Virginia* (Code), Section 15.2-2511, as amended, Fairfax County's financial statements are audited by an independent certified public accountant. This audit is conducted in accordance with auditing standards generally accepted in the United States; the standards applicable to financial audits contained in the Government Auditing Standards issued by the Comptroller General of the United States; and the Specifications for Audits of Counties, Cities, and Towns issued by the Auditor of Public Accounts of the Commonwealth of Virginia. The Code also requires that an independent certified public accountant present a detailed written report to the local governing body at a public session by December 31. The County's financial statements for FY 2018 have been audited by Cherry Bekaert LLP, and Cherry Bekaert's unmodified opinion, with respect thereto, is presented on page 1 of the Financial Section of the County's CAFR. A representative from Cherry Bekaert is with us today.

In addition to meeting the requirements of the Code, the audit was designed to meet federal regulations as outlined in the Code of Federal Regulations, Title 2 Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Known as the Single Audit, this is a special type of compliance audit applicable to specific federal grant programs. The requirements of the Single Audit are established by federal legislation and regulation and are very stringent. Cherry Bekaert's reports related specifically to this audit activity are included as a separate report and bound as part of the Board of Supervisors Reports document.

Auditing standards generally accepted in the United States require that the auditors communicate, in writing, to those charged with governance all significant deficiencies, including material weaknesses.

The CAFR presented today will be submitted for rigorous peer review by the Government Finance Officers Association of the United States and Canada (GFOA). The FY 2017 CAFR for the County was awarded the GFOA's Certificate of Achievement for Excellence in Financial Reporting, the highest honor conferred by the GFOA, for the 40th time.

A comprehensive package was delivered directly to the offices of each member of the Board of Supervisors on or before November 30, 2018. The package included:

- The FY 2018 Comprehensive Annual Financial Report;
- Cherry Bekaert's required communications and reports addressed to the Board\*;

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- Compliance reports\*; and,
- The FY 2018 Popular Annual Financial Report (PAFR).

\*these reports are included within the Fairfax County Board of Supervisors Reports document.

In compliance with the Code, a copy of the FY 2018 CAFR is being provided to the Clerk to the Board of Supervisors where it shall remain open to public inspection. The CAFR will be made available for public use on Fairfax County's web site at the conclusion of the December 4, 2018, Board of Supervisors meeting at:  
<http://www.fairfaxcounty.gov/finance/cafr.htm>.

As indicated, the package also included the County's second edition of the Popular Annual Financial Report (PAFR). To meet the varied needs of our citizens, legislative and oversight bodies, financial managers, investors and others, the CAFR presents a large and complex volume of financial information presented at an extremely detailed level. Conversely, the PAFR is designed to offer those with a general interest in the County's financial activities a less detailed glimpse at selected data from the CAFR, presented in a highly readable format.

The GFOA PAFR award program annually recognizes high quality reports that meet the GFOA's criteria for reader appeal, understandability, dissemination and other related requirements. We were extremely pleased to have received the award for Popular Annual Financial Reporting for our inaugural FY 2017 PAFR and will be submitting to the GFOA our FY 2018 report for peer review and award consideration.

ENCLOSED DOCUMENTS:

None. A comprehensive package was delivered directly to the offices of each member of the Board of Supervisors on or before November 30, 2018. The package included:

- The FY 2018 Comprehensive Annual Financial Report;
- Cherry Bekaert's required communications and reports addressed to the Board\*;
- Compliance reports\*; and,
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<http://www.fairfaxcounty.gov/finance/cafr.htm>

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STAFF:

Joseph M. Mondoro, Chief Financial Officer, Department of Management and Budget  
Christopher J. Pietsch, Director, Department of Finance  
Deirdre M. Finneran, Deputy Director, Department of Finance  
Richard M. Modie Jr., Chief, Financial Reporting Division, Department of Finance  
Tanya D. Burrell, Chief, Financial Operations Division, Department of Finance

INFORMATION - 3

Endorsement of Guidelines for Development in Reston Transit Station Areas (Hunter Mill and Dranesville Districts)

Excellence in urban design is critical to the achievement of the visions established in the Comprehensive Plan for Reston Transit Station Areas (TSAs). The purpose of the Guidelines for Development in Reston Transit Station Areas (Guidelines) is to provide site design and streetscape suggestions using modern techniques, best practices, and sustainable solutions to produce a high quality urban environment. These UDGs were developed as directed by a Board of Supervisors follow-on motion concurrent with the adoption of the updated Comprehensive Plan for the Reston Transit Station Areas on February 4, 2014.

The Guidelines are not regulatory and are not intended to control or dictate a particular architectural style or site design solution. They are intended to be used by land owners and their consultants as they envision their projects and by staff, the Planning Commission, the Board of Supervisors, and the community in the evaluation of such projects. They are a companion document to the Comprehensive Plan and the Zoning Ordinance, providing detailed recommendations for elements such as streetscapes, hardscape elements, planting strategies, building mass, and architectural form that emphasize high quality design concepts while allowing the flexibility for applicants to create their own distinct character within their projects.

The Guidelines for Development in the Reston Transit Station Areas were developed by the Office of Community Revitalization (OCR) in coordination with the various affected county departments and agencies, including but not limited to the Department of Planning and Zoning (DPZ), the Department of Transportation (DOT), the Department of Public Works and Environmental Services (DPWES), Land Development Services (LDS) and Urban Forest Management. Significant community outreach and engagement on drafts of the Guidelines was conducted. The outreach process to inform the community and to solicit feedback included an advisory group consisting of 16 Reston residents, property owners (or their representatives), and specialists in various areas of urban design; announcements sent to community organizations, listservs, newsletters; postings on NextDoor; presentations and small group discussions at meetings of the Reston Association (Design Review Board and Board of Directors), Fairfax County Architectural Review Board, and the Reston Town Center Association Design Review Board; an online survey; and a community open house to review the draft with the public. OCR incorporated the feedback received, as appropriate, to produce the final documents.

Unless otherwise directed by the Board, staff will use the Guidelines for Development in Reston Transit Station Areas in its review of development applications and will provide them to interested parties as a resource for addressing the Comprehensive Plan's design guidance and streetscape standards in these areas.

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FISCAL IMPACT:  
None.

ENCLOSED DOCUMENTS:

Attachment 1 – Guidelines for Development in Reston Transit Station areas accessible online at: [http://www.fcrevite.com/programs/download/RestonDG\\_Final-Nov-7-2018-AC\\_A-1a.pdf](http://www.fcrevite.com/programs/download/RestonDG_Final-Nov-7-2018-AC_A-1a.pdf)

STAFF:

Robert A. Stalzer, Deputy County Executive  
Barbara Byron, Director, Office of Community Revitalization (OCR)  
Chris Caperton, Deputy Director, OCR  
Lauren Murphy, Revitalization Program Manager, OCR

INFORMATION - 4

Economic Success Strategic Plan Fall 2018 Update

In 2015, the Fairfax County Board of Supervisors (Board) adopted “The Strategic Plan to Facilitate the Economic Success of Fairfax County” (Plan). The Plan envisions an economically strong and sustainable Fairfax County and focuses on four fundamental themes: People, Places, Employment, and Governance. Each of the four themes contains a vision of what we aspire to and the related fundamental strategies. Since its adoption, County staff, in partnership with community stakeholders, has been working on the implementation of the actions prescribed within the plan’s six goal areas:

1. Further Diversify Our Economy
2. Create Places Where People Want To Be
3. Improve the Speed, Consistency, and Predictability of the Development Review Process
4. Invest in Natural and Physical Infrastructure
5. Achieve Economic Success Through Education and Social Equity
6. Increase Agility of County Government

Today, staff is presenting the Economic Success Strategic Plan Fall 2018 Update, the annual update of this plan. It may be found at <https://www.fairfaxcounty.gov/economic-success/sites/economic-success/files/assets/documents/pdf/economic-success-fall-2018-report.pdf>.

The Fall Update was presented to the Economic Advisory Commission (EAC) on October 9, 2018. Like the previous two updates, the Fall 2018 Update has a variety of stories and highlights that demonstrate the fundamental themes and strategies of the Plan in action. The Update includes the Actions Tracker, which starts on page 39, and provides an update of each of the actions detailed in the Plan, including a progress description for each.

Recommended Plan revisions clarifying language and eliminating duplication will be presented to the Board for consideration and action in early 2019.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 - Economic Success Strategic Plan Fall 2018 Update – available online at: <https://www.fairfaxcounty.gov/economic-success/sites/economic-success/files/assets/documents/pdf/economic-success-fall-2018-report.pdf>

STAFF:

Robert A. Stalzer, Deputy County Executive  
Eta Nahapetian, Economic Initiatives Coordinator, Office of the County Executive

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10:50 a.m.

Matters Presented by Board Members

11:40 a.m.

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
  - 1. *Biscayne Contractors, Inc. v. Board of Supervisors of Fairfax County, Virginia*, Case No. CL-2018-0014893 (Fx. Co. Cir. Ct.)
  - 2. *Pedro Francisco Santiago v. Officer Bond, Officer Allen, Officer Liberty, Officer Baxter, and Sgt. Nytes*, Case No. 2:18-cv-42 (E.D. Va.)
  - 3. *Calvin Acker v. E. Cartagena*, Case No. GV18-022068 (Fx. Co. Gen. Dist. Ct.)
  - 4. *Dwain Foltz v. Fairfax County*, Case No. 18-1488 (U.S. Ct. of App. for the Fourth Cir.)
  - 5. *Kenneth Henderson v. Fairfax-Falls Church Community Service Board and Fairfax County*, Case No. 1:18-cv-825 (E.D. Va.)
  - 6. *Dora Fatima Parada-Segovia v. Kenneth Barlowe and Fairfax County*, Case No. CL-2018-0009390 (Fx. Co. Cir. Ct.)
  - 7. *Richard W. Ferris, Trustee v. Trinity Gainey, Michael Gallo, and James Patteson*. Case No. 1:18-cv-721 (E.D. Va.) (Providence District)
  - 8. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Maziar Choubineh and Shabnam Belat*, Case No. CL-2018-0007073 (Fx. Co. Cir. Ct.) (Dranesville District)
  - 9. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ralph Jeffrey Rossen and Francine Rossen*, Case No. GV18-024844 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
  - 10. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Orhan Atmaca and Birgul Atmaca*, Case No. GV18-020850 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)

11. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Fernando A. Ovalle*, Case No. CL-2018-0015808 (Fx. Co. Cir. Ct.) (Lee District)
12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mellinium Center, LLC*, Case No. CL-2018-0010208 (Fx. Co. Cir. Ct.) (Mason District)
13. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Kashif H. Waheed and Anahita Ada*, Case No. CL-2018-0015884 (Fx. Co. Cir. Ct.) (Mount Vernon District)
14. *Brian F. Foley, Building Official for Fairfax County, Virginia v. Tran Hang Thi Le and Dung Van Nguyen*, Case No. CL-2018-0015677 (Fx. Co. Cir. Ct.) (Providence District)

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3:30 p.m.

Decision Only on Consideration of Proposed Amendments to the Ordinances for the Fairfax County Employees', Uniformed and Police Officers Retirement Systems

ISSUE:

Public Hearing on proposed amendments to Articles 2, 3, and 7 of Chapter 3 of the Code of the County of Fairfax, which set forth the ordinances for the Fairfax County Employees', Uniformed and Police Officers Retirement Systems, respectively. These proposed amendments revise certain benefit provisions only with respect to employees hired on or after July 1, 2019.

RECOMMENDATION:

The County Executive recommends that the Board consider proposed amendments to the Fairfax County Employees', Uniformed and Police Officers Retirement Systems for the purpose of changing certain benefit provisions with respect to employees hired on or after July 1, 2019. The Boards of Trustees for the three Retirement Systems have reviewed the actuary's assessment of the impact of these proposed amendments, if approved, and agree with it.

TIMING:

On October 16, 2018, the Board authorized advertisement of a public hearing to consider the matter on November 20, 2018, at 4:30 p.m. The public hearing was held on November 20, 2018, and decision only was deferred to December 4, 2018, at 3:30 p.m.

BACKGROUND:

The Board requested a thorough reexamination of the County's retirement benefits and consideration of changes to the benefits provided to new employees to improve the Systems' long-term sustainability. In response to this request, staff returned to the Board with detailed information on hiring and retirement trends, the Virginia Retirement System (VRS) mandate, and benefit levels. The Board discussed potential changes to benefit provisions for new employees at several meetings of its Personnel Committee and established a working group of Board members, employees, and retirees to discuss proposed changes.

At the June 26, 2018, meeting of the Personnel Committee, the Board narrowed the range of potential changes to be considered and directed staff to advertise a public hearing on these options in order to solicit community input and determine which changes should be enacted. It is important to note that the proposed amendments would apply only to new

employees hired on or after July 1, 2019, and would not impact current employees and retirees.

**PROPOSED AMENDMENTS:**

The proposed amendments to the Employees' Retirement System ordinance, effective for new employees hired on or after July 1, 2019, will:

- increase the minimum retirement age from 55 to 60;
- require age and years of service to total 90 to be eligible for normal retirement;
- increase the period used to calculate average final compensation from 3 to 5 years;
- eliminate the pre-social security supplement; and
- repeal the provision that increases the calculated retirement annuity by 3%.

The proposed amendments to the Uniformed Retirement System ordinance, effective for new employees hired on or after July 1, 2019, will:

- increase the period used to calculate average final compensation from 3 to 5 years;
- eliminate the pre-social security supplement; and
- repeal the provision that increases the calculated retirement annuity by 3%.

The proposed amendments to the Police Officers Retirement System ordinance, effective for new employees hired on or after July 1, 2019, will:

- increase the period used to calculate average final compensation from 3 to 5 years; and
- repeal the provision that increases the calculated retirement annuity by 3%.

**FISCAL IMPACT:**

If all of the proposed amendments detailed above are enacted, the actuary has estimated that the employer normal cost for employees hired on or after July 1, 2019, would be reduced from 7.70% to 6.35% (a 1.35% decrease) for the Employees' Retirement System, from 16.12% to 13.82% (a 2.30% decrease) for the Uniformed Retirement System, and from 17.98% to 16.56% (a 1.42% decrease) for the Police Officers Retirement System. These estimates are presented as Option A in the letters prepared by Cheiron for the Systems (Attachment 4). Per the Personnel Committee's request, the actuarial impact for other combinations of amendments are also included for each System in the letters.

The Board has committed not to reduce the County's contribution to each System until it is fully funded. Therefore, there will be no budgetary savings from any of the proposed amendments until the Systems are fully funded. The actuary currently estimates that all three Systems will reach 100% funding by FY 2033 based on a set of assumptions, which include a projected annual rate of return of 7.25%.

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ENCLOSED DOCUMENTS:

Attachment 1: Amendments to Chapter 3, Article 2  
Attachment 2: Amendments to Chapter 3, Article 3  
Attachment 3: Amendments to Chapter 3, Article 7  
Attachment 4: Actuarial Impact Letters from Cheiron

STAFF:

Joseph Mondoro, Chief Financial Officer  
Jeffrey Weiler, Executive Director, Fairfax County Retirement Systems  
Christina Jackson, Deputy Director, Department of Management and Budget  
Philip Hagen, Budget Services Coordinator, Department of Management and Budget

ASSIGNED COUNSEL:

Benjamin R. Jacewicz, Assistant County Attorney

## ARTICLE 2. - Fairfax County Employees' Retirement System.

## Footnotes:

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7. Editor's note— Ord. No. 20-81-3 amended Art. 2 to read as set forth in §§ 3-2-1—3-2-50. Formerly, Art. 2 consisted of §§ 3-2-1—3-2-47, and was derived from the following legislation:

Ord. Nos. 6-15-55, §§ 1—20, 22—40; 5-8-63; 6-23-65; and 10-21-70; 1961 code, §§ 9-22—9-68; and Ord. No. 10-74-9.

## Division 1. - Generally.

## Section 3-2-1. - Fairfax County Employees' Retirement System established.

Under the authority of Section 51.1-801 of the *Virginia Code*, there is hereby established a retirement system for employees, formerly known as the Fairfax County Supplemental Retirement System, to be known henceforth as the "Fairfax County Employees' Retirement System," by and in which name it shall, pursuant to the provisions of this Article, transact all of the System's business. The Fairfax County Employees' Retirement System is intended to satisfy the requirements of Sections 401(a) and 414(d) of the Internal Revenue Code for qualified governmental pension plans. (20-81-3; 10-01-3; 50-13-3; 2-16-3.)

## Section 3-2-2. - Definitions.

Unless provided otherwise in another Section, the following definitions shall apply to this Article:

(a) *Accrued sick leave credit* shall mean:

- (1) ~~(1)~~— For employees ~~whose County or School Board employment commenced by reporting for work before January 1, 2013 (who are~~ members of Plans A or B), the credit allowed a member with more than five years of service for purposes of determining retirement eligibility. Credit shall be allowed at the rate of one month for every 172 hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof.
- (2) ~~(2)~~— For employees ~~whose County or School Board employment commenced by reporting for work on or after January 1, 2013 (who are~~ members of Plans C ~~or~~ D, ~~or~~ E, the credit allowed a member with more than five years of service for purposes of determining retirement eligibility. Credit shall be allowed at the rate of one month for every 172 hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof; however, for employees whose County or School Board employment commenced by reporting to work on or after January 1, 2013, notwithstanding the amount of the employee's accrued sick leave balance, the maximum amount of accrued sick leave credit that may be used for determining retirement eligibility and for computing the member's retirement allowances and benefits shall be the employee's accrued sick leave balance or 2,080 hours, whichever is less.

(b) *Accumulated contributions* shall mean the sum of all amounts deducted or picked up from the compensation of a member and credited to his or her individual account in the members' contribution account, any amounts transferred from another retirement plan pursuant to Section 3-2-24.1, together with interest credited on such amounts and any other amounts he or she shall have contributed, or transferred thereto, as provided in Section 3-2-28(c).

(c) *Actuarial equivalent* shall mean a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board.

(d) *Average final compensation* shall mean the average annual creditable compensation of a member during the 36 consecutive months (78 consecutive pay periods for members who are paid on a biweekly basis) ~~for a member of Plan A, B, C or D, or 60 consecutive months (130 consecutive pay periods for members who are paid on a biweekly basis) for a member of Plan E,~~ in which the member received his or her highest creditable compensation.

- (1) In the event that a ~~member's~~ member's creditable service is less than 36 months (78 pay periods), ~~for a member of Plan A, B, C or D, or less than 60 months (130 pay periods) for a member of Plan E,~~ his or her average final compensation shall be his or her average monthly

creditable compensation received during the entire period of creditable service multiplied by 12 (average biweekly creditable compensation multiplied by 26 for biweekly paid members).

- (2) In determining average final compensation for members who retire after July 1, 1988, the member's accrued unused sick leave at the time of retirement may, at the option of the member, be substituted for an equivalent period of creditable service as if the member had continued to work at his or her final salary during the period of his or her accrued unused sick leave; provided, that in determining the average final compensation for members who became members of the System on or after January 1, 2013 (members of Plans C, D or D, E), no more than 2,080 hours of the member's accrued unused sick leave may be used for this purpose.
- (3) For purposes of computing a service-connected disability retirement allowance under Section 3-2-36, a member's average final compensation shall be computed as if a member had received compensation (including salary increases which the Board determines would have been awarded to the member) for any period prior to retirement during which the member ceased employment on account of a disability for which he or she received compensation benefits under the Virginia Workers' Compensation Act.
- (4) Notwithstanding the foregoing, whenever the Director of the Department of Human Resources, at the request of the Board, the member, or the member's beneficiary, determines that the member's receipt of a merit increment was delayed as a result of either or both of the amendments to Section 4.3-2 of the Personnel Regulations, effective July 13, 1991, and July 11, 1992, respectively, and that the member would otherwise have been entitled to such merit increment under the Personnel Regulations, based upon the Human Resources Director's review of the member's County personnel and payroll records, the Board shall calculate the member's average final compensation in a manner which approximates the average final compensation the member would have if the member had received the merit increment at the time he or she would have been entitled to receive such merit increment but for the aforesaid amendments to Section 4.3-2 of the Personnel Regulations. In performing such calculation, the Board shall utilize the following assumptions:
  - (A) If the employee was scheduled to receive a merit increment in fiscal years 1992 and/or 1993, then it was delayed.
  - (B) The employee received no promotions, demotions, reclassifications or regrades from the date of the delayed merit increment(s).
  - (C) The employee moved through the steps of the pay grade as quickly as possible according to his or her respective pay plan.
  - (D) The delayed merit increments and all future merit increments occurred on the day and the month which is the same day and month when the employee retires.
  - (E) The employee is in full employment each year if in full employment at the time of the delayed merit increment and also at the time of retirement.

A factor shall be derived utilizing these assumptions, and then used to calculate the increase, if any, in the member's final average compensation. If at the time of retirement, the employee has service credit for three years or more at the longevity step of the pay grade in which his or her position falls, then there shall be no adjustment to the member's average final compensation. This rule shall apply to all applications for allowances and benefits filed with the Board on or after July 13, 1991. The Board shall make any necessary retroactive adjustments to allowances and benefits.

- (5) Notwithstanding the foregoing, in the case of any SESRP member, creditable compensation for each year after the effective date of the agreement referenced in Subsection (~~eedd~~) shall equal 1.05634 times the SESRP member's unadjusted compensation.

- (6) Periods of leave without pay under the federal Family and Medical Leave Act of 1993 (FMLA) shall be disregarded in determining periods of consecutive months or pay periods in calculating average final compensation.
- (e) *Beneficiary* shall mean any person, other than a member, entitled to receive benefits as provided by the System. The Board shall provide a member with a form on which to designate in writing one or more beneficiaries of the member's benefits upon the member's death. The Board shall maintain any such written designation on file. A designated beneficiary may be changed from time to time by written notice by the member filed with the Board.
- (f) *Board* shall mean the Board of Trustees of the System, as provided for in this Article.
- (g) *Creditable compensation* shall mean the full compensation, including pick-up contributions, holiday hours worked, administrative emergency leave worked, shift differential paid and civilian roll call hours paid, but excluding all overtime pay except roll call hours paid, earned on or after July 1, 1993, and excluding performance bonuses, and amounts paid upon separation from employment which represent the unused portion of the employee's accrued annual leave. In cases where the compensation includes maintenance and other prerequisites, the Board shall fix the value of that portion of the compensation not paid in money. Effective for plan years after December 31, 1988, compensation in excess of \$200,000.00, as indexed under Section 415(d) of the Internal Revenue Code, shall be disregarded. Notwithstanding the foregoing, effective for members whose County or School Board employment commenced by reporting for work on or after July 1, 1996, compensation in excess of the limit set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. In determining the compensation of an employee under this definition, the rules of Section 415(c)(3) of the Internal Revenue Code shall apply. Effective for plan years on or after January 1, 2001, an employee's compensation shall include amounts not includible in gross income by reason of Section 132(f)(4) of the Internal Revenue Code.
- (h) *Creditable service* shall mean the sum of membership service credit, plus prior service credit, plus portability service credit purchased pursuant to Section 3-2-24.1, plus accrued sick leave credit.
- (i) *DROP* shall mean the Deferred Retirement Option Program, as provided for by Section 3-2-56.
- (j) *Employee* shall mean any person regularly employed in rendering service to the County whose compensation is fully or partially paid directly or indirectly by the County. It shall also include all officers and other persons regularly employed by the School Board who are not eligible for membership in the Virginia Retirement System (VRS).
- (k) *Employer* shall mean the School Board or an authority in the general County having the power to appoint an employee to office or employment paid directly or indirectly by the County and/or the Board of Trustees of the System.
- (l) *Executive Director* shall mean the Executive Director of the Fairfax County Retirement Administration Agency.
- (m) *Internal Revenue Code* shall mean the federal income tax statutes, as they may be amended or superseded from time to time in the future.
- (n) *Medical Examining Board* shall mean the physician or physicians provided for by Section 3-2-9.
- (o) *Member* shall mean any person included in the membership of the System as provided for by Section 3-2-19.
- (p) *Membership service credit* shall mean credit for service rendered while a member of the System, or as otherwise provided in Section 3-2-23. Service rendered while a member of SESRP shall be treated without duplication as service rendered while a member of the System.
- (q) *Normal retirement date* shall mean:
  - (1) For employees whose County or School Board employment commenced by reporting for work before January 1, 2013 (members of Plans A and B),

- (A) The date on which a member in service attains the age of 50 years, provided said member's age while in service, combined with the years of his or her creditable service, equals at least the sum of 80 years; or
  - (B) The date on which a member attains the age of 65 years.
- (2) For employees whose County or School Board employment commenced by reporting for work on or after January 1, 2013 and before July 1, 2019 (members of Plans C and D),
  - (A) The date on which a member in service attains the age of 55 years, provided said member's age while in service, combined with the years of his or her creditable service, equals at least the sum of 85 years; or
  - (B) The date on which a member attains the age of 65 years.
- (3) For employees whose County or School Board employment commenced by reporting for work on or after July 1, 2019 (members of Plan E),
  - (A) The date on which a member in service attains the age of 60 years, provided said member's age while in service, combined with the years of his or her creditable service, equals at least the sum of 90 years; or
  - (B) The date on which a member attains the age of 65 years.
- (r) *Pick-up contributions* shall mean a member's regular contributions which is picked up, through a salary reduction by the County from the member's compensation for service rendered on or after December 22, 1984.
- (s) *Plan A* shall mean the option effective July 1, 1981, available to employees whose County or School Board employment commenced by reporting for work on or before December 31, 2012, providing for current and new members to:
  - (1) Contribute four percent of compensation up to the taxable wage base and five and one-third percent of compensation in excess of the taxable wage base; and
  - (2) Receive normal (and early) service retirement benefits based on one and eight-tenths percent of average final compensation up to the social security breakpoint plus two percent of average final compensation in excess of the social security breakpoint times years of service.
- (t) *Plan B* shall mean the option effective July 1, 1981, available to employees whose County or School Board employment commenced by reporting for work on or before December 31, 2012, providing for current and new members to:
  - (1) Contribute five and one-third percent of all compensation; and
  - (2) Receive normal (and early) service retirement benefits based on two percent of the average final compensation times years of service.
- (u) *Plan C* shall mean the option effective ~~beginning on~~ January 1, 2013, available to employees whose County or School Board employment commenced by reporting for work on or after January 1, 2013, and before July 1, 2019, providing for current and new members to:
  - (1) Contribute four percent of compensation up to the taxable wage base and five and one-third percent of compensation in excess of the taxable wage base; and
  - (2) Receive normal (and early) service retirement benefits based on one and eight-tenths percent of average final compensation up to the social security breakpoint plus two percent of average final compensation in excess of the social security breakpoint times years of service; subject to the definitions, terms and conditions applicable to Plan C set forth herein.
- (v) *Plan D* shall mean the option effective ~~beginning on~~ January 1, 2013, available to employees whose County or School Board employment commenced by reporting for work on or after January 1, 2013, and before July 1, 2019, providing for current and new members to:

- (1) Contribute five and one-third percent of all compensation; and
- (2) Receive normal (and early) retirement benefits based on two percent of the average final compensation times years of service; subject to the definitions, terms and conditions applicable to Plan D set forth herein.

~~(w)(w)~~ Plan E shall mean the plan effective July 1, 2019, available to employees whose County or School Board employment commenced by reporting for work on or after July 1, 2019, providing for current and new members to:

- (1) Contribute five and one-third percent of all compensation; and
- (2) Receive normal (and early) retirement benefits based on two percent of the average final compensation times years of service; subject to the definitions, terms and conditions applicable to Plan E set forth herein.

~~(x)~~ Primary social security benefit shall mean the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the federal Social Security Act as in effect at his or her date of retirement, under the provisions of this Chapter, except as otherwise specifically provided.

~~(xy)~~ Prior service credit shall mean credit for service rendered prior to the establishment of the Fairfax County Supplemental Retirement System (the predecessor of this System) on July 1, 1955, as provided in Section 3-2-24.

~~(yz)~~ Retirement allowance shall mean the retirement payments to which a member is entitled as provided in this Article.

~~(zaa)~~ School Board shall mean the Fairfax County School Board, a political subdivision of the Commonwealth of Virginia.

~~(aabb)~~ Service shall mean service as an employee for which compensation is paid by the employer, but shall not include time spent on leave without pay.

~~(bbcc)~~ SESRP shall mean the former Fairfax County Senior Executive Service Retirement Plan.

~~(eedd)~~ SESRP member shall mean an individual who entered into an agreement with the County to participate in SESRP in lieu of further participation in the System and who was either still an active participant in SESRP or still receiving benefits under SESRP on January 1, 1996.

~~(edee)~~ Social security shall mean the federal Social Security Act and its programs for old age, survivors and disability insurance and benefits, as applicable.

~~(eeff)~~ Social security breakpoint shall mean the average of the taxable wage base for the 35 calendar years ending with the year in which the member attains social security normal retirement age. In determining a member's social security breakpoint during any particular plan year, it is assumed that the taxable wage in effect at the beginning of the plan year shall remain the same for all future years.

~~(#gg)~~ System shall mean the Fairfax County Employees' Retirement System. When any part of this Article refers to multiple retirement systems, the Employees' Retirement System shall be referred to as "this System," rather than "the System."

~~(gghh)~~ Taxable wage base shall mean the maximum amount of wages received during the calendar year on which social security taxes are payable by a member and by the employer, as such amount is defined in Section 3121(a) of the Internal Revenue Code. (20-81-3; 5-85-3; 28-89-3; 27-90-3, § 1; 15-93-3; 22-93-3; 37-94-3; 25-95-3; 27-97-3; 14-00-3; 10-01-3; 18-01-3; 8-03-3; 8-04-3; 26-12-3; 2-16-3.)

Section 3-2-2.1. - Definitions elsewhere in County Code and in County Personnel Regulations.

Unless this Article provides otherwise, the definitions provided in Sections 1-1-2, 3-3-1, and 3-3-12 of the Code of the County of Fairfax, and Chapter 2 of the Fairfax County Personnel Regulations shall apply herein.(2-16-3.)

Section 3-2-3. - Duties of the employer.

The employer shall keep all necessary records relating to the hiring and employment of members and from time to time shall furnish such information as the Board may require in the discharge of its duties. Upon employment of a member, the employer shall inform the member of his or her duties and obligations in connection with the System as a condition of employment. (20-81-3; 2-16-3.)

Section 3-2-4. - Consent to provisions of Article required for employment.

By and upon acceptance of employment, every member shall be deemed to consent and agree to any deductions or employer pick-up of amounts from his or her compensation required by this Article and to all other provisions thereof. (20-81-3; 5-85-3; 2-16-3.)

Section 3-2-5. - Protection against fraud.

- (a) In addition to any other provisions of law, any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record or records of the System in any attempt to defraud the System shall be guilty of a misdemeanor and shall be punished accordingly.
- (b) Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of the System in an attempt to defraud the System shall forfeit all rights to the retirement allowance or benefit obtained by such misrepresentation. Making a false statement or falsifying or permitting to be falsified any record of the System, in an attempt to defraud the System shall constitute grounds for dismissal from service.
- (c) Whenever the Board shall find, after notice and hearing, that a person has obtained a retirement allowance or benefit from the System by false statement or falsification of record, it shall immediately terminate the allowance or benefit if the entire allowance or benefit was obtained by such misrepresentation or the additional amount of the allowance or benefit so obtained by such misrepresentation. Any allowance or benefit or additional amount of an allowance or benefit obtained by false statement or falsification of a record shall be deemed to be an overpayment, and the Board shall take all necessary legal and administrative steps to recover the overpayment.
- (d) The Board shall adopt rules and regulations pursuant to Section 3-2-15 to implement the provisions of this Section; provided, that the failure of the Board to do so shall not prevent the implementation of the sanctions called for by this Section. A final judgment of conviction by a court of competent jurisdiction in a prosecution under Subsection (a) of this Section shall be prima facie evidence of fraud under Subsections (b) and (c) of this Section; provided, that a conviction under Subsection (a) of this Section shall not be a prerequisite for action by the Board under Subsections (b) or (c) of this Section. The remedies provided the System under this Section are in addition and supplemental to any other remedies it may have under law. (20-81-3; 27-90-3, §1; 2-16-3.)

Section 3-2-6. - Benefits unassignable; non-attachable.

The right of any member to a retirement allowance, to the return of accumulated contributions or any other right accrued or accruing to any person under this Article and the money covered by this Article shall not be subject to execution, garnishment or attachment, and to the extent permitted by law, the operation of bankruptcy or insolvency law or any other process of law whatsoever except for administrative actions pursuant to Section 63.2-1900 et seq. of the *Virginia Code* or any court process to enforce a child or child and spousal support obligation, and shall be unassignable except as specifically provided in this Article. However, retirement benefits and assets created under this Article which are deemed to be marital property pursuant to Section 20-89.1 et seq. of the *Virginia Code* may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Virginia Code*. (20-81-3; 5-85-3; 13-92-3; 1-93-3; 2-16-3.)

Section 3-2-7. - Errors resulting in over or under-payment.

- (a) Should any change or error in the records or in the computation of a member's or beneficiary's benefit or refund result in any member or beneficiary receiving from the System an amount more (overpayment) or less than he or she would have been entitled to receive had the records or computation error been correct, the Board shall have the power to correct such error and, as far as practicable, to adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

- (b) An overpayment shall constitute a debt owed by the recipient to the System and the Board is authorized to use any and all legal action to collect the overpayment and any accrued interest.
- (c) The Board is authorized to enter into written agreements with recipients of overpayments to provide for installment payments to recover the overpayment, the amount of accrued interest, and interest on any unpaid balance.
- (d) The Board is authorized to compromise any disputed overpayment.
- (e) Interest shall accrue on overpayments at the rate or rates established by the Board; provided, that no interest shall accrue if the Board has exercised its adjustment authority under Subsection (a) of this Section or under any other circumstances in which the Board, in its discretion, determines that interest shall not accrue. (20-81-3; 27-90-3, § 1; 2-16-3.)

Section 3-2-8. - Amendment of article.

The Board of Supervisors shall have the continuing right and power to amend or supplement this Article at any time, which right and power is hereby expressly reserved. But no amendment shall be made unless an actuarial report has been filed with the Board of Supervisors as to its effect upon the System and no amendment shall be adopted which shall reduce the then accrued benefits of members or beneficiaries below the extent they are then covered by accumulated reserves, which reserves shall constitute a trust fund for the payment of such benefits. At least 30 days prior to the public hearing before the Board of Supervisors on any proposed amendment, the Board of Trustees of the System shall be provided with the text of the proposed amendment to provide it the opportunity to submit its comments on the proposed amendment to the Board of Supervisors; provided, this limitation shall not prevent the Board of Supervisors from adopting an emergency amendment under Section 15.2-504 of the *Virginia Code*. (20-81-3; 27-90-3, § 1; 2-16-3.)

Section 3-2-9. - Medical examining board.

The Medical Examining Board shall consist of the Director of the Health Department (or his or her designee) and, in the discretion of the Board, one or two other physicians designated by the Board. The duties of the Medical Examining Board shall be to arrange for and pass upon all medical examinations required under this Article or requested by the Board and to investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement. The members of the Medical Examining Board, who may act individually or collectively, shall report in writing to the Board their conclusions and recommendations upon all matters referred to it. (20-81-3; 27-97-3; 2-16-3.)

Division 2. - Board of Trustees.

Section 3-2-10. - Administration of system vested in Board of Trustees.

The general administration and the responsibility for the proper operation of the System and for making effective the provisions of this Article are hereby vested in the Board. The Board in its discretion, may, by rule or regulation adopted under Section 3-2-15(a), delegate authority to the Executive Director to perform certain duties and administrative responsibilities. (20-81-3; 27-90-3, § 12-16-3.)

Section 3-2-11. - Membership; term of office.

(a) The Board of Trustees of the System shall consist of the following members:

- Director of the Department of Finance, who shall be the Treasurer of the Board, or his or her permanent designee, sitting ex officio;
- Director of the Department of Human Resources, or his or her permanent designee, sitting ex officio;
- Assistant Superintendent for Human Resources for the Fairfax County Public Schools, or his or her permanent designee, sitting ex officio;
- Four persons appointed by the Board of Supervisors;
- One School Board employee elected by the members of the System;
- One County employee elected by members of the System who are County employees; and

- One retired member elected by retired members of the System.

Responsibility for the conduct of said elections shall rest with the County Executive.

- (b) With the exception of the Director of the Department of Finance, the Director of the Department of Human Resources, and the Assistant Superintendent for Human Resources the term of office of the trustees shall be four years. The only persons eligible to be elected by County or School Board employees to the Board are County or School Board employees who are members of the System, respectively. The office of such trustees shall be vacated should such trustees separate from County or School Board service prior to completion of their term. (20-81-3; 27-90-3, § 1; 9-91-3; 2-93-3; 2-16-3.)

Section 3-2-12. - Vacancies in office.

If a vacancy occurs in the office of a trustee of the System, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. (20-81-3; 2-16-3.)

Section 3-2-13. - Compensation of trustees.

Those trustees eligible for compensation under County policy may receive compensation at a rate set by the Board of Supervisors. (20-81-3; 2-16-3.)

Section 3-2-14. - Accountable to the Board of Supervisors.

The Board of Trustees of the System shall be accountable to the Board of Supervisors. (20-81-3; 2-16-3.)

Section 3-2-15. - Functions of the Board.

- (a) Subject to the limitations of this Article, the Board shall, from time to time, establish rules and regulations for the administration of the System and for the transaction of its business, copies of which shall be made available to interested parties.
- (b) The Board may employ and pay out of the System funds for all services as shall be required.
- (c) The Board shall keep in convenient form such data as shall be necessary for an actuarial valuation of the System and for checking the experience of the System.
- (d) The Board shall keep minutes of all its proceedings. These minutes shall be open to the public for inspection, unless applicable law provides otherwise.
- (e) The Board shall submit to the Board of Supervisors annually an independent audit showing the fiscal transactions of the System for the preceding fiscal year, the amount of accumulated cash and securities of the System, and the last balance sheet indicating the financial condition of the System.
- (f) Beginning on July 1, 1990, the Board shall cause an actuarial valuation to be made of the System annually.
- (g) The Board shall review adverse decisions as provided by Section 3-2-48. (20-81-3; 27-90-3, § 1; 2-16-3.)

Division 3. - Management of Funds.

Section 3-2-16. - Board trustee of funds; investment of same.

- (a) The Board shall be the trustees of funds created by this Article and shall have full power to invest and re-invest such funds. Such investments and re-investments shall be conducted with bona fide discretion and in accordance with the laws of the Commonwealth of Virginia as such laws apply to fiduciaries investing such funds. The Board may, upon the exercise of bona fide discretion, employ investment counsel, who shall be subject to the same limitations herein provided for the Board. Subject to such limitations, the Board shall have full power to hold, purchase, sell, assign, transfer or otherwise dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as the proceeds of such investments and any money belonging to such funds.
- (b) No trustee shall be personally liable for losses suffered by the System on investments made under the authority of and in compliance with this Section. (20-81-3; 2-16-3.)

Section 3-2-17. - Treasurer fiscal officer of the Board.

The Treasurer of the Board shall be the custodian of all of its funds and securities or evidences of such when in the custody of a fiduciary agent. He or she shall give bond as a condition for the faithful performance of his or her duties and the proper accounting of all funds and securities coming into his or her hands. He or she shall deposit all money in the name of the Board and disburse the same only on vouchers signed by such person as is designated for the purpose by the Board. (20-81-3; 2-16-3.)

Section 3-2-18. - Prohibited interest of member or employee of Board.

- (a) The State and Local Government Conflict of Interests Act, Section 2.2-3100 et seq., of the *Virginia Code*, shall apply to members and employees of the Board.
- (b) No member or employee of the Board shall, directly or indirectly, for himself or herself or as an agent in any manner use the funds of the System, except to make such current and necessary payments as are authorized by the Board. (20-81-3; 2-16-3.)

Division 4. - Membership in System.

Section 3-2-19. - Membership composition.

- (a) Membership shall be composed of the following:

- (1) All persons who were members of the System on the effective date of this Article and all SESRP members; provided, that benefits under the System in the case of SESRP members shall be in lieu of, and not in addition to, benefits under SESRP.
- (2) Future employees as hereinafter identified, except those listed in Subparagraphs (A) and (B) of this Subsection.
  - (A) Employees who are members of the Virginia Retirement System (VRS) and the Educational Employees' Supplemental Retirement System of Fairfax County (ERFC), the Fairfax County Police Officers Retirement System, or the Fairfax County Uniformed Retirement System and employees who are eligible to become members of those systems, are not eligible for membership in this System; provided, that an employee who is a member of such a system shall be eligible for membership in this System if he or she elects in writing to withdraw from such system, pursuant to the rules and regulations of this System and of the system of which he or she was previously a member. If the withdrawal from the other system occurs due to being employed in a different position by the same appointing authority, the employee shall be required to purchase service credit under this System for service rendered while a member of such other system, pursuant to the rules of Section 3-2-23.

If the withdrawal from the other system occurs due to being employed by a different appointing authority, the employee shall be permitted but not required to purchase service credit under this System for service rendered while a member of such other system, pursuant to the rules of Section 3-2-23. Exempt benefits eligible and exempt temporary employees are not eligible for membership in this System; provided, that any such employee who became a member of this System under the provisions of this Article in effect at the time he or she commenced his or her service with the County shall continue to be a member.

The following employees who elect, in writing at the time of their initial eligibility not to become members of the System, shall be exempted from the System: elected officials, including constitutional officers and persons appointed to fill vacancies in elective offices, and their appointed deputies or assistants.

- (B) School Board employees who are members of the Virginia Retirement System (VRS) are not eligible for membership in this System. Substitute employees, food service employees whose assigned employment is less than three hours per day, and temporary employees are not eligible for membership in this System.
- (3) Any employee, otherwise qualified, who elected not to or was unable to become a member of the System pursuant to any ordinance then in effect; provided, he or she pays into this System all contributions which would have been due from him or her had he or she been a member of the System during the period of his or her employment, plus interest on such contributions at the

rate or rates established by the Board, for each of the years for which membership service credit is sought. Any election to purchase membership service credit under this Subsection through the payment of contributions for a prior period of employment shall be made within one year after the employee is first eligible to make such an election or by six months from the effective date of this amendment [September 17, 1990], whichever is later.

- (b) Uniformed employees of the Department of Animal Control transferring to the Fairfax County Uniformed Retirement System.
  - (1) Members of this System who were uniformed employees of the Department of Animal Control, including the Director, on or after October 1, 1985, except those eligible to remain in this System pursuant to Subsection (db)(2) of this Section, are hereby transferred to membership in the Fairfax County Uniformed Retirement System effective the latter of October 1, 1985, or the date of their appointment.
  - (2) Those members subject to transfer to the Uniformed Retirement System pursuant to Subsection (db)(1) of this Section who as of the date of adoption of this Subsection [December 16, 1985] have attained normal retirement age under this System shall continue as members of this System unless within 30 days after the adoption of this Subsection they make an irrevocable election in writing to transfer into the Uniformed Retirement System pursuant to this Subsection.
  - (3) Members of this System being transferred to the Uniformed Retirement System pursuant to this Subsection shall, within 30 days of the adoption of this Subsection [December 16, 1985], make an irrevocable election in writing to either waive membership service credit in the Uniformed Retirement System based upon their service in this System or to purchase membership service credit in the Uniformed Retirement System based on their service in this System pursuant to the provisions of Section 3-3-24. Members who fail to make an election shall be deemed to have elected to waive membership service credit.
  - (4) Members with five or more creditable years of service with this System who elected to waive membership service credit in the Uniformed Retirement System pursuant to Subsection (db)(3) of this Section shall make at the same time an irrevocable election in writing whether to receive a refund of their accumulated contributions (with interest), reduced by the amount of any retirement allowances previously received by them under this Article, or to receive a deferred vested benefit from this System mutatis mutandis, under Section 3-2-38(b). Members who fail to make an election shall be deemed to have elected a refund. Members with less than five years of creditable service with this System who elect to waive membership service credit in the Uniformed Retirement System pursuant to Subsection (db)(3) of this Section shall be refunded their accumulated contributions (with interest) reduced by the amount of any retirement allowances previously received by them under this Article.
  - (5) With respect to each member electing to purchase membership service credit in the Uniformed Retirement System pursuant to Subsection (db)(3) of this Section, the Board shall transfer the funds in the member's contribution account as well as those funds in the retirement allowance account attributable to the member's service to the Board of Trustees of the Uniformed Retirement System, who shall credit such funds to the appropriate accounts of the Uniformed Retirement System.
  - (6) The Board shall transfer to the Board of Trustees of the Uniformed Retirement System any employee or employer contributions received by it attributable to members transferring to the Uniformed Retirement System pursuant to Subsection (db)(1) or (2) of this Section for service rendered after the effective date of the members' transfer. The Board of Trustees of the Uniformed Retirement System shall credit such funds to the appropriate accounts of the Uniformed Retirement System.
- (c) Certain employees of the Department of Public Safety Communications-~~Center~~ in the job classes of Public Safety Communications Squad Supervisor, Public Safety Communications Assistant Squad Supervisor, Public Safety Communicator III, Public Safety Communicator II, or Public Safety Communicator I transferring to the Fairfax County Uniformed Retirement System.

- (1) Members of this System who are in one of the job classes identified in this Subsection, on or before June 30, 2005, shall have the opportunity to transfer to membership in the Fairfax County Uniformed Retirement System, effective the start of the first pay period beginning on or about October 1, 2005.
- (2) Members of this System who are eligible for transfer to the Uniformed Retirement System pursuant to Subsection (ec)(1) of this Section may elect to maintain their membership in this System and not transfer to the Uniformed Retirement System.
- (3) Members of this System who are eligible for transfer to the Uniformed Retirement System pursuant to Subsection (ec)(1) of this Section and elect to do so, shall, after the adoption of Subsection (ec) of this Section, on or before September 1, 2005, make an irrevocable election in writing to transfer to the Uniformed Retirement System. Members electing to transfer to the Uniformed Retirement System may elect to transfer to the Uniformed Retirement System but not purchase membership service credit in the Uniformed Retirement System based upon their service in this System, or may elect to purchase membership service credit in the Uniformed Retirement System based on their service in this System pursuant to the provisions of Section 3-3-24. Transferring members who fail to make an election shall be deemed to have elected to waive the opportunity to purchase membership service credit in the Uniformed Retirement System.
- (4) Members with five or more creditable years of service with this System who elect to waive membership service credit in the Uniformed Retirement System shall make at the same time an irrevocable election in writing whether to receive a refund of their accumulated contributions with interest reduced by the amount of any retirement allowance previously received by them under this Article, or to receive a deferred vested benefit from this System mutatis mutandis, under the provisions of Section 3-2-38(b). Members who fail to make an election shall be deemed to have elected not to receive a deferred vested benefit. Members with less than five years of creditable service with this System who elect to waive membership service credit in the Uniformed Retirement System ~~pursuant to Subsection (ec)(3) of this Section~~ shall be refunded their accumulated contributions (with interest) reduced by the amount of any retirement allowances previously received by them under this Article.
- (5) With respect to each member electing to purchase membership service credit in the Uniformed Retirement System pursuant to Subsection (ec)(3) of this Section, the Board shall transfer the funds in the member's contribution account as well as those funds in the retirement allowance account attributable to the member's service to the Board of Trustees of the Uniformed Retirement System, who shall credit such funds to the appropriate accounts of the Uniformed Retirement System. Members electing to purchase membership service credit in the Uniformed Retirement System shall have the option of paying to the Board of Trustees of the Uniformed Retirement System the difference between the employee contributions that would have been required under the Uniformed Retirement System plus interest, and their employee contributions plus interest to this System for the period for which membership service credit is sought. Members who elect to pay the difference between the employee contributions plus interest that would have been required under the Uniformed Retirement System and their employee contributions plus interest to this System, shall not be eligible to enter the DROP under the Uniformed Retirement System until the entire amount of the difference in employee contributions plus interest has been paid to the Uniformed Retirement System and the member otherwise meets the eligibility requirements to enter the DROP under the Uniformed Retirement System. In lieu of paying the difference between the employee contributions that would have been required under the Uniformed Retirement System plus interest and their employee contributions plus interest to this System, a member may elect to have the amount of membership service credit transferred to the Uniformed Retirement System actuarially reduced based on the amount that would have been required.
- (6) The Board shall transfer to the Board of Trustees of the Uniformed Retirement System any employee or employer contributions received by it attributable to member's transfer to the Uniformed Retirement System pursuant to Subsection (ec)(1) or (2) of this Section for service rendered after the effective date of the member's transfer. The Board of Trustees of the Uniformed

Retirement System shall credit such funds to the appropriate accounts of the Uniformed Retirement System.

- (7) Members of this System in one of the job classes identified in this Subsection who elect to enter the DROP on or before September 1, 2005, are not eligible for transfer to the Uniformed Retirement System.
- (d) Notwithstanding any other provision of this Chapter or Article to the contrary, an active member of either the Fairfax County Uniformed Retirement System or the Fairfax County Police Officers Retirement System who has more than five years of creditable service in such system and who is appointed to serve as a Deputy County Executive shall remain a member of the system to which he or she belonged, whether the Uniformed Retirement System or the Police Officers Retirement System, prior to his or her appointment as a Deputy County Executive, and shall not become a member of this System as a result of such appointment.
- (e) Persons receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or Fairfax County Police Officers Retirement System are eligible for membership only under the terms and conditions set forth in Section 3-2-43. (20-81-3; 34-81-3; 23-85-3; 36-86-3; 14-87-3; 27-90-3, § 1; 45-93-3; 23-05-3; 26-12-3; 2-16-3.)

Section 3-2-19.1. - Interest rates for purchases for membership service credit.

The Board may at any time and from time to time, establish a new interest rate or rates which shall be applicable to purchases of membership service credit under Subsection ~~(ae)~~(3) of Section 3-2-19. (2-16-3.)

Section 3-2-20. - Cessation of membership.

The membership of any person in the System shall cease:

- (a) If he or she ceases to be an employee for a period of five years, having had less than five years of creditable service on his or her date of separation from the County or School Board; or
- (b) Upon separation and withdrawal of his or her accumulated contributions; or
- (c) If a member, as defined in Section 3-2-19(b)(1), gives the Board written notice of his or her withdrawal from the System; or
- (d) Upon death. (20-81-3; 4-81-3; 2-16-3.)

Division 5. - Service Credit.

Section 3-2-21. - Statement to be filed with Board.

Under such rules and regulations as are adopted by the Board, each member or someone on his or her behalf shall file with the Board in such form as the Board may prescribe, a statement of the facts pertaining to his or her status as a member, which shall include a statement of all service rendered as an employee and such other information as the Board may require. Until such statement is filed, no member or his or her beneficiary shall be eligible to receive any benefits under this Article. (20-81-3; 2-16-3.)

Section 3-2-22. - Year of service.

The Board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in no case shall it allow credit for more than one year of service for all service rendered in any period of 12 consecutive months. (20-81-3; 2-16-3.)

Section 3-2-23. - Membership service credit.

~~(a) (a)~~ Each member shall receive membership service credit for periods in which he or she received compensation and was a member of the System, provided that any former member of the System who ceased his or her County or School Board employment and withdrew his or her accumulated member contributions from the System may purchase membership service credit by paying into the System all accumulated contributions that would have been collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought; a member may not purchase credit for only a portion of any prior period of service, but may only purchase credit for an entire prior period of service.

- (1) In the event that a member of either Plan A or Plan B who ceased his or her County or School Board employment and withdrew his or her accumulated member contributions from the System seeks, on or after January 1, 2013, and before July 1, 2019, to purchase credit for periods during which he or she received compensation as a member of the System, he or she may only become a member of, and purchase membership service credit in, either Plan C or Plan D, by paying into the System all accumulated contributions which would have been collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought; ~~however, notwithstanding,~~
- (2) In the event that a member of Plan A, Plan B, Plan C, Plan D, or Plan E, who ceased his or her County or School Board employment and withdrew his or her accumulated member contributions from the System seeks, on or after July 1, 2019, to purchase credit for periods during which he or she received compensation as a member of the System, he or she may only become a member of, and purchase membership service credit in Plan E, by paying into the System all accumulated contributions which would have been collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought.
- (4)(3) Notwithstanding the foregoing, a member of any of the ~~four~~five Plans (A, B, C, D or DE) that are part of the System who ceased his or her County or School Board employment, but who left his or her accumulated member contributions in the System, shall, upon his or her return to County or School Board employment, rejoin the Plan to which he or she formerly belonged. Such member may satisfy some or all of the amount due from him or her for the purchase of such service through a rollover from an individual retirement account if the entire amount in that account is attributable to a rollover from the System. Such member may also satisfy some or all of the amount due from him or her for the purchase of such service through a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), or through a direct trustee-to-trustee transfer from an annuity contract described in Section 403(b) of the Internal Revenue Code.
- (b) Members in service shall also receive membership service credit for periods of service-connected disability retirement from the System.
- (c) Members whose service is terminated to enter into the armed forces of the United States and who subsequently return to service shall be granted membership service credit for the period of their service in the armed forces of the United States to the extent required under federal and state law.
- (d) A member who transfers from a position in the service of the Fairfax County Public Schools (FCPS) in which he or she was a member of the Virginia Retirement System (VRS) and the Educational Employees' Supplemental Retirement System of Fairfax County (ERFC) to a position in the County service shall receive membership service credit for periods that he or she had been employed by FCPS and was a member of VRS and ERFC, if such service shall not be considered in the calculation of any retirement allowance or benefit from VRS or ERFC, and if such member pays into this System all contributions that would have been due from him or her had he or she been a member of this System, plus interest at the rate or rates established by the Board, for each of the years for which membership service credit is sought.
- (e) The Board may at any time, and from time to time, establish a new interest rate or rates which shall be applicable to Subsections (a) and (d) of this Section. Any election to purchase membership service credit under Subsections (a) or (d) of this Section may be made at any time by a member of the System while in service. The Board may enter into agreements with members purchasing membership service credit under the provisions of Subsections (a) and (d) of this Section to pay the member contributions due from them in installments, provided that such members shall not be entitled to such membership service credit until all payments under such agreements have been made.
- (f) (1) Under such rules and regulations as are adopted by the Board, any employee who has been a member of the Virginia Retirement System (VRS) and the Educational Employees' Supplemental

Retirement System of Fairfax County (ERFC), the Fairfax County Police Officers Retirement System, or the Fairfax County Uniformed Retirement System, and who withdraws therefrom and becomes a member of this System, may purchase membership service credit for service rendered while a member of such other system by paying into this System all contributions that would have been due from him or her had he or she been a member of this System for each of the years for which membership service credit is sought. (A member may purchase membership service credit for prior service while a member of VRS only for service due to employment by the Fairfax County Public Schools (FCPS).)

- (2) The amount due from a member for such purchase of membership service credit shall be satisfied, to the extent possible, (a) by directing the trustees of the system from which he or she is withdrawing to transfer his or her accumulated member contributions in such system directly to this System, without distribution to such employee, if such transfers are available under such system, or (b) through (i) a rollover from the system from which he or she is withdrawing (if the member would be eligible for a refund from such system), (ii) a rollover from an individual retirement account in which all contributions were derived from a rollover from such system, or (iii) a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), or through a direct trustee-to-trustee transfer from an annuity contract described in Section 403(b) of the Internal Revenue Code. To the extent that a rollover or direct transfer permitted under this Subsection is insufficient to purchase the necessary membership service credit, other arrangements permitted by the rules and regulations adopted by the Board shall be made for purchasing such membership service credit. (20-81-3; 5-85-3; 27-90-3, § 1; 45-93-3; 36-94-3; 7-00-3; 10-01-3; 8-03-3; 26-12-3; 2-16-3.)

Section 3-2-24. - Prior service credit.

- (a) Prior service credit may be granted to persons who were members of the Fairfax County Supplemental Retirement System on July 1, 1955, or who were employees who previously left service to enter directly into the armed forces of the United States and who were still in the armed forces on or after that date as provided in Subsection (b) of this Section.
- (b) Each member shall receive membership service credit for military leave, provided he or she returns to full employment within 90 days of discharge and such discharge is other than dishonorable. This Subsection shall be applied retroactively to January 1, 2003. (20-81-3; 27-90-3, § 1; 30-09-3; 2-16-3.)

Section 3-2-24.1. - Portability service credit.

- (a) Definitions.
  - (1) *Accepting plan* shall mean the retirement plan or system which is receiving membership assets from another retirement plan or system in order to permit a current member to purchase portability service credit in the accepting plan through the use of his or her membership contributions in the transferring plan.
  - (2) *Portability service credit* shall mean service credit purchased in an accepting plan by the transfer of membership assets from the transferring plan.
  - (3) *Transferring plan* shall mean the retirement plan or system which is transferring membership assets to an accepting plan to enable a former employee of the transferring plan to purchase portability service credit in the accepting plan through the use of his or her membership contributions in the transferring plan.
- (b) The Board of Supervisors may enter into agreements with the Virginia Retirement System (VRS) or with any political subdivision of the Commonwealth of Virginia to permit any vested member of VRS or any vested member of a retirement plan or system of a political subdivision of the Commonwealth of Virginia to purchase portability service credit in this System; provided, that the Board of Supervisors may only enter into such agreements with political subdivisions of the Commonwealth of Virginia whose retirement plans or systems constitute defined benefit plans, or eligible deferred compensation plans described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A).

- (c) The purchase of portability service credit in the System pursuant to this Section may only be made within 18 months of the date when a member commences employment in a position covered by the System, or, for employees who are members of the System on March 24, 2003, within 18 months of this date.
- (d) In order to purchase portability service credit in the System, the member shall be a vested member of the transferring plan and the transferring plan shall be holding member contributions that are subject to transfer. A member desiring to purchase portability service credit shall make written application for the purchase of such credit to the System. The System shall determine from the transferring plan the amount of the member's assets that would be subject to transfer to the System. Based upon the amount subject to transfer, the Board shall determine the amount of portability service credit that would be actuarially equivalent to the amount of the assets to be transferred to the System; this amount shall represent the maximum amount of portability service credit that can be purchased. The Board shall communicate the amount of portability service credit that can be purchased to the member in writing; however, in no event shall the amount of portability service credit that can be purchased exceed the duration of the member's employment in a position that was covered by the transferring plan. The member shall have 30 days from the date of the letter advising him or her of the amount of portability service credit that can be purchased to determine whether to proceed with the purchase or to withdraw his or her application for the purchase of portability service credit.
- (e) In the event that the assets transferred are not sufficient to purchase portability service credit in the System equivalent to five years of service, the member shall not become vested in the System until his or her creditable service equals five years.
- (f) The purchase of portability service credit in the System shall be accomplished upon the transfer of assets from the transferring plan to the System. Upon the completion of such transfer, the member shall lose all rights to any allowances and benefits from the transferring plan, and shall only be entitled to receive allowances and benefits from the System.
- (g) When a vested member of this System leaves his or her covered employment and enters a position covered by the Virginia Retirement System (VRS) or by a defined benefit retirement plan of a political subdivision of the Commonwealth of Virginia with which the Board of Supervisors has entered into a portability agreement, the former member of this System may purchase portability service credit in VRS or the retirement system of the political subdivision of the Commonwealth for whom he or she shall then work. In order to purchase such portability service credit, the member must make application in writing to this System, requesting that his or her membership assets be transferred to the accepting plan. The amount of assets subject to transfer shall be an amount equal to the greater of (i) the member's accumulated member contributions with interest thereon, or (ii) an amount representing the present value of the member's accrued benefits with this System. Upon the transfer of membership assets from this System to the accepting plan, the member shall lose all rights to any allowances or benefits from this System based upon the service giving rise to the assets transferred to the accepting plan by this System. Should such a person resume service in a position covered by this System in the future, he or she may purchase service credit for such prior service or purchase portability service credit, if eligible to do so, in accordance with the provisions of this Article at the time he or she again becomes a member of this System. (18-01-3; 8-03-3; 2-16-3.)

Division 6. - Contributions.

Section 3-2-25. - Member contributions.

- (a) There shall be picked up from the compensation of each member for each and every payroll period ending subsequent to December 22, 1984, the contribution payable by such member as provided in this Section; provided, that no contributions shall be required or permitted of any SESRP member. The Board of Supervisors may, from time to time, revise the rates of member contributions to the System.
- (b) Except as provided in Subsection (a) of this Section, ~~allevery~~ present and future ~~membersmember,~~ otherwise qualified, who, on or before December 31, 1981, and upon approval of the Board, or within 30 days of appointment as ~~employeesan employee~~:
  - (1) ~~(1) — DeDoes~~ not agree in writing to the terms set forth in Subsection (b)(2) of this Section and Section 3-2-32(a)(2) shall be considered ~~participantsa participant~~ in Plan A ~~or Plan C.~~ as

applicable, and contributions a contribution shall be made for each pay period for which he or she received compensation equal to four percent of his or her creditable compensation until his or her annual creditable compensation during the calendar year exceeds the taxable wage base. When such a member's annual creditable compensation during the calendar year exceeds the taxable wage base, contributions shall be made equal to five and one-third percent of his or her creditable compensation.

~~(2) (2)~~ AgreeAgrees in writing to the terms set forth in this Subsection and Section 3-2-32(a)(2) shall be considered participantsa participant in Plan B or Plan D, as applicable, and contributionsa contribution shall be made for each pay period for which he or she receives compensation subsequent to the election of Plan B or Plan D equal to five and one-third percent of his or her creditable compensation.

~~(2)(3)~~ Shall, for employees whose County or School Board employment commenced by reporting for work on or after July 1, 2019, be a participant in Plan E and a contribution shall be made for each pay period for which he or she receives compensation equal to five and one-third percent of his or her creditable compensation.

- (c) Notwithstanding any other provision of this Section, no pick-up shall be made from any member's compensation if the employer's contribution required hereunder is in default.
- (d) The Board may modify the method of collecting the pick-up contributions of members so that the employers, departments, institutions, and agencies required to remit to the Treasurer of the Board as provided in Subsection (b) of this Section may retain the amounts picked up by them with respect to members' salaries and have a corresponding amount deducted from County funds otherwise payable to them.
- (e) The Board may approve written requests to change the offered optional plan selected under Subsection (b) of this Section when such requests are made not later than December 31, 1981.
- (f) All contributions required to be made under Subsections (b) and (c) of this Section with respect to current services rendered by an active member on or after December 22, 1984, shall be picked up by the County, and shall be treated as the employer's contribution in determining tax treatment under Section 414(h)(2) of the Internal Revenue Code. For all other purposes under this Chapter and otherwise, such pick-up contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to December 22, 1984. All picked-up amounts shall be included in compensation for purposes of calculating member benefits under Division 8. The County shall pay such picked-up amounts from the same source of funds which is used in paying earnings to the employee. (20-81-3; 34-81-3; 36-83-3; 5-85-3; 2-16-3.)

Section 3-2-26. - Employer contributions.

- (a) Each employer shall contribute at an annual rate to be fixed by the Board of Supervisors.
- (b) The aggregate present value of future employer contributions payable into the retirement allowance account shall be sufficient when combined with the amount then held in the members' contribution account and the retirement allowance account together with the present value of future employee contributions, to provide the estimated prospective benefits payable. The annual employer contribution rate shall be fixed as equal to the employer normal cost plus an expense rate, as long as the System's funding ratio (actuarial value of the System's assets divided by actuarial accrued liability of the System) remains within a corridor, the lower measurement of which is described below and the upper measurement of which is 120 percent. The employer normal cost and System actuarial accrued liability are to be measured using the entry age normal funding method.
  - To the extent that the System's funding ratio exceeds 120 percent, a credit shall be established equal to the amount of assets in excess of 120 percent of the actuarial accrued liability.
  - To the extent that the System's funding ratio is lower than the lower measure of the corridor, a charge shall be established equal to the difference between the lower measure plus the actuarial accrued liability and the assets.

The employer contribution shall be adjusted by a 15 year amortization of the credit or charge described in this Subsection, to be paid until the funding ratio re-enters the corridor, at which time it shall cease.

Effective with the fiscal year 2016 County contribution rate, the lower measure of the corridor shall be established at 95 percent. The 95 percent threshold shall be increased until it reaches 100 percent, no later than by the year 2020. Once the lower measurement of the corridor reaches 100 percent, the 15 year amortization described above shall be over a fixed 15 years with additional 15 year amortization layers created annually. Once the System's funding ratio reaches 100 percent, such amortizations shall cease.

In the event of an ordinance change that affects benefits, the employer contribution rate shall be changed effective with the July 1 coincident with or next following the date of adoption of the ordinance change. The employer normal cost component shall be adjusted to the level required by the ordinance change and there shall be an additional component to the employer cost equal to the increase in actuarial accrued liability. Any additional actuarial accrued liability which does not reduce the funding level below 120 percent shall be excluded from this component. (20-81-3; 27-90-3; 16-02-3; 28-15-3, § 1; 2-16-3.)

Division 7. - Assets of System.

Section 3-2-27. - Assets to be credited to one of two accounts.

All of the assets of the System shall be credited, according to the purpose for which they are held, to one of two accounts, namely, the members' contribution account, and the retirement allowance account. (20-81-3; 2-16-3.)

Section 3-2-28. - Members' contribution account.

- (a) The members' contribution account shall be the account to which all members' contributions, pick-up contributions and interest allowances as provided in this Article shall be credited. In the case of any SESRP member, the member's contribution account shall consist of the amount in the Severance Account as defined in the provisions of SESRP effective on January 1, 1996, and the member's accumulated contributions to the System in existence at the time the member elected to participate in the SESRP. After January 1, 1996, the member's contribution account of any SESRP member shall annually be credited with the difference between the SESRP member's creditable compensation and the member's unadjusted compensation. From this account shall be paid the accumulated contributions of a member required to be returned to him or her upon withdrawal or paid in the event of his or her death before retirement.
- (b) Each member's contribution and pick-up contributions provided for in Section 3-2-25 shall be credited to the individual account of that member.
- (c) Each individual account of the members' contribution account shall be credited annually with interest at a rate or rates established by the Board; provided, that interest shall accrue on any such contribution beginning at the end of the calendar year in which each such contribution was made, and further provided that interest shall not be accredited or accumulated to the individual accounts of members who have ceased to be employees for a period of more than five years. The Board may at any time, and from time to time, establish a new interest rate or rates which shall be applicable under this Section.
- (d) Upon the retirement of a member, his or her accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.
- (e) Upon receipt of a completed application, the Board shall refund the individual accounts of members who have ceased to be employees after completing fewer than five years of creditable service. The completed application shall include an election by the member directing the System to refund the individual account directly to the member or to directly transfer the account to another plan as permitted under the Internal Revenue Code. (20-81-3; 5-85-3; 27-90-3; 40-08-3; 2-16-3.)

Section 3-2-29. - Retirement allowance account.

- (a) The retirement allowance account shall be the account in which shall be accumulated all employer contributions, amounts transferred from the members' contribution account, and to which all income from the invested assets of the System after all expenses for required services shall be credited. This account shall pay retirement allowances, other benefits payable after a member's retirement, and necessary expenses of the System.

- (b) The amount of interest allowances provided for in Section 3-2-28 shall be transferred each year from the retirement allowance account to the members' contribution account. (20-81-3; 2-16-3.)

Section 3-2-30. - Deposits.

For the purpose of meeting disbursements the Board shall maintain sufficient cash equivalents. (20-81-3; 2-16-3.)

Division 8. - Benefits.

Section 3-2-31. - Service retirement.

- (a) Normal service retirement. Any member, in service at his or her normal retirement date or within 90 days prior thereto, and who has completed five years of creditable service, may retire at his or her normal retirement date or thereafter upon written notice to the Board, made by the member or his or her duly appointed agent, and stating the time the retirement is to become effective. However, such effective date shall be subsequent to the filing of such notice.
- (b) Early service retirement. Any member who has completed 25 years of creditable service and attained the age of 50 years, or any member who has completed at least ten years of creditable service and whose age, when combined with the years of his or her creditable service equals at least the sum of 75 years, may retire pursuant to the procedures set forth in Subsection (a) of this Section. (20-81-3; 14-87-3; 2-16-3.)

Section 3-2-32. - Service retirement allowance and other benefits.

- (a) Normal service retirement.

- (1) ~~(1)~~ Upon normal service retirement after July 1, 1981, a member participating in either Plan A or Plan C shall receive an annual retirement allowance payable monthly for life consisting of an amount equal to one and eight-tenths percent of his or her average final compensation not in excess of his or her social security breakpoint plus two percent of the average final compensation in excess of his or her social security breakpoint, said sum multiplied by the number of years of creditable service.
- (2) ~~(2)~~ Upon normal service retirement after July 1, 1981, and after undergoing the additional cost deductions through December 31, 1981, a member participating in either Plan B, Plan D or Plan ~~DE~~ shall receive an annual retirement allowance payable monthly for life consisting of an amount equal to two percent of his or her average final compensation, said amount multiplied by the number of years of creditable service. In the event a participant in Plan B retires before December 31, 1981, the accumulated additional deductions in excess of four percent of pay not in excess of the taxable wage base shall be refunded and the member's retirement allowance shall be determined in accordance with Subsection (a)(1) of this Section.
- (3) ~~(3)~~ Pre-62 compensating benefit. In addition to the allowance provided in Subsections (a)(1) and (2) of this Section, any member who had retired prior to the age of 62 years and before July 1, 2000, shall receive, except as provided in Subsection (a)(4) ~~or (a)(5)~~ of this Section, an additional monthly benefit equal to one percent of the average final compensation not in excess of his or her social security breakpoint times years of service until such member attains the age of 62 years.
- (4) ~~(4)~~ Pre-social security benefit. In addition to the allowance provided in Subsections (a)(1) and (2) of this Section, any member in Plan A, Plan B, Plan C or Plan D who retires on or after July 1, 2000, or any member who had retired prior to the age of 62 years, before July 1, 2000 and who had not attained the age of 62 years as of July 1, 2000, shall receive an additional monthly benefit equal to one percent of the average final compensation not in excess of his or her social security breakpoint times years of service until the first month after such member is entitled to an unreduced social security benefit. Any member who retired on or after July 1, 2000, and before February 26, 2001, and was at least 62 years of age but not yet entitled to an unreduced social security benefit as of the date of his or her retirement, shall receive the pre-social security benefit, without interest, retroactive to the effective date of his or her retirement. However, the pre-social security benefit provided herein shall not be credited to the DROP accounts of members of Plans C or D who elect to participate in the DROP; however, upon the completion of the member's DROP

period, the member shall be entitled to receive the pre-social security benefit provided herein if he or she is not then entitled to an unreduced social security benefit until the first month after such member is entitled to an unreduced social security benefit. The term *unreduced social security benefit* shall mean a social security benefit not reduced as a result its receipt before the normal retirement age for receiving social security benefits, as defined by applicable federal statute and regulation.

(5) Early Age Option. Any member in Plan E who retires prior to his or her full retirement age under social security, shall be eligible to receive an additional monthly benefit equal to 0.5 percent of his or her average final compensation, not to exceed his or her social security breakpoint times years of service, until the first month after such member becomes entitled to an unreduced social security benefit. Upon reaching the full retirement age under social security, the member's monthly benefit shall be reduced for life by an amount determined to result in a lifetime benefit under this option that is actuarially equivalent to the lifetime benefit that would be received without this option.

- (b) Early service retirement. Upon early service retirement, a member shall receive an amount which shall be determined in the same manner as for retirement at his or her normal retirement date under Subsections (a)(1) and (a)(2) of this Section, with years of creditable service and average final compensation being determined as of the date of his or her actual retirement and the amount of the retirement allowance so determined being reduced on an actuarial equivalent basis for the period that the actual retirement date precedes the date the member shall attain the age of 65 years.
- (c) Joint and last survivor option. A member may elect to receive a decreased retirement allowance during his or her lifetime and to have such retirement allowance, or a specified fraction thereof, continue after his or her death to his or her spouse, for his or her spouse's lifetime. Such election may be made or changed at any time up to the member's actual retirement date. After the member's actual retirement date, such election may not be changed except as permitted in Subdivisions (1) and (2) of this Subsection. The amount of any retirement allowance for a spouse provided by this Subsection shall be determined on an actuarial equivalent basis and shall be calculated at the member's actual retirement date using the actuarial adjustment factors in Table 1.
  - (1) In the event a retired member has elected a reduced retirement allowance in consideration of a continued allowance to his or her spouse after the member's death, and the member and such spouse are divorced after the retirement date, the member may discontinue the allowance to the spouse, and the member's retirement allowance may be increased to that amount to which the member would have been entitled had no election been made, if the spouse's right to the allowance has been extinguished pursuant to a final decree of divorce or a final property order entered in connection with a divorce case. The increase in the member's retirement allowance shall take effect as of the date of the final decree of divorce or final property order or July 1, 1988, whichever is later.
  - (2) In the event a retired member has elected a reduced retirement allowance in consideration of a continued allowance to his or her spouse after the member's death, and such spouse predeceases the member, such member's retirement allowance shall be increased to that amount to which the member would have been entitled had no election been made. The increase in the member's retirement allowance shall take effect as of the day following the date of the spouse's death.

TABLE 1

#### FAIRFAX COUNTY EMPLOYEES' RETIREMENT SYSTEM

Actuarial Adjustment Factors That Would Apply to Members with a  
Normal or Early Service Retirement Allowance Determined Under Section 3-2-32  
Who Elect a Joint and Last Survivor Option.

Percent of Allowance Continued to Spouse Upon Member's Death	Factor for Equal Ages	Increase/Decrease For Each Full Year Beneficiary is Older (Younger) Than Employee	Maximum Factor
100%	85%	0.7%	96%
75%	89%	0.6%	97%
66.67%	90%	0.5%	98%
50%	92%	0.4%	99%

(d) Minimum benefit.

- (1) In no event shall the annual retirement allowances for a member retiring after December 31, 1970, be less than that determined under the System as in effect prior to such date nor shall any member's annual retirement allowance be less than \$300.00.
- (2) If the retirement allowance of any member who retires during a calendar year beginning on or after January 1, 1979, to December 31, 1981, inclusive, would have been larger if computed as of December 31 of the calendar year preceding the member's retirement, the member shall be entitled to the larger retirement allowance. A member who elects to receive such an allowance shall also be eligible for a refund of his or her contributions accumulated from January 1 of the year of his or her retirement through the date of his or her actual retirement. (20-81-3; 34-81-3; 36-88-3; 11-00-3; 10-01-3; 26-12-3; 50-13-3; 2-16-3.)

Section 3-2-33. - Ordinary disability retirement.

- (a) Any member who is in service or who is within one year of the date that he or she ceased being in service and who has five or more years of creditable service may retire on account of disability, not compensable under the provisions of Section 3-2-35, upon written application to the Board, made by the member or his or her employer, setting forth at what time the retirement is to become effective; provided, that such effective date shall be after the last day of service, but shall not be more than 90 days prior to the execution and filing of such application; and provided further, that the Medical Examining Board, after a medical examination of such member, shall certify that such member is, and has been continuously since such effective date if prior to the filing of the application, mentally or physically incapacitated for further employment by the employer, that such incapacity is likely to continue into the indefinite future, and that such member should be retired.
- (b) Any member who has not been in service for more than a year at the time of application who is otherwise eligible for ordinary disability retirement may be granted an ordinary disability retirement if:
  - (1) Written application is made containing a justification for the failure to apply within one year of ceasing service; and
  - (2) The Board finds:
    - (A) The disability arose in the course of the member's service;
    - (B) The disability was the proximate cause of the member's ceasing to be in service; and
    - (C) There was good cause for the member not to have filed an application while in service or within one year after the date that he or she ceased to be in service.
- (c) In the event that a member is granted an ordinary disability retirement pursuant to Subsection (b) of this Section, the Board shall establish an effective date which considering all the circumstances of the individual case is just; provided, such date shall be no more than 90 days prior to the execution and filing of his or her application. (20-81-3; 34-81-3; 27-90-3, § 1; 2-16-3.)

Section 3-2-34. - Ordinary disability retirement allowance.

Upon ordinary disability retirement, as provided for in Section 3-2-33, a member shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to two percent of his or her average final compensation multiplied by the number of years of creditable service. However, said retirement allowance shall not be greater than 60 percent of the member's average final compensation or less than \$300.00 per annum. (20-81-3; 2-16-3.)

Section 3-2-35. - Service-connected disability retirement.

- (a) Any member who is in service, or within one year of the date that he or she ceased to be in service may retire on account of disability which is due to injury by accident and/or disease(s) which arose out of and in the course of the member's service; provided, that the Medical Examining Board, after a medical examination of such member shall certify that such member is, and has been continuously since the date such retirement is to be effective, mentally or physically incapacitated for further employment by the employer as a result of such injury by accident and/or disease(s), that such incapacity is likely to continue into the indefinite future, and that such member should be retired. The Board shall determine whether a member is disabled due to injury by accident and/or disease(s) which arose out of and in the course of a member's service. In making this determination, the Board shall consult the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia which have applied or construed similar language under the Virginia Workers' Compensation Act.
- (b) The member or his or her employer shall submit a written application setting forth at what time the retirement is to become effective; provided, that such effective date shall be after the last day of service but shall not be more than 90 days prior to the date of such application. Prior to submitting such application, the member shall report his or her injury by accident and/or disease(s) and make a claim for workers' compensation benefits to his or her employer in accordance with the policies and procedures established by the County or the School Board and other authority. He or she shall cooperate in the investigation of his or her workers' compensation claim by the employer or its agent. The member shall submit copies of the dispositions as made of his or her workers' compensation claim and any subsequent awards or other documents reflecting any modification or termination of such benefits. In making its determination of a member's eligibility for retirement under this Section, the Board shall give great weight to the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia on the compensability of his or her disability under the Virginia Workers' Compensation Act; and the Board may modify its prior determination of eligibility under this Section in light of any such decision within 90 days after the date that such decision becomes final.
- (c) Any member otherwise eligible for ordinary disability retirement under Section 3-2-33, who applies for retirement pursuant to this Section, and whom the Board finds to be disabled but not eligible for retirement under this Section, shall be retired pursuant to Section 3-2-33.
- (d) Any member who has not been in service for over one year at the time of his or her application who is otherwise eligible for service-connected disability retirement under this Section may be granted a service-connected disability retirement under this Section if:
  - (1) Written application is made containing a justification for the failure to apply within one year of ceasing to be in service; and
  - (2) The Board finds:
    - (A) The disability arose in the course of the member's service;
    - (B) The disability was the proximate cause of the member's ceasing to be in service; and
    - (C) There was good cause for the member not to have filed an application while in service or within one year after the date that he or she ceased to be in service. (20-81-3; 24-85-3; 14-87-3; 27-90-3, §1; 2-16-3.)

Section 3-2-36. - Service-connected disability retirement allowance.

- (a) Upon service-connected disability retirement under Section 3-2-35, a member shall receive an annual retirement allowance, payable monthly and during his or her lifetime and continued disability, consisting of an amount equal to 66 ⅔ percent of his or her average final compensation. However, the

allowance shall be reduced by the amount of any compensation paid to the member under the Virginia Workers' Compensation Act for temporary total or partial incapacity.

- (b) The amount of the reduction shall be increased by an award of a cost-of-living increase to a member's compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act). When the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation the amount of such payments shall no longer be used to reduce the retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without the reduction for such payments.
- (c) If a member receives his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, neither a lump sum payment or portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act, nor a lump sum payment or portion thereof representing compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under Section 3-2-35, shall be offset against the member's allowance under this Section; and provided further, that in the event that a member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the lump sum represents settlement of his or her entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its judgment represents compensation for such benefits. (20-81-3; 4-83-3; 1-93-3; 23-07-3; 47-08-3; 23-11-3; 66-13-3, § 1.; 2-16-3; 36-17-3.)

Section 3-2-37. - Service-connected accidental death benefit.

If death of a member is caused by an accident occurring prior to retirement, and such death is compensable under the Virginia Workers' Compensation Act, there shall be paid, in addition to any other benefits of this Article or other legislation, the following:

- (a) For a member whose death occurs before retirement:
  - (1) The member's accumulated contributions as provided in Section 3-2-28(ea) to his or her designated beneficiary duly approved, acknowledged, and filed with the Board, otherwise to the member's estate; provided, no benefit is payable under Section 3-2-38 or under Section 3-2-42; and
  - (2) The sum of \$10,000.00 to his or her designated beneficiary duly approved, acknowledged, and filed with the Board, otherwise to the member's estate.
- (b) For a member whose death occurs after retirement:
  - (1) The member's accumulated contributions as provided in Section 3-2-28(ea) less the amount of any retirement allowances previously received by the member, such sum to be paid to his or her designated beneficiary duly approved, acknowledged and filed with the Board, otherwise to the member's estate; provided, no benefit is payable under Section 3-2-32(c) or under Section 3-2-38; and
  - (2) The sum of \$10,000.00 to his or her designated beneficiary duly approved, acknowledged and filed with the Board, otherwise to the member's estate. (20-81-3; 34-81-3; 5-85-3; 2-16-3.)

Section 3-2-38. - Refund of contributions upon withdrawal or death; deferred vested benefit.

- (a) Refund of contributions.
  - (1) If a member has ceased to be an employee, otherwise than by death or by retirement under this Article, and has fewer than five years of creditable service on his or her date of separation, he or she shall be eligible for a refund of the total of his or her accumulated contributions (with interest) which have been reduced by the amount of any retirement allowances previously received by him or her under this Article. The member shall file a written application with the Board for such refund,

and the application shall include an election by the member directing the System to have the refund paid directly to the member or to transfer the refund amount to another plan identified by the member as permitted under the Internal Revenue Code.

- (2) Should death occur to a member in service who has completed less than 15 years of creditable service or to a member on retirement, the amount of his or her accumulated contributions, reduced by the amount of any retirement allowances previously received by him or her under any of the provisions of this Article, shall then be payable in a lump sum to a designated beneficiary on file with the System, or in the absence of a designated beneficiary, to his or her estate; provided, no benefit is payable under Section 3-2-32(c).
  - (3) Should death occur to a member in service who has completed 15 years of creditable service and if the member's designated beneficiary on file with the System, is not the member's spouse, a lump sum payment equaling the amount of the member's accumulated contributions, as provided in Section 3-2-28(ea), shall be paid to the designated beneficiary.
  - (4) Should death occur to a member in service who has completed 15 years of creditable service and has no designated beneficiary, a lump sum payment equaling the member's contributions shall be paid to the member's estate; provided, that if such member's spouse is the sole person entitled under the laws of the Commonwealth of Virginia to the benefits provided hereunder then said spouse shall have the same right to elect benefits as is provided to spouses in Section 3-2-42.
  - (5) All refunds shall be mailed to the last address on record with the Board. Refunds that have not been claimed within six months shall become the property of the System.
  - (6) A member who becomes eligible for membership in either the Virginia Retirement System (VRS) and the Educational Employees' Supplemental Retirement System of Fairfax County (ERFC), the Fairfax County Police Officers Retirement System, or the Fairfax County Uniformed Retirement System prior to receipt of any refund amount to which he or she is entitled may elect in writing to transfer the amount of his or her refund directly from this System to the system for which he or she has become eligible for membership, under such rules and regulations as are adopted by the Board and by the board of the system for which he or she has become eligible for membership. In the alternative, to the extent that a refund is an "eligible rollover distribution" within the meaning of Section 402(f)(2)(A) of the Internal Revenue Code, such a member may (a) pursuant to the rules and regulations of the system of which he or she is eligible to become a member, elect in writing to roll over the portion of his or her refund which represents such an eligible rollover distribution directly from this System to the system for which he or she has become eligible for membership or (b) elect in writing to roll over the portion of his or her refund which is such an eligible rollover distribution directly to an individual retirement account.
  - (7) Effective on and after January 1, 2007, if a member dies while performing "qualified military service," as defined in Section 414(u) of the Internal Revenue Code, any additional benefits that would have been provided under the System if the member had resumed employment on the day prior to his or her death and then terminated employment due to death shall be paid to such member's designated beneficiary or, if applicable, estate. This provision shall also apply to Section 3-2-42 regarding spouse retirement allowances.
  - (8) In lieu of electing deferred vested benefit pursuant to Subsection (b) of this Section, a member with five or more years of creditable service may elect to receive a refund of his or her accumulated contributions made to the System (with interest) reduced by the amount of any retirement allowances previously received under this Article. The member shall file a written application with the Board on separation, or at any time thereafter, so long as he or she has not yet begun to receive a deferred vested benefit. The application shall include an election by the member directing the System to pay the refund paid directly to the member or to transfer the refund to another plan identified by the member as permitted under the Internal Revenue Code. The refund shall be made not later than 90 days after the receipt of the application.
- (b) Deferred vested benefit. If a member has five or more years of creditable service on his or her date of separation, the member may leave his or her accumulated contributions in the System and receive

a deferred vested benefit payable beginning on the date the member attains 65 years of age, or in an actuarially reduced amount payable at the optional early retirement age, in accordance with applicable provisions of this Article. (20-81-3; 34-81-3; 5-85-3; 27-90-3; 45-93-3; 10-01-3; 40-08-3; 01-11-3; 2-16-3.)

Section 3-2-39. - Medical reevaluation of disabled members; penalty for unjustified refusal to accept medical attention, vocational rehabilitation or selective employment, or to submit to medical examination.

- (a) At least once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board shall require any such member prior to his or her normal retirement date to undergo a medical examination by the Medical Examining Board; provided, that said medical examination requirement shall not be applicable to a member on a disability retirement allowance during the period such member is receiving benefits under the Virginia Workers' Compensation Act. On recommendation of the Medical Examining Board, the Board may waive the medical examination requirement as to any such member. Should such a member refuse to submit to any such medical examination, his or her disability retirement allowance shall be discontinued until his or her withdrawal of such refusal; and should his or her refusal continue for one year, all his or her rights to any further disability retirement allowance shall cease.
- (b) Members who are receiving service-connected disability retirement allowances pursuant to Section 3-2-35, and who are receiving periodic payments from their employers pursuant to the Virginia Workers' Compensation Act (Act) which are required to be offset against the allowances pursuant to Section 3-2-36, shall cooperate with and accept medical examinations, vocational rehabilitation, and selective employment provided by the employer pursuant to the Act. In the event that such a member's periodic payments are suspended by the Virginia Workers' Compensation Commission (Commission) for unjustified refusal to accept medical examinations, vocational rehabilitation, and/or selective employment, the Board may, if in its determination such refusal was unjustified, direct that the allowance pursuant to Section 3-2-36 shall be computed as if the member received the suspended payments; and should such member's unjustified refusal continue for one year, all his or her rights to any future disability retirement allowance shall cease. The Board shall make appropriate adjustment to the member's allowance if the suspension by the Commission is subsequently reversed or modified. Employers shall promptly notify the Board of any suspensions or releases from suspensions affecting members subject to this Subsection. For purposes of this Subsection, an order of the Commission suspending compensation for unjustified refusal creates a rebuttable presumption that the member unjustifiably refused medical examinations, vocational rehabilitation, and/or selective employment. (20-81-3; 36-88-3; 11-98-3; 2-16-3.)

Section 3-2-40. - Reduction of service-connected disability retirement allowance.

- (a) Whenever the Board ascertains that any member receiving a service-connected disability retirement allowance is, prior to his or her normal retirement date, engaged in work paying more than the difference between his or her allowance and the current salary of the position from which he or she retired, the Board shall reduce such allowance to an amount which, together with the amount earned by him or her, equals the amount of the current salary of the position from which he or she retired. A member receiving a service-connected disability retirement allowance shall submit a copy of that portion of his or her federal income tax return showing the amount of his or her earned income, and he or she shall also be required to submit copies of all W-2 forms (wage statements) provided him or her by his or her employer(s) to the Board by May 30 of each year. Should such member refuse to submit copies of his or her federal income tax return or W-2 forms to the Board, his or her allowance shall be discontinued until his or her withdrawal of such refusal; and should his or her refusal continue for one year, all his or her rights to any further service-connected disability retirement allowance shall cease. The Board shall have the power to reduce the member's service-connected disability allowance to an amount less than that provided in the first sentence of this Subsection, but not less than \$25.00 a month, to recoup the amount of any overpayment from the System to the member on account of the member's earnings in excess of the maximum amount allowed under this Section.
- (b) The Board shall adopt written regulations governing the administration of this Section, providing for, among other things, the notification to the members deemed appropriate, and allowing for late submission of required documentation for good cause shown.

- (c) Should the Medical Examining Board report and certify to the Board at any time that any member receiving a service-connected disability retirement allowance is able to engage in gainful occupation or work paying more than the difference between his or her retirement allowance and the current salary of the position from which he or she retired, and should the Board find that such member shall have refused an offer of employment considered by the Board suitable to his or her capacity, he or she shall not be entitled to any such allowance during the continuance of such refusal, unless in the opinion of the Board such refusal was justified. (20-81-3; 36-88-3; 27-90-3, § 1; 2-16-3.)

Section 3-2-41. - Cessation of disability retirement allowance.

- (a) Should a member receiving a disability retirement allowance return to service at any time prior to his or her normal retirement date, his or her disability retirement allowance shall cease, and he or she shall again become a contributing member. Upon his or her return to service, he or she shall be given membership service credit for all creditable service that he or she had accumulated as of the effective date of his or her disability retirement. In addition, any member returning to service after a period of service-connected disability retirement shall be given membership service credit for the period of his or her service-connected disability retirement.
- (b) When a member returns to service under the circumstances described in Subsection (a) of this Section, any excess accumulated contributions of such member over the disability retirement allowances received by him or her shall be transferred from the retirement allowance account to the member's contribution account.
- (c) Should the Board at any time determine that a member who is receiving an ordinary disability retirement allowance is no longer incapacitated, the Board shall promptly terminate his or her allowance and notify the member in writing at his or her address as shown in the System's records.
  - (1) Such member may appeal the action of the Board under Section 3-2-48.
  - (2) Within 30 days of receipt of such notice, or within 30 days of his or her receipt of the Board's denial of his or her appeal of the termination of his or her ordinary disability retirement allowance, if appealed, such member, if eligible, may apply in writing for a normal or early service retirement allowance. Such members shall be deemed to be in service during this 30 day period solely for the purpose of applying for a service retirement and shall not be granted creditable service for this 30 day period. For purposes of determining their eligibility for such retirement and calculating the appropriate retirement allowance, such members shall be credited with all the creditable service that they had as of the effective date of their ordinary disability retirement. The effective date of such member's normal or early service retirement pursuant to this Subsection shall be the effective date of termination of his or her ordinary disability retirement allowance.
- (d) Should the Board at any time determine that a member who is receiving a service-connected disability retirement allowance is (i) no longer incapacitated or (ii) no longer incapacitated due to an injury by accident and/or disease(s) which arose out of and in the course of his or her service, the Board shall promptly terminate his or her service-connected disability retirement allowance and notify the member in writing at his or her address as shown in the System's records.
  - (1) If at that time such member has five or more years of creditable service and the Board determines that such member is presently incapacitated from further employment with his or her employer due to injury by an accident and/or disease(s) which did not arise out of and in the course of his or her service and such incapacity is likely to continue indefinitely, the Board shall grant such member an ordinary disability retirement allowance effective as of the date of termination of his or her service-connected disability retirement allowance. For purposes of determining their eligibility for such retirement and calculating the appropriate retirement allowance, such members shall be credited with all the creditable service that they had as of the effective date of their service-connected disability retirement and shall receive membership service credit for the period of their service-connected disability retirement.
  - (2) Any member whose service-connected disability retirement allowance has been terminated by the Board under this Section may appeal the action of the Board under Section 3-2-48.

- (3) Within 30 days of receipt of such notice, or within 30 days of his or her receipt of the Board's denial of his or her appeal of the termination of his or her service-connected disability retirement allowance, if appealed, such member, if eligible, may apply in writing for a normal or early service retirement allowance. Members whose service-connected disability retirement had been changed by the Board to ordinary disability pursuant to Subsection (d)(1) of this Section may apply for a normal or early service retirement allowance in lieu of the ordinary disability retirement allowance. Members shall be deemed to be in service during this 30 day period solely for the purpose of applying for a service retirement and shall not be granted creditable service for this 30 day period. For purposes of determining their eligibility for such retirement and calculating the appropriate retirement allowance, such members shall be credited with all the creditable service that they had as of the effective date of their service-connected disability retirement. The effective date of such member's normal or early service retirement pursuant to this Subsection shall be the effective date of termination of his or her service-connected disability retirement allowance. (20-81-3; 27-90-3, § 1; 6-95-3; 14-98-3; 2-16-3.)

Section 3-2-42. - Spouse retirement allowance.

Should death occur to a member in service who has completed five years of creditable service, a retirement allowance shall be payable to the member's spouse if said spouse is the member's designated beneficiary duly approved, acknowledged and filed with the Board. The annual retirement allowance payable monthly for life shall be 50 percent of the annual retirement allowance provided in Sections 3-2-32(a)(1) or 3-2-32(a)(2), with creditable service and average final compensation being determined as of the date of the member's death. Said spouse shall elect in writing within 180 days of the member's death, or within 90 days of receiving notice from the Board, whichever comes first, to receive the benefits outlined above in this Section or a lump sum payment of the member's contributions, plus interest as provided in Section 3-2-28(c); in the event no election is made, said spouse shall receive benefits in the form of a lump sum. If a death is due to a service-connected accident as defined in Section 3-2-37 and the designated beneficiary under Section 3-2-37(a)(1) and (a)(2) is the member's spouse, the spouse shall elect in writing within 180 days of the member's death, or within 90 days of receiving notice from the Board, whichever comes first, to receive either the benefits contained in this Section or those contained in Section 3-2-37(a)(4). In the event of the spouse's death prior to receiving allowances under this Section equaling the sum of the member's contributions to the System, plus interest, said sum, reduced by the amount of any retirement allowances previously paid under this Section, shall be paid to the spouse's designated beneficiary duly approved, acknowledged and filed with the Board, otherwise to the spouse's estate. (20-81-3; 5-85-3; 20-87-3; 29-09-3; 2-16-3.)

Section 3-2-43. - Cessation of normal or early service retirement allowance.

- (a) Subsection (b) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or the Fairfax County Police Officers Retirement System and who submitted their application for such allowance to the Board of such system on or before July 21, 1986. Subsection (c) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Uniformed Retirement System, or the Police Officers Retirement System and who submitted their application for such allowance to the Board of such system after July 21, 1986. Personnel Regulation Section 9-2-4 shall apply to persons covered by either Subsection (b) or (c) of this Section.
- (b) Should a person receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or the Fairfax County Police Officers Retirement System (retiree) return to regular service in a permanent position in any office or employment paid directly or indirectly by the County, he or she shall elect to receive such retirement allowance under one of the following two options:
- (1) Such allowance shall not commence or, if already commenced, shall cease while the retiree is so employed. His or her allowance shall commence or resume upon application or reapplication by the retiree after he or she has ceased permanent employment in such a position. The allowance of a retiree of this System who is appointed to a position covered by the Uniformed Retirement System or Police Officers Retirement System shall commence or resume at that cost-of-living adjustment amount pursuant to Section 3-2-44 which would have been payable had the retiree continued to receive his or her allowance without interruption. A retiree who elects in

writing at the time of reappointment to a position covered by this Article not to become a member shall be exempted from this System. A retiree who elects in writing at the time of reappointment to a position covered by this Article to become a member shall be eligible:

- (A) For recomputation of his or her allowance to take into account compensation and creditable service attributable to the period of reemployment resulting in a deferral or cessation of his or her allowance under this Subsection;
- (B) To make a new election for any optional benefit to which he or she is entitled; and
- (C) For a retirement allowance for a service-connected disability arising out of and in the course of his or her reemployment.

A retiree of the Uniformed Retirement System or Police Officers Retirement System who is appointed to a position covered by this Article and elects in writing within 30 days of such appointment may be excluded from membership in this System.

- (2) Such allowance shall commence or shall not cease while the retiree is so employed. A retiree electing this option shall be excluded from membership in this System or any system covering the position, service in which results in the application of this Subsection.
- (c) A person receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or the Fairfax County Police Officers Retirement System (retiree) may return to employment for which compensation is paid directly or indirectly by the County, subject to the following conditions:
  - (1) A retiree shall not receive in combined compensation and retirement allowance, computed monthly, any more than 115 percent of the then current maximum monthly salary for a Deputy County Executive in the County's Compensation Plan. The appropriate Retirement System Board of Trustees shall reduce the retiree's allowance as necessary to keep the combined salary and allowance at this limit. For purposes of this Subsection, a retiree's allowance shall be deemed to be the allowance that he or she would receive if he or she had not elected a joint and last survivor option which results in an actuarially reduced allowance. Employers under all three systems shall report salaries paid to retirees to the retiree's Board of Trustees.
  - (2) A retiree who is employed in a position service in which would otherwise make him or her eligible for membership in this System, the Uniformed Retirement System, or the Police Officers Retirement System, shall not be eligible for membership in that system.
- (d) Notwithstanding any other provision of this Article or any other Article of this Chapter, a person receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or the Fairfax County Police Officers Retirement System (retiree) may be employed in a position under his or her former appointing authority subject to the following terms and conditions:
  - (1) If the retiree is a member of this System and service in the position to which he or she is to be re-appointed ordinarily would result in membership in this System, his or her normal or early service retirement allowance shall be suspended for the duration of his or her new employment. During his or her new employment, he or she shall make member contributions to this System. At the time of his or her new employment, he or she shall be entitled to make all elections available to new members of this System, and if otherwise eligible, during his or her employment, he or she may apply for ordinary or service-connected disability retirement. In such case, his or her combined years of service and his or her average final compensation based on his or her new employment shall be used in calculating the disability retirement allowance. On re-application for service retirement from his or her new employment, the retiree shall receive as his or her service retirement allowance the higher of (i) his or her initial service retirement allowance increased by any cost-of-living increases that were granted by the Board to service retirements during the period of his or her new employment or (ii) a service retirement allowance calculated on the basis of his or her combined years of creditable service in his or her initial and new employment and his or her average final compensation calculated on the basis of the creditable compensation that

he or she received during both his or her initial and new employment as if there had been no break in service.

- (2) A retiree who is a member of this System and who is to be re-appointed to a position service in which would result in membership in either the Fairfax County Uniformed Retirement System or the Fairfax County Police Officers Retirement System but for his or her membership in this System, shall be subject to the provisions of either Subsection (a) or (b) of this Section, whichever is applicable.
- (3) If the retiree is a member of either the Uniformed Retirement System or Police Officers Retirement System and service in the position to which he or she is to be appointed would result in membership in this System but for his or her membership in the other system, the retiree shall be subject to the provisions of either Subsection (b) or (c) of this Section, whichever is applicable.
- (4) This Subsection shall apply to all persons appointed to positions on or after March 1, 1990, service in which would ordinarily make them members of this System, the Uniformed Retirement System, or the Police Officers Retirement System. (20-81-3; 35-81-3; 36-86-3; 27-90-3, § 1; 10-01-3; 11-05-3; 2-16-3.)

Section 3-2-44. - Cost-of-living adjustments.

Monthly retirement allowances shall be adjusted effective July 1, 1981, and each July 1 thereafter in order to reflect changes in the cost of living since the date of the benefit commencement; provided, that such adjustments shall not affect the amount of the ~~social security~~-benefit ~~allowance~~ payable pursuant to Section 3-2-32(a)(3), Section 3-2-32(a)(4) or Section 3-2-32(a)(5); and, provided further, that allowances for service-connected disability retirement shall be subject to Subsection (d) of this Section. The monthly benefit allowance to be effective July 1 of any such year shall be the benefit in effect immediately prior to such adjustment increased for the basic cost-of-living increase provided for in Subsection (a) of this Section and the supplemental cost-of-living increase, if any, provided for in Subsection (b) of this Section with such increase reduced as provided in Subsection (c) of this Section in the event the monthly retirement allowance has been in pay status for less than 12 months.

- (a) The basic cost-of-living increase shall be the lesser of four percent and the percentage corresponding to the percentage increase in the Consumer Price Index during the 12 calendar month period ending with the March immediately preceding the July in which the increase is effective. For the purpose of this Section, Consumer Price Index shall mean the Consumer Price Index for all Urban Consumers (CPI-U) as issued by the Bureau of Labor Statistics of the U.S. Department of Labor for the appropriate Standard Metropolitan Statistical Area (SMSA) that includes the County.
- (b) As part of each annual actuarial valuation, the actuary shall determine the percentage supplemental cost-of-living increase (not greater than one percent that can be provided on the following July 1 based upon the available actuarial surplus). The Board then may, but shall not be required to, increase the benefits of all retirement allowances in pay status on each July 1 by such actuarially determined percentage. For the purpose of this Section, available actuarial surplus shall mean the excess of the actuarial value of the assets of the System over the actuarial accrued liabilities of the System as disclosed in the annual actuarial valuation of the System.
- (c) In the event a member has not been in pay status for 12 full months, the basic cost-of-living increase and the supplemental cost-of-living increase shall be determined as the percentage of the full increase determined in Subsections (a) and (b) of this Section as follows:

Number of Complete Months Member Has Been in Pay Status	Percentage of Full Increase
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• Less than 3 ..... 0%

• 3, 4 or 5 ..... 25%

- 6, 7 or 8 ..... 50%
- 9, 10 or 11 ..... 75%

- (d) Cost-of-living adjustments provided by this Section shall be applied to the net amount of the member's service-connected disability retirement allowance after all reductions required by Section 3-2-36 have been made. The member's allowance after the adjustments of cost of living provided by this Section at any date in time shall be determined by retroactive computation from the date of initial retirement, and the application of all applicable cost-of-living adjustments to the net allowance which the member is entitled to under Section 3-2-36.
- (e) The Board of Supervisors reserves the right to amend, terminate or modify the post-retirement increases described in Subsection (b) of this Section. Upon termination, no further increases to benefits shall be due or payable to any member or beneficiary. However, any such amendment, termination or modification shall not reduce the amount of benefits then being paid to any member or beneficiary who received benefits payments as of the date of the amendment, termination or modification. Furthermore, no amendment, termination or modification shall reduce the rights of any member as of June 30, 1981, to increases such member was entitled to based upon the terms of the plan in effect on June 30, 1981. (20-81-3; 27-90-3, § 1; 1-93-3; 11-00-3; 26-10-3; 2-16-3.)

Section 3-2-45. - Retention rights.

Participation in the System does not convey the right to be retained in service or any right or claim to any assets of, or benefit from, the System unless such right has specifically accrued under this Article. (20-81-3; 27-90-3, § 1; 2-16-3.)

Section 3-2-46. - Vesting on termination of System; non-reversion of funds.

Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of all members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, are non-forfeitable. No portion of the assets of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the members and their beneficiaries prior to the satisfaction of all liabilities with respect to members and their beneficiaries. (20-81-3; 2-16-3.)

Section 3-2-47. - Non-retroactivity to employees retired or terminated prior to July 1, 1981.

With the exception of the benefit adjustment provided under Section 3-2-32(d)(2), the benefits provided by this Article, and Section 3-2-43, shall not apply to members retired or terminated prior to July 1, 1981. Benefits for such members shall be in accordance with the ordinance in effect prior to July 1, 1981. However, retirement allowances determined thereunder shall be subject to the cost-of-living adjustments provided in Section 3-2-44. (20-81-3; 2-16-3.)

Section 3-2-48 - Review of adverse decisions.

- (a) Any member adversely affected by a decision of the Board shall receive written notice of said decision and may, within 30 days of receipt of said notice, request in writing a review by the Board of said decision, pursuant to procedures established by the Board.
- (b) Notwithstanding Subsection (a) of this Section, upon written application of a member adversely affected by a decision of the Board and for good cause shown, the Board may reconsider such previous decision. This Subsection is to apply retroactively. (20-81-3; 36-83-3; 2-16-3.)

Section 3-2-49. - Transfer to Senior Executive Service Plan.

Repealed by 01-96-3.

Section 3-2-50. - Masculine usage includes the feminine.

Repealed by 2-16-3.

Section 3-2-51. - Limitation on annual retirement allowance.

Notwithstanding any other provision of this Article, the annual retirement allowance to which any member may be entitled shall not exceed the limits on benefits set forth in Section 415(b) of the Internal Revenue Code and any regulations issued by the U.S. Department of the Treasury thereunder, and in calculating such limits a member's compensation shall include any differential wage payments for military

service as defined under Section 3401(h)(2) of the Internal Revenue Code and paid on or after January 1, 2009. Notwithstanding any provision of the Internal Revenue Code to the contrary, the limitations imposed by this Section apply only to retirement allowances granted under this Article, and not to any retirement allowance provided to any employee under any other Article of this Chapter. Such limits shall be applied annually for the 12-month period commencing each July 1 and ending the following June 30. A benefit payable other than in the form of an annuity shall not exceed the amount which, when converted to an actuarial equivalent annual benefit, does not exceed the limits on benefits set forth in Section 415(b) of the Internal Revenue Code. Effective June 30, 2000, the mortality tables prescribed by the Uruguay Round Agreement Acts (GATT), as set forth in Internal Revenue Service Revenue Ruling 2001-62 (superseding and modifying Revenue Ruling 95-29), or as further updated or modified by the Internal Revenue Service, shall be used in determining the actuarial equivalent amount of such benefit. (27-90-3, § 2; 10-91-3; 21-96-3; 8-03-3; 01-11-3; 2-16-3.)

Section 3-2-52. - Distribution of benefits.

Notwithstanding any other provision of this Article, effective for plan years beginning after December 31, 1986, the entire interest of each member shall be distributed to such member not later than the required beginning date specified below, or shall be distributed, beginning not later than the required beginning date, over the life of such member or over the lives of such member and a beneficiary or over a period not extending beyond the life expectancy of such member or the life expectancy of such member and a beneficiary. For this purpose, the term *required beginning date* shall mean April 1 of the calendar year following the later of the calendar year in which the member attains 70½ years of age, or the calendar year in which the member retires. If a member dies after distribution of the member's interest has begun, the remaining portion, if any, of such interest shall be distributed at least as rapidly as under the method of distribution being used as of the date of death. If a member dies before the distribution of the member's interest has begun, any death benefit shall be distributed within five years after the death of such member, unless (1) any portion of the member's interest is payable to (or for the benefit of) a designated beneficiary, (2) such portion shall be distributed over the life of such beneficiary or over a period not extending beyond the life expectancy of such beneficiary, and (3) if the beneficiary is someone other than the member's surviving spouse, such distributions shall begin not later than one year after the date of the member's death or such later date as the U.S. Secretary of the Treasury may by regulations prescribe. If the beneficiary is the surviving spouse of the member, (1) distribution shall begin on or before the latest of one year after the date of the member's death, such later date as the U.S. Secretary of the Treasury may by regulations prescribe, or the date on which the member would have attained 70½ years of age and (2) if the surviving spouse dies before the distributions to such spouse begin, the distribution rules specified in this Section shall be applied as if the surviving spouse were the member. Distributions from the System shall be made in accordance with the requirements of Section 401(a)(9) Internal Revenue Code, including the rules for incidental death distributions set forth at Section 401(a)(9)(G). (27-90-3, § 2; 26-12-3; 50-13-3; 2-16-3.)

Section 3-2-53. - Direct rollovers to other plans.

(a) General. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. However, to the extent that any portion of the amount of the rollover is comprised of after-tax contributions, the distribution may only be rolled over to an eligible retirement plan that separately accounts for after-tax contributions.

(b) Definitions.

- (1) *Eligible rollover distribution* shall mean any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.

- (2) *Eligible retirement plan* shall mean any one of the following that accepts the distributee's eligible rollover distribution: an individual retirement account described in Section 408(a) of the Internal Revenue Code; an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; an annuity plan described in Section 403(a) of the Internal Revenue Code; a qualified trust described in Section 401 (a) of the Internal Revenue Code; an annuity contract described in Section 403(b) of the Internal Revenue Code; an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state; or effective for distributions made after December 31, 2007, a Roth IRA described in Section 408A of the Internal Revenue Code, provided the eligible rollover distribution is considered a "qualified rollover contribution" under Section 408A(e). However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan shall be an individual retirement account or individual retirement annuity.
- (3) *Distributee* shall mean a member or former member. In addition, the member's or former member's surviving spouse, and the member's or former member's spouse or former spouse who is entitled to receive benefits from the System, shall be distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2010, a distributee also shall include a non-spouse beneficiary of a deceased member or former member who may make an eligible rollover distribution in a direct trustee-to-trustee transfer to an "inherited" individual retirement account.
- (4) *Direct rollover* shall mean a payment by the System to the eligible retirement plan specified by the distributee. (45-93-3; 21-96-3; 8-03-3; 01-11-3; 2-16-3)

Section 3-2-54. - Additional retirement allowance.

(a) Definitions.

- (1) *Active member* shall mean a member of the System who is an employee on July 1, 1995, or who becomes an employee thereafter, and whose membership in the System has not ceased at any time from either July 1, 1995, or from when he or she became an employee (whichever is later) until the effective date of his or her subsequent retirement.
- (2) *Retired member* shall mean a member of the System who is receiving a retirement allowance on July 1, 1995, or whose effective date of retirement is on or before July 1, 1995. A member of the System who is receiving a retirement allowance shall include any member whose effective date of retirement is on or before July 1, 1995.
- (3) *Retirement allowance* shall mean a normal service retirement allowance, an early service retirement allowance, an ordinary disability retirement allowance, a deferred vested benefit, or a spouse retirement allowance.
- (4) *Base annual retirement allowance* shall mean the initial calculation of a member's or spouse's annual retirement allowance without regard for any deductions for withholding or other benefit elections or adjustments under Section 3-2-7. For a member taking normal service retirement under Section 3-2-31(a), this is the allowance calculated under Section 3-2-32(a)(1) for a member in Plan A or **Plan C**, or under Section 3-2-32(a)(2) for a member in Plan B, **Plan D or Plan E**; for a member taking early service retirement under Section 3-2-32(b), this is the allowance calculated under Section 3-2-32(b); for a member retired on account of ordinary disability under Section 3-2-33, this is the allowance calculated under Section 3-2-~~33(b);34~~; and for a spouse receiving a spouse retirement allowance, this is the allowance calculated under Section 3-2-42.
- (5) *Adjusted base annual retirement allowance* shall mean the base annual retirement allowance of a retired member or of the spouse of a member receiving the base spouse annual retirement allowance under Section 3-2-42, as increased by any cost-of-living adjustments applied to the member's or spouse's retirement allowance from the effective date of his or her retirement or election of the spouse retirement allowance through July 1, 1995.
- (6) *Member in service* shall mean a member of the System.

- (b) The adjusted base annual retirement allowance of each retired member or spouse receiving a retirement allowance on July 1, 1995, shall be increased by three percent, effective July 1, 1995 (modified adjusted base annual retirement allowance). Adjustments to the retired member's or spouse's retirement allowance made under this Article after July 1, 1995, shall be computed on the basis of the modified adjusted base annual retirement allowance.
- (c) When an active member retires, or the eligible spouse of an active member elects to receive the spouse retirement allowance after July 1, 1995, after his or her base annual retirement allowance has been computed under the applicable Section of this Article, the resulting base annual retirement allowance shall be increased by three percent (initial base annual retirement allowance). Adjustments to the member's or spouse's retirement allowance under this Article after July 1, 1995, shall be computed on the basis of the initial base annual retirement allowance.
- (d) If a member is entitled to the three percent increase provided for by either Subsection (b) or (c) of this Section, and if at the time he or she is entitled to such increase, he or she is also eligible to receive the pre-62 compensating benefit under Section 3-2-32(a)(3) or the pre-social security benefit under Section 3-2-32(a)(4), his or her pre-62 compensating benefit or pre-social security benefit shall also be increased by three percent.
- (e) Separation from service.
  - (1) A member who:
    - (A) Separated from service other than by death or retirement with five or more years of creditable service in the System prior to July 1, 1995, and
    - (B) Has not withdrawn his or her accumulated contributions as of July 1, 1995, and
    - (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit after July 1, 1995, shall have his or her or her deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
  - (2) A member in service on or after July 1, 1995, who:
    - (A) Subsequently separates from service other than by death or retirement with five or more years of creditable service in the System, and
    - (B) Does not withdraw his or her or her accumulated contributions, and
    - (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit, shall have his or her deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
  - (3) A member in service on or after July 1, 1995, who,
    - (A) Subsequently separates from service other than by death or retirement with five or more years of creditable service in the System, and
    - (B) Does not withdraw his or her accumulated contributions, and
    - (C) Thereafter, returns to service and again becomes a member of the System, and
    - (D) Subsequently applies for and is determined to be eligible for a normal service, early service or ordinary disability retirement allowance, or a deferred vested benefit, shall have his or her allowance or deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
  - (4) A member in service on or after July 1, 1995, who
    - (A) Thereafter separates from service, and
    - (B) Withdraws his or her accumulated members' contributions, and
    - (C) Subsequently returns to service and again becomes a member of the System, and

- (D) At that time makes arrangements to purchase credit for all of his or her previous service in the System under this Article, and
- (E) Thereafter applies for and is determined to be eligible for a normal service, early service or ordinary disability retirement, or for a deferred vested benefit, shall have his or her allowance or deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
- (f) A member's spouse who is receiving an allowance under the joint and last survivor option provided by Section 3-2-32(c), on July 1, 1995, shall have such allowance increased by three percent, effective July 1, 1995. Adjustments to such allowance under this Article after July 1, 1995, shall be computed on the basis of this increased allowance.
- (g) Notwithstanding the 60 percent of average final compensation limit contained in Section 3-2-34, the initial base annual retirement allowance of an active member who becomes eligible to receive an ordinary disability retirement allowance and who is entitled to the increase provided by Subsection (c) of this Section, may exceed 60 percent, but shall not exceed 61.8 percent of his or her average final compensation.
- (h) Notwithstanding any provision of this Section to the contrary, no adjustment under this Section shall be made which would violate the limitations provided by Section 3-2-51 concerning the limitations imposed by Section 415 of the Internal Revenue Code and any U.S. Treasury regulations issued thereunder; provided, that any adjustment under this Section may be made up to those limitations. (12-95-3; 11-00-3; 2-16-3.)
- (i) This Section shall not be applicable to members of Plan E.

Section 3-2-55. - Spousal acknowledgment.

Any application for service or disability retirement allowance under this Article shall include a statement made by the spouse of the member, if any, acknowledging, in the presence of a notary public, that the spouse has read and understands the provisions of this Article concerning allowance and payment options and the allowance and payment options, if any, the member has elected to receive. (12-98-3; 2-16-3.)

Section 3-2-56. - Deferred retirement option program.

Effective July 1, 2005, there is hereby established a Deferred Retirement Option Program (DROP) for eligible members of the System. Members of the System in service who are eligible for normal service retirement are eligible to elect to participate in this program.

- (a) Definitions.
  - (1) *DROP period* shall mean the three-year period immediately following the commencement of the member's participation in the DROP.
  - (2) *Eligible member* shall mean any member who has reached, or will reach within 60 days, his or her normal retirement date as defined in Section 3-2-~~4~~2(g).
- (b) Election to participate.
  - (1) An eligible member may participate in the DROP only once. An eligible member who desires to participate in the DROP shall file an application with the Fairfax County Retirement Administration Agency not less than 60 days prior to the date of the commencement of the member's participation in the DROP.
  - (2) A member's election to participate in the DROP is irrevocable, with the exception that a member who elects to participate in the DROP may revoke that election prior to the commencement of his or her DROP period; once revoked, a member may not then elect to participate in the DROP for a period of at least 12 months from the date of his or her revocation.
  - (3) At the time of an eligible member's election to participate in the DROP, he or she shall make an election in writing pursuant to Section 3-2-32(c) as to whether or not to receive a reduced retirement allowance in order to provide a retirement allowance for his or her spouse after the member's death.
  - (4) An eligible member who elects to participate in the DROP shall agree to do so for a period of three years.

- (5) Subject to any limitation on the number of accrued sick leave hours that may be converted to creditable service as provided in Section 3-2-~~12~~ (a)~~(2)~~, an eligible member who elects to participate in the DROP shall, at the time of his or her election to participate in the DROP, make an election in writing as to whether he or she wishes to convert all of his or her available accrued sick leave to creditable service or to convert all but 40 hours of his or her accrued sick leave to creditable service. Sick leave that is either carried over or that accrues during the DROP period shall not be converted to creditable service at the conclusion of the DROP period.
- (c) Continued employment.
- (1) A participating DROP member shall, upon commencement of his or her DROP period, continue to work for the County or School Board in the position he or she held before the effective date of his or her election to participate in the DROP. Thereafter, the participating DROP member shall perform the services of that position or any other position to which he or she is promoted or transferred.
  - (2) A participating DROP member shall continue to accrue annual and sick leave and, if eligible, compensatory time during the DROP period. At the conclusion of the DROP period, the member shall receive the payment for his or her accrued annual and compensatory leave that he or she would have received upon retirement. In no case shall a participating DROP member receive payment for his or her accrued annual and compensatory leave at the commencement of the member's participation in the DROP.
  - (3) A participating DROP member shall continue to remain eligible for health and life insurance benefits provided by the County or the School Board to its employees and shall remain eligible to participate in the County's or School Board's deferred compensation plan. The deductions from the salary of a participating DROP member for health and life insurance benefits shall be the same deductions that would have been taken had the participating DROP member been an active County or School Board employee, not the deductions that would be taken from the retirement benefits and allowances of a retiree.
  - (4) All County or School Board personnel policies and regulations shall continue to apply to a participating DROP member after the commencement of his or her DROP period. A participating DROP member shall remain eligible for annual merit pay increments and promotions during the DROP period. However, a participating DROP member's salary during his or her DROP period shall not be included in the computation of the member's average final compensation. A participating DROP member shall also be subject to the County's disciplinary policies and regulations.
  - (5) If a participating DROP member's continued employment with the County or the School Board is interrupted by military service, there shall be no interruption of the member's participation in the DROP. During the period of the participating DROP member's military service, the member's retirement benefits and allowances shall continue to be paid into the participating member's DROP account until the member's DROP period ends. At the end of the DROP period, the member's DROP account balance shall be paid to the member whether or not he or she has returned to his or her former County or School Board position, and the member shall begin to receive his or her normal retirement benefits.
  - (6) Except as otherwise set forth herein, a participating DROP member's continued service shall be deemed to be normal service retirement and shall not count as creditable service with the System.
  - (7) Upon commencement of a participating DROP member's DROP period, the County or the School Board shall cease to withhold contributions to the System from the participating DROP member's salary.
  - (8) The salary received by a participating DROP member during his or her DROP period shall not be included by the County or the School Board in the base that is used to determine the amount of the County's or the School Board's employer contributions to the System.
- (d) DROP account.
- (1) Upon commencement of the participation of a member of either Plan A or Plan B, ~~whose County or School Board employment commenced by reporting for work before January 1, 2013,~~ in the DROP, the member's service retirement allowance pursuant to Section 3-2-32(a)(1) or (2) and the additional retirement allowance pursuant to Section 3-2-32(a)(3) or (4) shall be paid into the member's DROP account.
- \_\_\_\_ Upon commencement of the participation of a member of either Plan C, Plan D or Plan ~~D~~, ~~whose County or School Board employment commenced by reporting for work on or after January 1, 2013,~~E in the DROP, the member's service retirement allowance pursuant to Section 3-2-32(a)(1) or (2) shall be paid into the member's DROP account; the additional retirement benefits provided for in Section 3-2-32(a)(3), ~~(4)~~ and (5) shall not be credited to the DROP accounts of members of Plans C, D and ~~DE~~, although members of those Plans shall remain eligible to receive the additional retirement benefits provided for in Section 3-2-32(a) upon

the completion of their DROP period, if they then meet the requirements for eligibility for such benefits set forth in Section 3-2-32(a)(3~~-and~~), (4~~-~~) or (5), as applicable. The initial amount credited to a member's DROP account shall be computed based on his or her average final compensation as of the date of the commencement of the DROP period.

- (2) The initial monthly amount shall be increased each July 1 based upon the annual cost-of-living adjustment provided to retirees pursuant to Section 3-2-44. Any other changes that occur during the DROP period that would result in an alteration of the participating DROP member's retirement allowances and benefits if he or she were retired shall also result in adjustments to the monthly amount credited to a participating DROP member's DROP account.
  - (3) The participating DROP member's DROP account shall be credited with interest at an annual rate of five percent, compounded monthly. Interest shall not be pro-rated for any period less than a full month.
  - (4) Contributions by the County or the School Board and the participating DROP member into the System for the participating DROP member shall cease.
  - (5) Amounts credited to a participating DROP member's DROP account shall not constitute annual additions under Section 415 of the Internal Revenue Code.
  - (6) A participating DROP member's DROP account shall not be an account that is separate and distinct from the assets of the System; a participating DROP member's DROP account balance shall remain part of the assets of the System.
- (e) Cessation of County or School Board employment.
- (1) At the conclusion of a participating DROP member's three-year DROP period, the member's County or School Board employment shall automatically cease. The participating DROP member shall then begin to receive normal service retirement allowances and benefits computed based upon his or her average final compensation at the time of the commencement of the DROP period and his or her creditable service at the time of the commencement of the DROP period, plus cost-of-living increases provided to retirees and any other benefit improvements that may have been granted to retirees during the participating DROP member's DROP period. At least 60 days prior to the conclusion of a participating DROP member's DROP period, the member shall make one of the following elections concerning payment of his or her DROP account balance:
    - (A) The member may receive payment of his or her DROP account balance as a lump sum.
    - (B) The member may elect to roll over his or her DROP account balance into a qualified retirement plan, such as an IRA.
    - (C) The member may elect to receive payment of a portion of his or her DROP account balance and roll over the remaining portion into a qualified retirement plan, such as an IRA. If the member elects this method of receiving his or her DROP account balance, he or she must specify, in writing, the specific amount to be paid as a lump sum and the specific amount to be rolled over.
    - (D) The member may elect to use his or her DROP account balance to increase his or her monthly retirement allowances and benefits. The amount of the increase shall be determined based on the actuarial equivalent of the member's DROP account balance.
    - (E) The member may divide his or her DROP account balance in half, and may then elect to use 50 percent of his or her DROP account balance to increase his or her monthly retirement allowances and benefits, and to receive the remainder in any manner listed in Subparagraphs (A), (B) and (C) above. In the event that the participating DROP member does not make the election required by this Subsection, the DROP account balance shall be used to increase his or her monthly retirement allowances and benefits. The amount of the increase shall be determined based on the actuarial equivalent of the member's DROP account balance.
  - (2) A participating DROP member may terminate his or her County or School Board employment at any time, in which case the effective date of the member's termination of his or her County or School Board employment shall be treated as the end of the DROP period for all purposes of this Section.
  - (3) In the event that the employment of a participating DROP member is terminated by the County or the School Board during the DROP period for any reason, the effective date of the member's separation from County service shall be treated as the end of the DROP period for all purposes of this Section.
- (f) Death or disability during DROP period.

- (1) If a participating DROP member dies during the DROP period, the participating DROP member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of Section 3-2-32(c), the participating DROP member's surviving spouse shall receive payment of the participating DROP member's DROP account balance and shall begin to receive retirement allowances and benefits pursuant to the joint and last survivor option election of the participating DROP member.
- (2) If a participating DROP member becomes disabled during the DROP period, the participating DROP member shall receive:
  - (A) In the case that a participating DROP member suffers a disability that would be considered an ordinary disability as defined in Sections 3-2-33 and ~~3-2-35~~, the effective date of the member's disability shall be treated as the end of the participating DROP member's DROP period.
  - (B) In the case that a participating DROP member suffers a service-connected disability as set forth in Section 3-2-~~36~~35, the participating DROP member may elect either (i) to receive the service-connected disability retirement allowances and benefits to which he or she would otherwise be entitled or (ii) to receive the normal service retirement allowances and benefits to which he or she would be entitled plus his or her DROP account balance. An election to receive service-connected disability retirement allowances and benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.
- (g) Execution of documents and adoption of rules and regulations. The County Executive is authorized to execute all documents necessary or appropriate to operate the DROP including, but not limited to, the establishment of a trust within which the participating DROP members' DROP accounts shall be held and administered. The Board is also authorized to adopt rules and regulations governing the DROP. Any documents executed by the County Executive shall be approved for form by the County Attorney prior to execution. (20-05-3; 40-08-3; 41-08-3; 27-10-3; 26-12-3; 2-16-3.)

Division 9. - Benefit Restoration Plan.

Section 3-2-57. - Benefit restoration plan.

- (a) There is hereby established a Benefit Restoration Plan for the System.
- (b) Purpose and intent; rule of construction.
  - (1) In establishing this Benefit Restoration Plan, the Board of Supervisors intends to establish and maintain a "qualified governmental excess benefit arrangement," as defined and authorized by Section 415(m) of the Internal Revenue Code, and as is permitted by Section 51.1-1302 of the *Virginia Code*. The purpose of this Benefit Restoration Plan is to restore, through a non-qualified arrangement, the benefits lost by the application of the limitation on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans. This Benefit Restoration Plan shall exist in addition to all other retirement, pension, or other benefits available to participants, including the benefits established by the System.
  - (2) This Section shall be construed to ensure compliance with federal and state law, and any regulations promulgated thereunder, governing such qualified governmental excess benefit arrangements, including, but not limited to Section 415(m) of the Internal Revenue Code, and Sections 51.1-1302, 51.1-1303, and 51.1-1304 of the *Virginia Code*, as in effect at the time of the adoption of this Section and as subsequently amended.
- (c) Definitions.
  - (1) *Administrator or Plan Administrator* shall mean the Board, which is responsible for the general administration and operation of the Benefit Restoration Plan and for making effective the provisions of this Section. Under the oversight of the Board, the Executive Director shall be responsible for the day-to-day operation and administration of the Benefit Restoration Plan.
  - (2) *Beneficiary* shall mean the person or persons entitled under this Article to receive any benefits payable after the participant's death.
  - (3) *Benefit Restoration Plan* or *Plan* shall mean the Benefit Restoration Plan for the System established by this Section.
  - (4) *Effective date* shall mean the date of this Section's adoption [June 5, 2006].

- (5) *Eligible member* shall mean a retired member of the System whose benefits thereunder are reduced by the application of the limitations on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans.
  - (6) *Enabling statute* shall mean Chapter 13 of Title 51.1 of the *Virginia Code*, as amended.
  - (7) *Grantor trust* shall mean the trust fund described in Subsection (i)(3) of this Section and established and maintained for the Benefit Restoration Plan.
  - (8) *Participant* shall mean an eligible member qualified to participate in the Benefit Restoration Plan.
  - (9) *Plan sponsor* shall mean the Board of Supervisors.
  - (10) *Plan year* shall mean the 12-month period beginning on July 1.
  - (11) *Restoration death benefit* shall mean the benefit due the beneficiary of a participant under the Benefit Restoration Plan as determined under this Section.
  - (12) *Restoration retirement benefit* shall mean the benefit due a participant or his or her beneficiary under the Benefit Restoration Plan determined under this Section.
- (d) Eligibility and participation.
- (1) Eligibility and date of participation. Each eligible member shall be a participant in the Benefit Restoration Plan commencing with the date he or she first becomes, or again becomes, an eligible member.
  - (2) Length of participation. Each eligible member who becomes a participant shall be or remain a participant for so long as he or she is entitled to future benefits under the terms of the Benefit Restoration Plan.
- (e) Restoration retirement benefit. Subject to the terms and conditions set forth in this Section, a participant who retires or is retired under the System and who is entitled to the payment of benefits under the System shall be entitled to a restoration retirement benefit, generally expressed as a benefit payable monthly for the life of the participant and commencing at the applicable time provided under this Article, equal to the excess, if any, of:
- (1) The amount of the participant's retirement allowance under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
  - (2) The amount of the participant's retirement allowance under the System.
- To the extent that the participant's retirement allowance payable under the System is increased at any time due to increases in limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the U.S. Secretary of the Treasury or his or her delegate or otherwise, the participant's restoration retirement benefit shall be reduced correspondingly.
- (f) Death benefit.
- (1) Death after benefit commencement. If a participant dies after his or her restoration retirement benefit commences to be paid, the only benefits payable under the Benefit Restoration Plan to his or her beneficiary after his or her death shall be those, if any, provided under the form of payment being made to him or her at his or her death.
  - (2) Death before benefit commencement. If a participant dies before his or her restoration retirement benefit commences to be paid, the only benefit payable under the Benefit Restoration Plan with respect to him or her shall be the restoration death benefit, if any, provided in Subsection (f)(3) of this Section.
  - (3) Restoration death benefit. Subject to the terms and conditions set forth herein, if a participant dies on or after the effective date and before his or her restoration retirement benefit commences to be paid, his or her beneficiary shall be entitled to a restoration death benefit as follows:

- (A) If his or her beneficiary is entitled to receive any death benefit under the System, such beneficiary shall be entitled to receive as a restoration death benefit under the Benefit Restoration Plan an amount equal to the excess, if any, of:
  - (i) The amount of such death benefit under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
  - (ii) The actual amount of such death benefit under the System.

To the extent that the participant's accrued benefit or any death benefit payable under the System is increased at any time due to increases in the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the U.S. Secretary of the Treasury or his or her delegate or otherwise, the participant's restoration death benefit shall be reduced correspondingly.

- (g) Vesting. A participant's restoration retirement benefit or restoration death benefit, as the case may be, shall be vested at the time of his or her retirement under the System or death, but only to the extent, and determined in the manner, that such participant has a vested and non-forfeitable right to his or her retirement allowance under the System.
- (h) Payment of benefits.
  - (1) Timing and manner for payment of benefits. A participant's restoration retirement benefit, or the restoration death benefit, shall be payable at the same time and in the same manner as the participant's retirement allowance or comparable death benefit (other than his or her accumulated contributions or contribution refund death benefit) is paid under the System, whether as elected by the participant or otherwise payable. For a member who is receiving a retirement allowance under the System on the effective date, and who would immediately be an eligible member upon the effective date, such member shall immediately commence receiving a restoration retirement benefit on a prospective basis.
  - (2) Discretionary use of other methods of payment. In the sole discretion of the Administrator, monthly payment amounts of less than \$100.00, or such amount as the Administrator may from time to time determine, may be paid on an annual or semi-annual basis, in arrears and without interest.
  - (3) Benefit determination and payment procedure. The Administrator shall make all determinations concerning eligibility for benefits under the Benefit Restoration Plan, the time or terms of payment, and the form or manner of payment to the participant (or the participant's beneficiary in the event of the death of the participant). The Administrator shall promptly notify the employer and, where payments are to be made from a grantor trust, the trustee thereof, of each such determination that benefit payments are due and provide to the employer or trustee such other information necessary to allow the employer or trustee to carry out said determination, whereupon the employer or trustee shall pay such benefits in accordance with the Administrator's determination.
  - (4) Payments to minors and incompetents. If a participant or beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits shall be paid to such person as the Administrator may designate for the benefit of such participant or beneficiary. Such payments shall be considered a payment to such participant or beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Benefit Restoration Plan.
  - (5) Distribution of benefit when distributee cannot be located. The Administrator shall make all reasonable attempts to determine the identity and/or whereabouts of a participant or his or her beneficiary entitled to benefits under the Benefit Restoration Plan, including the mailing by certified mail of a notice to the last known address shown on the employer's or the Administrator's records. If the Administrator is unable to locate such person entitled to benefits hereunder, or if there has been no such claim made for such benefits, the employer shall continue to hold the benefit due such person, subject to any applicable statute of escheats.

- (i) Funding.
  - (1) The undertaking to pay the benefits hereunder shall be unfunded obligations payable solely from the general assets of the employer and subject to the claims of the employer's creditors.
  - (2) Except as provided in a grantor trust established as permitted under Subsection (i)(3) of this Section, nothing contained in the Benefit Restoration Plan and no action taken pursuant to this Section shall create or be construed to create a trust of any kind of a fiduciary relationship between the employer and the participant or his or her beneficiary or any other person or to give any participant or beneficiary any right, title, or interest in any specific asset or assets of the employer. To the extent that any person acquires a right to receive payments from the employer under the Benefit Restoration Plan, such rights shall be no greater than the right of any unsecured general creditor of the employer.
  - (3) Use of grantor trust permitted. Notwithstanding any provision of this Section to the contrary, the Benefit Restoration Plan Sponsor may in its sole discretion elect to establish and fund a grantor trust for the purpose of providing benefits under the Benefit Restoration Plan.
- (j) Plan administrator.
  - (1) The Plan Administrator shall have full and complete authority and discretion to control and manage the operation of and shall decide all matters under the Benefit Restoration Plan pursuant to this Section and the enabling statute. The Administrator shall have any and all powers as may be necessary or advisable to discharge its duties under the Benefit Restoration Plan including the power and authority to interpret the terms of the Benefit Restoration Plan.
  - (2) The Plan Administrator shall be responsible for performing the duties required for the operation of the Benefit Restoration Plan, and shall be responsible for supervising the performance of any other persons who may assist in the performance of the Plan Administrator's responsibilities under this Section and the enabling statute.
  - (3) To enable the Plan Administrator to perform its responsibilities, employer(s) shall promptly provide to the Plan Administrator complete and accurate information on any matter that is required by the Administrator in order to make any decision or determination under the Benefit Restoration Plan. The Plan Administrator shall rely upon this information supplied by the employer, and shall have no duty or responsibility to verify this information.
  - (4) Except as prohibited by law or by this Section, the Plan Administrator may delegate any of its duties to the Executive Director. The Plan Administrator may contract with any person to provide services to assist in the administration of the Benefit Restoration Plan. The Plan Administrator shall make such contracts in compliance with all applicable state and local laws and regulations. Any person other than the Plan Administrator who performs services regarding the Benefit Restoration Plan shall be subject to the supervision and direction of the Plan Administrator and shall not have the authority to control the operation of the Plan.
- (k) Termination and amendment of Benefit Restoration Plan.
  - (1) Termination. The Board of Supervisors hereby reserves the right to terminate this Benefit Restoration Plan at any time; provided, that no such termination shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such termination.
  - (2) Amendment. The Board of Supervisors hereby reserves the right to amend this Benefit Restoration Plan at any time; provided, that no such amendment shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such amendment.
- (l) Non-assignability. The interests of each participant hereunder in the Benefit Restoration Plan are not subject to the claims of the participant's creditors; and neither the participant nor his or her beneficiary, shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Benefit Restoration Plan, which payments and interest are expressly declared to be non-assignable and non-transferable. Notwithstanding the foregoing, the

Plan Administrator shall honor any process for a debt to the employer who has employed the participant and any administrative actions pursuant to Section 63.2-1900 et seq. of the *Virginia Code*, or any court process to enforce a child or spousal support obligation, in the manner as described in Section 3-2-6 mutatis mutandi. Restoration retirement benefits and/or restoration death benefits created under this Section which are deemed to be marital property pursuant to Section 20-89.1 et seq. of the *Virginia Code* may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Virginia Code*. Under no circumstances shall a payment under this Subsection take place before the participant's benefit under the System is actually paid. (12-06-3; 2-16-3.)

## ARTICLE 3. - Fairfax County Uniformed Retirement System.

## Division 1. - Generally.

## Section 3-3-1. - Fairfax County Uniformed Retirement System established.

Under the authority of Section 51.1-801 of the *Virginia Code*, there is hereby established a retirement system for employees, to be known as the "Fairfax County Uniformed Retirement System," by and in which name it shall, pursuant to the provisions of this Article, transact all of its business. The Fairfax County Uniformed Retirement System is intended to satisfy the requirements of Sections 401(a) and 414(d) of the Internal Revenue Code for qualified governmental pension plans. (1961 Code, § 9-73; 11-74-9; 28-77-3; 51-13-3; 3-16-3.)

## Section 3-3-2. - Definitions.

Unless provided otherwise in another Section, the following definitions shall apply to this Article:

(a) *Accrued sick leave credit* shall mean:

- (1) For employees ~~whose County employment commenced by reporting for work before January 1, 2013~~ who are (members of Plans A, B, C, or D), the credit allowed a member with more than five years of service for purposes of determining retirement eligibility. Credit shall be allowed at the rate of one month for every 172 hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof.
- (2) For employees ~~whose County employment commenced by reporting for work on or after January 1, 2013 (who are~~ members of Plans E or F) ~~and for employees whose County employment commenced by reporting for work on or after July 1, 2019 (Plan F)~~, the credit allowed a member with more than five (5) years of service for purposes of determining retirement eligibility. Credit shall be allowed at the rate of one month for every 172 hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof; however, for employees whose County employment commenced by reporting to work on or after January 1, 2013, notwithstanding the amount of the employee's accrued sick leave balance, the maximum amount of accrued sick leave credit that may be used for determining retirement eligibility and for computing the member's retirement allowances and benefits shall be the employee's accrued sick leave balance or 2,080 hours, whichever is less.

(b) *Accumulated contributions* shall mean the sum of all amounts deducted or picked up from the compensation of a member and credited to his or her individual account in the members' contribution account, any amounts transferred from another retirement plan pursuant to Section 3-3-25.1, together with interest credited on such amounts and any other amounts he or she shall have contributed or transferred thereto as provided in Section 3-3-29(c).(c) *Actuarial equivalent* shall mean a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board.(d) *Average final compensation* shall mean the average annual creditable compensation of a member during the three consecutive years (78 consecutive pay periods) of creditable service in which such compensation was at its greatest amount, or during the entire period of his or her creditable service if less than three years, for a member of Plan A, B, C, ~~or D, or E,~~ or 60 consecutive months (130 consecutive pay periods for members who are paid on a biweekly basis) for a member of Plan F, or during the entire period of his or her creditable service if less than five years. In determining creditable compensation, premium payments such as overtime pay shall not be included.

- (1) In determining average final compensation for members who retire on or after January 1, 1988, the member's accrued unused sick leave at the time of retirement may, at the option of the member, be substituted for an equivalent period of creditable service as if the

member had continued to work at his or her final salary during the period of his or her accrued unused sick leave; provided, that in determining the average final compensation for members who became members of the System on or after January 1, 2013 (members of Plans E and F,) ~~and for members who became members of the System on or after July 1, 2013 (members of Plan F),~~ no more than 2,080 hours of the member's accrued unused sick leave may be used for this purpose.

- (2) If a member ordered or called to active duty with the armed forces of the United States on or after August 2, 1990, with or without his or her consent, other than for training at the request of the member, is entitled to service credit as a result of such military service pursuant to Section 3-3-25(b) and he or she otherwise would have no creditable compensation attributable to some portion or all of such period of service, his or her average final compensation shall be calculated as if he or she had continued to receive the creditable compensation as defined in this Article and approved and established for his or her position by the County Compensation Plan, including pick-up contributions, during the period of military service for which he or she is receiving service credit. A member shall be entitled to the benefit of the application of this rule for up to a cumulative total of four years of military service commencing on or after August 2, 1990. The Board shall make any and all necessary retroactive adjustments to members' allowances as a result of this rule.
- (3) Notwithstanding the foregoing, whenever the Director of the Department of Human Resources, at the request of the Board, the member, or the member's beneficiary, determines that the member's receipt of a merit increment was delayed as a result of either or both of the amendments to Section 4.3-2 of the Personnel Regulations, effective July 13, 1991, and July 11, 1992, and that the member would otherwise have been entitled to such merit increment under the Personnel Regulations, based upon the Human Resources Director's review of the member's personnel and payroll records, the Board shall calculate the member's average final compensation as if the member had received the merit increment at the time he or she would have but for the aforesaid amendments to Section 4.3-2 of the Personnel Regulations. This rule shall apply to all applications for allowances and benefits filed with the Board on or after July 13, 1991. The Board shall make any necessary retroactive adjustments to allowances and benefits.
- (4) Periods of leave without pay under the federal Family and Medical Leave Act of 1993 (FMLA) shall be disregarded in determining periods of consecutive months or pay periods in calculating average final compensation.
- (e) *Beneficiary* shall mean any person entitled to receive benefits as provided by the System. The Board shall provide a member with a form on which to designate in writing one or more beneficiaries of the member's benefits upon the member's death. The Board shall maintain any such written designation on file. A designated beneficiary may be changed from time to time by written notice by the member filed with the Board.
- (f) *Board* shall mean the Board of Trustees of the System, as provided for in this Article.
- (g) *Creditable compensation* shall mean the full compensation, including pick-up contributions, holiday hours worked, administrative emergency leave worked, shift differential paid and regularly scheduled hours paid, credited at the base rate of pay but excluding premium pay such as all overtime, including Fair Labor Standards Act (FLSA) overtime and excluding performance bonuses. Effective for plan years after December 31, 1988, compensation in excess of \$200,000.00, as indexed under Section 415(d) of the Internal Revenue Code, shall be disregarded. Notwithstanding the foregoing, effective for members whose County employment commenced by reporting for work on or after July 1, 1996, compensation in excess of the limit set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. In determining the compensation of an employee under this definition, the rules of Section 415(c)(3) of the Internal Revenue Code shall apply. Effective for plan years on or after January 1, 2001 an employee's compensation shall include amounts not includible in gross income by reason of Section 132(f)(4) of the Internal Revenue Code.

- (h) *Creditable service* shall mean the sum of membership service credit, plus prior service credit, plus portability service credit purchased pursuant to Section 3-3-25.1, plus accrued sick leave credit.
- (i) *DROP* shall mean the Deferred Retirement Option Program, as provided in Section 3-3-573-3-56.
- (j) *Early retirement* shall mean the retirement upon completion of 20 years of service with an actuarial reduction of the normal retirement allowance accrued.
- (k) *Employee* shall mean any person regularly employed within the Fire and Rescue Department, the Sheriff's Department, and the Department of Animal Control, with the exception of clerical personnel in these departments, or as a park police officer or helicopter pilot, rendering service to the County, and any person regularly employed within the Department of Public Safety Communications who transferred into the System pursuant to Section 3-2-19(e) or who was appointed to a position in the classes identified in Section 3-3-20(a)(4) on or after July 1, 2005, whose compensation is fully or partially paid directly or indirectly by the County.
- (l) *Employer* shall mean an authority in the general County having the power to appoint an employee to office or employment paid directly or indirectly by the County and the Board of Trustees of the System.
- (m) *Executive Director* shall mean the Executive Director of the Fairfax County Retirement Administration Agency.
- (n) *Internal Revenue Code* shall mean the federal income tax statutes, as they may be amended or superseded from time to time in the future.
- (p) *Medical Examining Board* shall mean the physician or physicians provided for by Section 3-3-10.
- (q) *Member* shall mean any person included in the membership of the System as provided in Section 3-3-20.
- (r) *Membership service credit* shall mean credit for service rendered while a member of the System, or as otherwise provided in Section 3-3-24.
- (s) *Normal retirement date* shall mean either (1) the member's 55th birthday, provided, said member shall have completed six years of creditable service as a uniformed member of the Fire and Rescue Department, Sheriff's Department, or Department of Animal Control, or as a park police officer, helicopter pilot, or sheriff, or (2) the date the member completes 25 years of creditable service as a uniformed member of the Fire and Rescue Department, Sheriff's Department, or Department of Animal Control, or as a park police officer, helicopter pilot, or sheriff. The normal retirement date for members who are former park police officers who elected to remain in the System pursuant to Section 3-3-20(b)(2) shall be computed in the same manner. Creditable service for these members shall include service both as a park police officer and as a police officer.
- (t) *Pick-up contributions* shall mean a member's regular contribution which is picked up, through a salary reduction, by the County from the member's compensation for service rendered on or after December 22, 1984.
- (u) *Plan A* shall mean the option effective July 1, 1981, available to employees whose County employment commenced by reporting for work on or before March 31, 1997, providing for current members of Plan A to:
  - (1) Contribute four percent of compensation up to the taxable wage base and five and three-fourths percent of compensation in excess of the taxable wage base; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(A) and (B) or as provided for in Section 3-3-33(a)(2)(A). Further, cost-of-living adjustments shall not be applicable to the allowance until the member reaches age 55 years, at which time the full benefits prescribed in Section 3-3-33 and Section 3-3-45 shall become payable.

- (v) *Plan B* shall mean the provision effective July 1, 1981, allowing current members the option and requiring new members whose County employment commenced by reporting for work on or before March 31, 1997, to:
  - (1) Contribute seven and eight-one-hundredths percent of compensation up to the taxable wage base and eight and eighty-three-one-hundredths percent of compensation in excess of the taxable wage base; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(A), (B), and (C) or as provided for in Section 3-3-33(a)(2)(A) and (B). Cost-of-living adjustments provided for in Section 3-3-45 shall be applied to this amount from the date of retirement. Additionally, 50 percent of the retirement allowance provided in Section 3-3-33(a)(1)(B) shall be payable from the date of retirement. Upon attainment of age 55 years, benefits shall be based on the provisions of Section 3-3-33(a)(1)(A) and (B).
- (w) *Plan C* shall mean the provision effective April 1, 1997, allowing then-existing members of Plan A who elect to transfer to Plan C prior to April 1, 1997, to:
  - (1) Contribute four percent of compensation; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(D) or as provided for in Section 3-3-33(a)(2)(C). Further, cost-of-living adjustments shall not be applicable to the allowance until the member reaches age 55 years, at which time the full benefits prescribed in Sections 3-3-33 and 3-3-45 shall become payable.
- (x) *Plan D* shall mean the provision effective April 1, 1997, allowing then-existing members of Plan B, and requiring new members whose County employment commenced by reporting for work on or after April 1, 1997, but on or before December 31, 2012, to:
  - (1) Contribute seven and eight-one-hundredths percent of compensation; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(D) or as provided for in Section 3-3-33(a)(2)(D). Cost-of-living adjustments provided for in Section 3-3-45 shall be applied to this amount from the date of retirement.
- (y) *Plan E* shall mean the option effective ~~beginning on~~ January 1, 2013, requiring new members whose County employment commenced by reporting for work on or after January 1, 2013, and before July 1, 2019, to:
  - (1) Contribute seven and eight-one-hundredths percent of compensation; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(D) or as provided for in Section 3-3-33(a)(2)(D). Cost-of-living adjustments provided for in Section 3-3-45 shall be applied to this amount from the date of retirement.
- ~~(-Zz)~~— *Plan F* shall mean the option effective July 1, 2019, requiring new members whose County employment commenced by reporting for work on or after July 1, 2019, to-
  - (A) Contribute seven and eight-one-hundredths percent of compensation; and
  - (B) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(D) or as provided for in Section 3-3-33(a)(2)(d) and as provided for Section 3-3-33(3)(C). Cost of living adjustments provided for in Section 3-3-45 shall be applied to this amount from the date of retirement.
- ~~(aa)z~~ *Primary social security benefit* shall mean the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the federal Social Security Act as in effect at his or her date of retirement, under the provisions of this Chapter, except as otherwise specifically provided.

- (~~bb~~aa) *Prior service credit* shall mean credit for service rendered prior to the effective date of this Article [May 6, 1974], or as otherwise provided in Section 3-3-25.
- (~~cc~~bb) *Qualifying employment* shall mean employment that qualifies an employee for participation in the System, and defined specifically to mean regular employment by the Fire and Rescue Department, the Sheriff's Department, and the Department of Animal Control, with the exception of clerical employment in these departments, or as a park police officer or helicopter pilot rendering service to the County, whose compensation is fully or partially paid directly or indirectly by the County.
- (~~dd~~ee) *Retirement allowance* shall mean the retirement payments to which a member is entitled as provided in this Article.
- (~~ee~~dd) *Salary* shall mean the compensation, including pick-up contributions, established for each position as approved in the County Compensation Plan.
- (~~ff~~ee) *Service* shall mean service as an employee for which compensation is paid by the employer, but shall not include time spent on leave without pay.
- (~~gg~~ff) *Social security* shall mean the federal Social Security Act and its programs for old age, survivors and disability insurance and benefits, as applicable.
- (~~hh~~gg) *Social security breakpoint* shall mean the average of the taxable wage base for the 35 calendar years ending with the year in which the member attains social security normal retirement age. In determining a member's social security breakpoint during any particular plan year, it is assumed that the taxable wage in effect at the beginning of the plan year shall remain the same for all future years.
- (~~ii~~hh) *System* shall mean the Fairfax County Uniformed Retirement System. When any part of this Article refers to multiple retirement systems, the Uniformed Retirement System shall be referred to as "this System," rather than "the System."
- (~~iii~~i) *Taxable wage base* shall mean the maximum amount of wages received during the calendar year on which social security taxes are payable by the member and by the employer, as such amount is defined in Section 3121(a) of the Internal Revenue Code.

(1961 Code, § 9-72; 11-74-9; 28-77-3; 20-81-3; 5-83-3; 22-83-3; 23-85-3; 36-88-3; 29-89-3; 27-90-3, § 3; 43-92-3; 15-93-3; 37-94-3; 21-96-3; 14-00-3; 10-01-3; 18-01-3; 8-03-3; 8-04-3; 36-10-3; 27-12-3; 3-16-3.)

Section 3-3-2.1. - Definitions elsewhere in County Code and in County Personnel Regulations.

Unless this Article provides otherwise, the definitions provided in Sections 1-1-2, 3-3-1, and 3-3-12 of the Code of the County of Fairfax, and Chapter 2 of the Fairfax County Personnel Regulations shall apply herein. (3-16-3.)

Section 3-3-3. - Social Security Breakpoint.

Repealed by 3-16-3.

Section 3-3-4. - Duties of appointing authorities.

The authority having the power to hire the services of a member shall keep such records and from time to time shall furnish such information as the Board may require in the discharge of its duties. Upon employment of a member, the authority shall inform the member of his or her duties and obligations in connection with the System as a condition of employment. (1961 Code, § 9-74; 11-74-9; 3-16-3.)

Section 3-3-5. - Consent to provisions of Article required for employment.

By and upon acceptance of employment, every member shall be deemed to consent and agree to any deductions or employer pick-up of amounts from his or her compensation required by this Article and to all other provisions thereof. (1961 Code, § 9-75; 11-74-9; 5-85-3; 3-16-3.)

Section 3-3-6. - Protection against fraud.

In addition to any other provisions of law, any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of the System in any attempt to defraud the System shall be guilty of a misdemeanor and shall be punished accordingly. (1961 Code, § 9-76; 11-74-9; 3-16-3.)

Section 3-3-7. - Benefits unassignable; non-attachable.

The right of any member to a retirement allowance, the return of accumulated contributions or any other right accrued or accruing to any person under this Article and the money created by this Article shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws or any other process of law whatsoever except for administrative actions pursuant to Section 63.2-1900 et seq. of the *Virginia Code*, or any court process to enforce a child or child and spousal support obligation, and shall be unassignable except as specifically provided in this Article. However, retirement benefits and assets created under this Article which are deemed to be marital property pursuant to Section 20-89.1 et seq. of the *Virginia Code*, may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Virginia Code*. (1961 Code, § 9-77; 11-74-9; 3-80-3; 5-85-3; 13-92-3; 1-93-3; 3-16-3.)

Section 3-3-8. - Errors resulting in over- or under-payment.

Should any change or error in the records result in any member or beneficiary receiving from the System more (overpayment) or less than he or she would have been entitled to receive had the records or computation been correct, the Board shall have the power to correct such error and, as far as practicable, to adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. (1961 Code, § 9-78; 11-74-9; 3-16-3.)

Section 3-3-9. - Amendment of Article.

The Board of Supervisors shall have the continuing right and power to amend or supplement this Article at any time, which right and power is hereby expressly reserved. But no amendment shall be made unless an actuarial report has been filed with the Board of Supervisors as to its effect upon the System and no amendment shall be adopted which shall reduce the then accrued benefits of members or beneficiaries below the extent they are then covered by accumulated reserves, which reserves shall constitute a trust fund for the payment of such benefits. (1961 Code, § 9-79; 11-74-9; 3-16-3.)

Section 3-3-10. - Medical Examining Board.

The Medical Examining Board shall consist of the Director of the Health Department (or his or her designee) and, in the discretion of the Board, one or two other physicians designated by the Board. The duties of the Medical Examining Board shall be to arrange for and pass upon all medical examinations required under this Article or requested by the Board and to investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement. The members of the Medical Examining Board, who may act individually or collectively, shall report in writing to the Board their conclusions and recommendations upon all matters referred to it. (1961 Code, § 9-80; 11-74-9; 27-97-3; 3-16-3.)

Section 3-3-10.1. - Post-employment physical examinations.

- (a) Any member or person eligible to participate in the System who applies for service-connected disability retirement or severe service-connected disability retirement on or after July 1, 2004, shall disclose to the Board any and all medical records and information, including, but not limited to any pre-employment or post-employment physical examination, any examination made relating to any claim under the Virginia Workers' Compensation Act and any and all other further tests or examinations required by the Board to assist it in its determination of whether the disability for which the member seeks retirement is service-connected or if it is the result of a preexisting condition.
- (b) Failure to disclose to the Board any medical record or information required hereunder or to undergo any further required tests or examinations shall preclude a member who does not disclose such medical records and information or such other further tests or examinations from receiving service-connected disability retirement as provided for in Section 3-3-36 and from receiving severe service-connected disability retirement as provided for in Section 3-3-37.2. (34-04-3; 3-16-3.)

Division 2. - Board of Trustees.

Section 3-3-11. - Administration of System vested in Board of Trustees.

The general administration and the responsibility for the proper operation of the System and for making effective the provisions of this Article are hereby vested in the Board. (1961 Code, § 9-81; 11-74-9; 3-16-3.)

Section 3-3-12. - Membership; term of office.

(a) The Board of Trustees of the System shall consist of the following members:

- Four persons appointed by the Board of Supervisors;
- Two persons elected by the uniformed employees of the Fire and Rescue Department and the employees of the Department of Public Safety Communications;
- One person elected by the uniformed employees of the Sheriff's Department and the Department of Animal Control and park police and helicopter pilot members of the System;
- One person elected by the retirees of the System;
- Director of the Department of Finance, who shall be the Treasurer of the Board, or his or her permanent designee, sitting ex officio; and
- Director of the Department of Human Resources, or his or her permanent designee, sitting ex officio.

(b) With the exception of the Director of the Department of Finance and Director of the Department of Human Resources, the terms of office of the trustees shall be four years.

(c) The only persons eligible to be elected by the uniformed employees of the Fire and Rescue Department and the employees of the Department of Public Safety Communications as trustees are uniformed employees of the Fire and Rescue Department and employees of the Department of Public Safety Communications. The only persons eligible to be elected as a trustee by the uniformed employees of the Sheriff's Department and the Department of Animal Control and park police and helicopter pilot members of the System are uniformed employees of the Sheriff's Department and the Department of Animal Control and park police and helicopter pilot members of the System. The offices of such trustees shall be vacated should such trustees separate from service prior to the completion of their term.

(d) The only persons eligible to be elected as a trustee by the retirees of the System are retirees of the System. (1961 Code, § 9-82; 11-74-9; 20-81-3; 13-92-3; 40-93-3; 36-10-3; 59-13-3; 3-16-3.)

Section 3-3-13. - Vacancies in office.

If a vacancy occurs in the office of a trustee of the System, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. (1961 Code, § 9-83; 11-74-9; 3-16-3.)

Section 3-3-14. - Compensation of trustees.

The trustees of the System may receive compensation at the rate set by the Board of Supervisors. (1961 Code, § 9-84; 11-74-9; 3-16-3.)

Section 3-3-15. - Accountable to the Board of Supervisors.

The Board of Trustees of the System shall be accountable to the Board of Supervisors. (1961 Code, § 9-85; 11-74-9; 3-16-3.)

Section 3-3-16. - Functions of the Board.

- (a) Subject to the limitations of this Article, the Board shall, from time to time, establish rules and regulations for the administration of the System and for the transaction of its business, copies of which shall be made available to interested parties.
- (b) The Board may employ and pay out of the System funds for all services as shall be required.
- (c) The Board shall keep in convenient form such data as shall be necessary for an actuarial valuation of the System and for checking the experience of the System.
- (d) The Board shall keep minutes of all its proceedings, which shall be open to public inspection unless applicable law provides otherwise.

- (e) The Board shall submit to the Board of Supervisors annually an independent audit showing the fiscal transactions of the System for the preceding fiscal year, the amount of accumulated cash and securities of the System, and the last balance sheet indicating the financial condition of the System.
- (f) At least once in each two-year period, beginning July 1, 1969, the Board shall cause an actuarial evaluation to be made of the System.
- (g) The Board shall review adverse decisions as provided by Section 3-3-49. (1961 Code, § 9-86; 11-74-9; 3-16-3.)

Division 3. - Management of Funds.

Section 3-3-17. - Board trustee of funds; investment of same.

- (a) The Board shall be the trustee of funds created by this Article and shall have full power to invest and re-invest such funds. Such investments and re-investments shall be conducted with bona fide discretion and in accordance with the laws of the Commonwealth of Virginia as such laws apply to fiduciaries investing such funds. The Board may, upon the exercise of bona fide discretion, employ investment counsel, who shall be subject to the same limitations herein provided for the Board. Subject to such limitations, the Board shall have full power to hold, purchase, sell, assign, transfer, or otherwise dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as the proceeds of such investments and any money belonging to such funds.
- (b) No trustee shall be personally liable for losses suffered by the System on investments made under the authority of and in compliance with this Section. (1961 Code, § 9-87; 11-74-9; 3-16-3.)

Section 3-3-18. - Treasurer fiscal officer of the Board.

The Treasurer of the Board shall be the custodian of all of its funds and securities or evidences of such when in the custody of a fiduciary agent. He or she shall give bond, conditioned upon the faithful performance of his or her duties and the proper accounting of all funds and securities coming into his or her hands. He or she shall deposit all money in the name of the Board and disburse the same only on vouchers signed by such person as is designated for the purpose by the Board. (1961 Code, § 9-88; 11-74-9; 3-16-3.)

Section 3-3-19. - Prohibited interest of member or employee of Board.

- (a) The State and Local Government Conflict of Interests Act, Section 2.2-3100 et seq. of the *Virginia Code*, shall apply to members and employees of the Board.
- (b) No member or employee of the Board shall, directly or indirectly, for himself or herself or as an agent in any manner use the funds of the System, except to make such current and necessary payments as are authorized by the Board. (1961 Code, § 9-89; 11-74-9; 3-16-3.)

Division 4. - Membership in System.

Section 3-3-20. - Membership composition.

- (a) Membership shall be composed of the following:
  - (1) Present employees, as hereinafter identified, except those listed in Subsection (2)(B) of this Section:
    - (A) All persons who were employees on the effective date of this Article or who were on leave from service on such date; or
    - (B) Any employee, otherwise qualified, who has been a member of another Fairfax County retirement system, and who has withdrawn therefrom, provided he or she pays into this System all contributions which would have been due from him or her had he or she been a member of this System, plus interest at the rate or rates, as established by the Board, for each of the years for which membership service credit is sought.
  - (2) Future employees, as hereinafter identified, except those listed in Subparagraph (B) of this Subsection:
    - (A) All persons who hereafter shall become employees, persons receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement

System, or Fairfax County Police Officers Retirement System eligible for membership only under the terms and conditions set forth in Section 3-3-43.

- (B) Employees who are members of the Virginia Retirement System (VRS) and the Educational Employees Supplemental Retirement System of Fairfax County (ERFC), the Employees' Retirement System, or the Police Officers Retirement System, and future employees who are eligible to become members of those systems are not eligible for membership in this System; provided, that an employee who is a member of such a system shall be eligible for membership in this System if he or she elects in writing to withdraw from such system, pursuant to the rules and regulations of this System and of the system of which he or she was previously a member. If the withdrawal from the other system occurs due to being employed in a different position by the same appointing authority, the employee shall be required to purchase service credit under this System for service rendered while a member of such other system, pursuant to the rules of Section 3-3-24. If the withdrawal from the other system occurs due to being employed by a different appointing authority, the employee shall be permitted but not required to purchase service credit under this System for service rendered while a member of such other system, pursuant to the rules of Section 3-3-24. Elected officials, who elect in writing at the time of their employment not to become members, shall be exempted from this System.
- (3) The membership in this System of uniformed employees of the Department of Animal Control transferred from the Employees' Retirement System to this System pursuant to Section 3-2-19(d) shall commence on October 1, 1985, or date of appointment, whichever is later. For purposes of this Article, such members shall be deemed to have been appointed on or after January 1, 1984, regardless of being granted any membership service credit pursuant to Section 3-3-24. Uniformed employees of the Department of Animal Control, including the Director, appointed on or after October 1, 1985, shall become members of this System upon appointment.
- (4) The membership in this System of certain employees of the Public Safety Communications Center transferred from the Employees' Retirement System to this System pursuant to Section 3-2-19(e), shall commence on October 1, 2005, or date of appointment, ~~which ever~~ whichever is later. Employees of the Public Safety Communications Center appointed on or after July 1, 2005, in the class specification Public Safety Communications Squad Supervisor, Public Safety Communications Assistant Squad Supervisor, Public Safety Communicator III, Public Safety Communicator II or Public Safety Communicator I, or any successor class specification(s) to these class specifications, shall become members of this System upon appointment.
- (b) Park police transferring to the Fairfax County Police Officers Retirement System.
  - (1) Members of this System who were park police and who were reclassified as police officers on January 22, 1983, shall, within 30 days of the adoption of this Subsection [June 20, 1983], make an irrevocable election, in writing, whether to remain members of this System or to transfer to the Fairfax County Police Officers Retirement System.
  - (2) Members of this System who were park police and who were reclassified as police officers on January 22, 1983, who elect to remain as members of this System shall continue as members of this System.
  - (3) Members of this System who were park police and who were reclassified as police officers on January 22, 1983, who elect to transfer to the Police Officers Retirement System shall cease to be members of this System and shall be members of the Police Officers Retirement System as of January 22, 1983.
  - (4) Members who elect to transfer to the Police Officers Retirement System pursuant to Subsection (b)(3) of this Section shall make a further election among the following options at the time of their election under Subsection (b)(1) of this Section:
    - (A) Withdraw the total of his or her accumulated member contributions (with interest) as of January 22, 1983, which shall be reduced by the amount of any retirement allowances

previously received by him or her under this Article. Any member contributions to this System after January 22, 1983, shall be transferred to the transferee's member account in the Police Officers Retirement System. Said refund shall be paid to the member not later than 90 days from the date of receipt of the member's election by the Board; or

- (B) If the member has five or more years of creditable service in this System on January 22, 1983, the member may leave his or her accumulated contributions as of January 22, 1983, in this System and receive a deferred vested benefit commencing on the first of the month coinciding with or following the date the member attains age 55 years, or in an actuarially reduced amount payable at the optional early retirement age, in accordance with applicable provisions of this Article; and any member contribution made to this System after January 22, 1983, shall be transferred to the transferred member's account in the Police Officers Retirement System; or
  - (C) The member may transfer his or her accumulated contributions to the Police Officers Retirement System to obtain prior service credit in that system pursuant to Section 3-7-20(b). In this case, the Board shall transfer the member's accumulated contributions (plus interest) as well as that portion of the retirement allowance account representing employer contributions to this System attributable to the member's service in this System to the Police Officers Retirement System.
- (5) Members who are required by Subsection (b)(1) of this Section to make an election whether to transfer to the Police Officers Retirement System who fail to do so within the 30 day period provided therein shall be deemed to have elected to continue in this System pursuant to Subsection (b)(1) of this Section.
- (6) Participation in this System of former members who return to qualifying employment ~~shall be determined in accordance with the following terms and conditions: and~~
- ~~(A) Former members~~ who have not withdrawn their accumulated contributions from this System as provided in Section 3-3-39 shall return to membership in the plan to which they were contributing at the time their former employment ceased.
- ~~(B) Former members who withdrew their accumulated contributions from this System as provided in Section 3-3-39 subsequent to the cessation of their former employment shall become members of Plan D upon their return to qualifying employment. A former member may purchase membership service credit for the period of his or her prior employment, provided that he or she pays into this System all contributions that would have been due from him or her had he or she been a member of this System during the period of his or her prior employment, plus interest on such contributions at the rate or rates established by the Board, for each of the years for which membership service credit is sought. Any election to purchase membership service credit for periods of prior employment under this Subsection must be made within one year after the former member returns to qualifying employment.~~
- (c) Members of the System who were deputy sheriffs and who as deputy sheriffs had been performing nursing and/or paramedical duties in the Sheriff's Department and who when reassigned to civilian positions in the Sheriff's Department allocated to one of the classes in the Correctional Health Nurse class series, shall, notwithstanding any other provision in this Chapter to the contrary, remain as members of the System so long as they remain in such positions and for so long as they remain so continuously employed in a position allocated to such classes in the Sheriff's Department or in other positions covered by this Article.
- (d) Notwithstanding any other provision of this Chapter or Article to the contrary, an active member of this System who has more than five years of creditable service in this System and who is appointed to serve as a Deputy County Executive shall remain a member of this System, and shall not become a member of the Fairfax County Employees' Retirement System as a result of such appointment. Any such member shall remain a member of this System for so long as he or she is so employed or subsequently resumes working in a position that is covered under this System. (1961 Code, § 9-90; 11-74-9; 35-81-3; 22-83-3; 23-85-3; 36-86-3; 45-93-3, 10-01-3; 32-02-3; 23-05-3; 27-12-3; 3-16-3.)

Section 3-3-21. - Cessation of membership.

The membership of any person in the System shall cease:

- (a) If he or she ceases to be an employee for a period of five years; or
- (b) Upon separation and withdrawal of his or her accumulated contributions; or
- (c) Upon death. (1961 Code, § 9-91; 11-74-9; 20-81-3; 3-16-3.)

Division 5. - Service Credit.

Section 3-3-22. - Statement to be filed with Board.

Under such rules and regulations as are adopted by the Board, each member or someone on his or her behalf shall file with the Board in such form as the Board may prescribe, a statement of the facts pertaining to his or her status as a member, which shall include a statement of all service rendered as an employee, and such other information as the Board may require. Until such statement is filed, no member or his or her beneficiary shall be eligible to receive any benefits under this Article. (1961 Code, § 9-92; 11-74-9; 3-16-3.)

Section 3-3-23. - Year of service.

The Board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in no case shall it allow credit for more than one year of service for all service rendered in any period of 12 consecutive months. (1961 Code, § 9-93; 11-74-9; 3-16-3.)

Section 3-3-24. - Membership service credit.

- (a) Each member shall receive membership service credit for periods for which he or she received compensation and was a member of the System or after he or she last became a member in the event of a break in his or her membership, provided that any former member of the System who ceased his or her County employment and withdrew his or her accumulated member contributions from the System may purchase membership service credit by paying into the System all accumulated contributions which were collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought; a member may not purchase credit for only a portion of any prior period of service, but may only purchase credit for an entire prior period of service.

(1) In the event that a member of Plan A, Plan B, Plan C, Plan D, or Plan E ~~s A, B, C, D or E,~~ who ceased his or her County employment and withdrew his or her accumulated member contributions from the System seeks, on or after January 1, 2013, and before July 1, 2019, January 1, 2013, to purchase credit for periods during which he or she received compensation as a member of the System, he or she may only become a member of, and purchase membership service credit in, Plan E by paying into the System all accumulated contributions which would have been collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought.

(2) In the event that a member of Plan A, Plan B, Plan C, Plan D, Plan E, or Plan F who ceased his or her County employment and withdrew his or her accumulated member contributions from the System seeks, on or after July 1, 2019, to purchase credit for periods during which he or she received compensation as a member of the System, he or she may only become a member of, and purchase membership service credit in Plan F, by paying into the System all accumulated contributions which would have been collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought.

(3) ~~;~~ however, nNotwithstanding the foregoing, a member of any of the ~~six five~~ Plans (A, B, C, D, E or F) that are part of the System who ceased his or her County employment, but who left his or her accumulated member contributions in the System, shall, upon his or her return to County employment, rejoin the Plan to which he or she formerly belonged. Such member may satisfy some or all of the amount due from him or her for the purchase of such service through a rollover from an individual retirement account if the entire amount in that account is attributable to a

rollover from the System. Such member may also satisfy some or all of the amount due from him or her for the purchase of such service through a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), or through a direct trustee-to-trustee transfer from an annuity contract described in Section 403(b) of the Internal Revenue Code.

- (1b) Members who are former park police officers who elected to remain in the System under Section 3-3-20(b)(2) shall receive membership service credit for service rendered as a park police officer and for their service as a police officer, including time served as a police officer prior to their election pursuant to Section 3-3-20(b)(2).
- (2c) Uniformed employees of the Department of Animal Control who transferred into this System pursuant to Section 3-2-19(d) may purchase membership service credit in this System for service as a uniformed employee of the Department of Animal Control rendered prior to October 1, 1985, by making an election in writing pursuant to Section 3-2-19(d)(3) and paying to the Board the difference between the employee contributions that would have been required under this System plus interest, and their employee contribution plus interest to the Fairfax County Employees' Retirement System for the period for which membership service credit is sought. The Board is authorized to enter into agreements with such members for the payment of the sum in installments, at the same interest rate, applied to the member's contribution account, so long as the entire sum due, plus interest, is paid within one year of the adoption of Section 3-2-19(d) [December 16, 1985].
- (3d) With respect to employees of the Public Safety Communications Center who transferred into this System pursuant to Section 3-2-19(e) and who purchase membership service credit in this System pursuant to Section 3-2-19(e)(3) and (5) by paying to the Board the difference between the employee contributions that would have been required under this System plus interest, and their employee contribution plus interest to the Employees' Retirement System, the Board is authorized to enter into agreements with such members for the payment of the sum in installments, at the same interest rate, to be applied to the member's contribution account, so long as the entire sum due, plus interest, is paid within three years of October 1, 2005.
- (4e) Under such rules and regulations as are adopted by the Board, any employee who has been a member of the Virginia Retirement System (VRS) and the Educational Employees Supplemental Retirement System of Fairfax County (ERFC), the Employees' Retirement System, or the Fairfax County Police Officers Retirement System, and who withdraws therefrom may purchase service credit for service rendered while a member of such other system by paying into this System all contributions that would have been due from him or her had he or she been a member of this System, plus interest at the rate or rates, as established by the Board, for each of the years for which membership service credit is sought. (A member may purchase membership service credit for prior service while a member of VRS only for service due to employment by the Fairfax County Public Schools (FCPS).)
- (5f) The amount due from a member for such purchase of service credit shall be satisfied, to the extent possible, (a) by directing the trustees of the system from which he or she is withdrawing to transfer his or her accumulated member contributions in such system directly to this System, without distribution to such employee, if such transfers are available under such system, or (b) through (i) a rollover from the system from which he or she is withdrawing (if the member would be eligible for a refund from such system), (ii) a rollover from an individual retirement account in which all contributions were derived from a rollover from a system, (iii) a direct trustee-to-trustee transfer from an annuity described in Section 403(b) of the Internal Revenue Code, or (iv) a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A). To the extent that a rollover or direct transfer permitted under this Subsection is insufficient to purchase the necessary service credit, other arrangements permitted by the rules and regulations adopted by the Board shall be made for purchasing such service credit.
- (6g) Members in service shall also receive membership service credit for periods of service-connected disability retirement from the System.

- (eh) A member shall also receive membership service credit for any period during which the member is taking leave without pay from the County service and is receiving compensation from the County for temporary total or temporary partial disability under the Virginia Workers' Compensation Act.
- (di) Each member shall receive membership service credit for military leave, provided he or she returns to full employment within 90 days of discharge and such discharge is other than dishonorable. (1961 Code, § 9-94; 11-74-9; 22-83-3; 23-85-3; 45-93-3; 36-94-3; 22-96-3; 10-01-3; 8-03-3; 23-05-3; 27-12-3; 3-16-3.)

Section 3-3-25. - Prior service credit.

The Board shall determine, as soon as practicable after the filing of statements of service, the credit that the member is entitled to receive for prior service. Credit for prior service need not have been continuous provided no break in service exceeded five years. When an employee again becomes a member after his or her prior membership has ceased, he or she shall enter the System as an employee not entitled to prior service credit. Members who have had a break in service shall receive full credit for all past County service; provided, that no credit shall be given for a period of employment prior to a break in service in excess of five years. (1961 Code, § 9-95; 11-74-9; 45-93-3; 30-09-3; 3-16-3.)

Section 3-3-25.1. - Portability service credit.

(a) Definitions.

- (1) *Accepting plan* shall mean the retirement plan or system which is receiving membership assets from another defined benefit retirement plan or system in order to permit a current member to purchase portability service credit in the accepting plan through the use of his or her membership contributions in the transferring plan.
  - (2) *Portability service credit* shall mean service credit purchased in an accepting plan by the transfer of membership assets from the transferring plan.
  - (3) *Transferring plan* shall mean the retirement plan or system which is transferring membership assets to an accepting plan to enable a former employee of the transferring plan to purchase service in the accepting plan through the use of his or her membership contributions in the transferring plan.
- (b) The Board of Supervisors may enter into agreements with the Virginia Retirement System (VRS) or with any other political subdivision of the Commonwealth of Virginia, provided that the retirement system of any other political subdivision of the Commonwealth of Virginia is a defined benefit plan or eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), to permit any vested member of any such plan to purchase portability credit in this System.
  - (c) The purchase of portability service credit in the System pursuant to this Section may only be made within 18 months of the date when an employee commences employment in a position covered by the System, or within 18 months of March 23, 2003, for County employees who are members of the System on March 23, 2003.
  - (d) In order to purchase portability service credit in the System, the member shall be a vested member of the transferring plan and the transferring plan shall be holding member contributions that are subject to transfer. A member desiring to purchase portability service credit shall make written application for the purchase of such credit to the System. The System shall determine from the transferring plan the amount of the member's assets that would be subject to transfer to the System. Based upon the amount subject to transfer, the Board shall determine the amount of portability service credit that would be actuarially equivalent to the amount of the assets to be transferred to the System; this amount shall represent the maximum amount of portability service credit that can be purchased. The Board shall communicate the amount of portability service credit that can be purchased to the member in writing; however, in no event shall the amount of portability service credit that can be purchased exceed the duration of the member's employment in a position that was covered by the transferring plan. The member shall have 30 days from the date of the letter advising him or her of the amount of portability service credit that can be purchased to determine whether to

proceed with the purchase or to withdraw his or her application for the purchase of portability service credit.

- (e) In the event that the assets transferred are not sufficient to purchase portability service credit in the System equivalent to five years of service, the member shall not become vested in the System until his or her creditable service equals five years.
- (f) The purchase of portability service credit in the Virginia Retirement System (VRS) or the retirement system of any political subdivision of the Commonwealth of Virginia that is covered by this Section shall be accomplished upon the transfer of assets from the transferring plan to this System. Upon the completion of such transfer, the member shall lose all rights to any allowances and benefits from the transferring plan, and shall only be entitled to receive allowances and benefits from this System.
- (g) When a vested member of this System leaves his or her covered employment and enters a position covered by the Virginia Retirement System (VRS) or by a defined benefit retirement plan of a political subdivision of the Commonwealth of Virginia with which the Board of Supervisors has entered into a portability agreement, the former member of this System may transfer an amount equal to the greater of (i) his or her accumulated member contributions with interest thereon, or (ii) an amount representing the present value of his or her accrued benefits with this System. In order to accomplish the transfer of assets from this System to an accepting plan, the member must make application in writing to this System. Upon the transfer of membership assets from this to the accepting plan, the member shall lose all rights to any allowances or benefits from this System based upon the service giving rise to the assets transferred to the accepting plan by this System. Should such a person resume service in a position covered by this System in the future, he or she may purchase service credit for such prior service or purchase portability service credit, if eligible to do so, in accordance with the provisions of this Article at the time he or she again becomes a member of this System. (18-01-3; 8-03-3; 3-16-3.)

Division 6. - Contributions.

Section 3-3-26. - Member contributions.

- (a) Each member shall contribute for each pay period for which he or she received compensation the amounts prescribed in this Section. Subsequent to December 22, 1984, the County shall pick up all employee contributions required herein, for all compensation earned on or after December 22, 1984. The Board of Supervisors may, from time to time, revise the rates of member contributions.
- (b) All members of Plan A, who, before April 1, 1997, do not elect in writing to accept the provisions set forth in Subsection (d) of this Section and Section 3-3-33(a)(2)(C) shall be considered as participants in Plan A. Contributions shall be made equal to four percent of such member's creditable compensation per pay period until his or her creditable compensation during the calendar year exceeds the taxable wage base. When such member's annual creditable compensation during the calendar year exceeds the taxable wage base, contributions shall be made equal to five and three-quarters percent of said member's creditable compensation per pay period.
- (c) All members of Plan B, who before April 1, 1997, do not elect in writing to accept the provisions set forth in Subsection (e) of this Section and Section 3-3-33(a)(2)(D) shall be considered participants in Plan B. Contributions shall be made equal to seven and eight-one-hundredths percent of such member's creditable compensation per pay period until his or her creditable compensation during the calendar year exceeds the taxable wage base. When such member's annual creditable compensation during the calendar year exceeds the taxable wage base, contributions shall be made equal to eight and eighty-three-one-hundredths percent of said member's creditable compensation per pay period.
- (d) All members of Plan A, who, before April 1, 1997, elect in writing to accept the provisions of this Section and Section 3-3-33(a)(2)(C), shall be considered participants in Plan C. Contributions shall be made equal to four percent of the member's creditable compensation per pay period.
- (e) All members of Plan B, who, before April 1, 1997, elect in writing to accept the provisions of this Section and Section 3-3-33(a)(2)(D), and all new members who begin employment that qualifies them for participation in the System on or after April 1, 1997, and before January 1, 2013~~July 1, 2019~~.

shall be considered participants in Plan D. Contributions shall be made equal to seven and eight-one-hundredths percent of the member's creditable compensation per pay period.

(f) All members of Plan E and Plan F shall have contributions made equal to seven and eight-one-hundredths percent of the member's creditable compensation per pay period.

(fg) Notwithstanding any other provision of this Section, no pick-up shall be made from any member's compensation if the employer's contribution required hereunder is in default.

(gh) The Board may modify the method of collecting the pick-up contributions of members so that the employers, departments, institutions, and agencies required to remit to the Treasurer of the Board may retain the amounts picked up by them with respect to members' salaries and have a corresponding amount deducted from County funds otherwise payable to them.

(hi) All contributions required to be made under Subsections (b), (c), (d), ~~and (e)~~, and (f) of this Section with respect to current services rendered by an active member on or after December 22, 1984, shall be picked up by the County and shall be treated as the employer's contribution in determining tax treatment under Section 414(h)(2) of the Internal Revenue Code. For all other purposes under this Chapter and otherwise, such pick-up contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to December 22, 1984. All picked-up amounts shall be included in compensation for the purpose of calculating benefits under Division 8. The County shall pay such picked-up amounts from the same source of funds which is used in paying earnings to the employee.

(ij) With the exception of the transfers between retirement plans specifically allowed as set forth above, no transfers between any of the Plans of the System shall be permitted. (1961 Code, § 9-96; 11-74-9; 20-81-3; 34-81; 5-85-3; 48-96-3; 3-16-3.)

Section 3-3-27. - Employer contributions.

(a) Each employer shall contribute at an annual rate to be fixed by the Board of Supervisors.

(b) The aggregate present value of future employer contributions payable into the retirement allowance account shall be sufficient, when combined with the amount then held in the members' contribution account and the retirement allowance account together with the present value of future employee contributions, to provide the estimated prospective benefits payable. The annual employer contribution rate shall be fixed as equal to the employer normal cost plus an expense rate, as long as the System's funding ratio (actuarial value of assets divided by actuarial accrued liability) remains within a corridor, the lower measurement of which is described below and the upper measurement of which is 120 percent. The employer normal cost and System actuarial accrued liability are to be measured using the entry age normal funding method.

- To the extent that the System's funding ratio exceeds 120 percent, a credit shall be established equal to the amount of assets in excess of 120 percent of the actuarial accrued liability.
- To the extent that the System's funding ratio is lower than the lower measure of the corridor, a charge shall be established equal to the difference between the lower measure plus the actuarial accrued liability and the assets.

The employer contribution shall be adjusted by a 15 year amortization of the credit or charge described in this Subsection, to be paid until the funding ratio re-enters the corridor at which time it shall cease.

Effective with the fiscal year 2016 County contribution rate, the lower measure of the corridor shall be established at 95 percent. The 95 percent threshold shall be increased until it reaches 100 percent, no later than by the year 2020. Once the lower measurement of the corridor reaches 100 percent, the 15-year amortization described above shall be over a fixed 15 years with additional 15-year amortization layers created annually. Once the System's funding ratio reaches 100 percent, such amortizations shall cease.

In the event of an ordinance change that affects benefits, the employer contribution rate shall be changed effective with the July 1 coincident with or next following the date of adoption of the ordinance change. The employer normal cost component shall be adjusted to the level required by the ordinance change and there shall be an additional component to the employer cost equal to the increase in actuarial accrued liability. Any additional actuarial accrued liability which does not reduce the funding level below 120 percent shall be excluded from this component. (1961 Code, § 9-97; 11-74-9; 23-85-3; 28-89-3; 48-96-3; 10-01-3; 16-02-3; 28-15-3, § 2; 3-16-3.)

Division 7. - Assets of System.

Section 3-3-28. - Assets to be credited to one of two accounts.

All of the assets of the System shall be credited, according to the purpose for which they are held, to one of two accounts, namely, the members' contribution account, and the retirement allowance account. (1961 Code, § 9-98; 11-74-9; 3-16-3.)

Section 3-3-29. - Members' contribution account.

- (a) The members' contribution account shall be the account to which all members' contributions, pick-up contributions and interest allowances as provided in this Article shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him or her upon withdrawal or paid in the event of his or her death before retirement.
- (b) Each member's contribution and pick-up contributions provided for in Sections 3-3-26 and 3-3-27 shall be credited to the individual account of that member.
- (c) Each individual account of the members' contribution account shall be credited annually with interest at a rate of not less than two percent per annum on the accumulated contributions of the member; provided, that interest shall accrue on any such contribution beginning at the end of the calendar year in which each such contribution was made, and further provided that interest shall not be accredited or accumulated to the individual accounts of members who have ceased to be employees for a period of more than five years.
- (d) Upon the retirement of a member, his or her accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account. (1961 Code, § 9-99; 11-74-9; 5-85-3; 3-16-3.)

Section 3-3-30. - Retirement allowance account.

- (a) The retirement allowance account shall be the account in which shall be accumulated all employer contributions, amounts transferred from the members' contribution account, and to which all income from the invested assets of the System after all expenses for required services shall be credited. This account shall pay retirement allowances, other benefits payable after a member's retirement, and necessary expenses of the System.
- (b) The amount of interest allowances provided for in Section 3-3-29 shall be transferred each year from the retirement allowance account to the members' contribution account. (1961 Code, § 9-100; 11-74-9; 3-16-3.)

Section 3-3-31. - Deposits.

For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total amount in the accounts of the System, on deposit in one or more banks or trust companies that are approved as depositories for County funds. (1961 Code, § 9-101; 11-74-9; 3-16-3.)

Division 8. - Benefits.

Section 3-3-32. - Service retirement.

- (a) Normal service retirement. Any member in service who has attained the age of 55 years and has completed six years of creditable service, or has completed 25 years of creditable service may retire at his or her normal retirement date or thereafter upon written notice to the Board made by the member, or his or her duly appointed agent, stating the time the retirement is to become effective. However, such effective date shall be subsequent to his or her last day of service, but not more than 90 days subsequent to the filing of such notice.

- (b) Early service retirement. Any member in service who has completed 20 years of creditable service may retire pursuant to the procedures set forth in Subsection (a) of this Section.
- (c) Compulsory retirement. Repealed; provided, any member in service who previously had reached compulsory retirement age but who had continued in service pursuant to the exemptions previously provided by this Subsection may continue in service without regard to the limitations set forth in this Subsection. (1961 Code, § 9-102, 11-74-9; 28-77-3; 20-81-3; 5-83-3; 22-83-3; 14-87-3; 3-16-3.)

Section 3-3-33. - Service retirement allowance and other benefits.

- (a) Normal service retirement. Upon service retirement after July 1, 1988, a member shall receive an annual retirement allowance, payable monthly as provided below:
  - (1) Effective the first of any month following the member's attainment of age 55 years the annual retirement allowance payable for life shall consist of:
    - (A) For members of Plans A and B, an amount equal to two percent of the average final compensation, multiplied by the number of years of creditable service.
    - (B) In addition to the amount of retirement allowance provided in Subparagraph (A) of this Subsection, members of Plans A and B shall receive an additional amount payable monthly, equal to the primary social security benefit to which such member would be entitled under the provisions of the Social Security Act in effect on the date of the member's retirement if such member were then 65 years of age. Further, such additional retirement allowance shall be reduced by the amount of any social security benefits such member may become eligible to receive, at the earliest date of such eligibility. For purposes of this reduction the amount of social security benefits of a member shall be the amount he or she would have been eligible to receive, without regard to any disqualification resulting from the earned income of the member. The social security benefits, for all employees whose County employment commenced by reporting for work after July 1, 1976, shall be determined on a pro rata basis as ratio of the number of years of creditable service in the County (numerator) and 25 years (denominator). This number is never larger than one.
    - (C) For the members of Plan B, the amount prescribed in Subparagraph (A) of this Subsection shall include cost-of-living adjustments provided for under Section 3-3-45 during the period between the member's retirement and his or her attainment of age 55 years.
    - (D) For members of Plans C, D, ~~and E, E and F~~ an amount equal to two and five-tenths percent of the member's average final compensation multiplied by the number of years of creditable service. For members of these plans the amount shall include cost-of-living adjustments provided for under Section 3-3-45.
    - ~~(E) For members of Plans D and E, the amount prescribed in Subparagraph (D) of this Subsection shall include cost-of-living adjustments provided for under Section 3-3-45.~~
  - (2) For members who retire before attaining the age of 55 years, the annual retirement allowance, payable during the period between retirement and the first of the month following such member's 55th birthday, shall be determined as follows:
    - (A) Members of Plan A shall receive the amount provided for in Subsection (a)(1)(A) of this Section. Such allowances shall not be subject to cost-of-living adjustments provided for under Section 3-3-45 until the first of the month following the member's 55th birthday. Further, the additional allowance prescribed in Subsection (a)(1)(B) of this Section shall not be included.
    - (B) After undergoing the additional deductions through December 31, 1981, members of Plan B shall receive the amount provided for in Subsection (a)(1)(A) of this Section subject to cost-of-living adjustments under Section 3-3-45 plus 50% of the additional allowance provided for under Subsection (a)(1)(B) of this Section.

- (C) Members of Plan C shall receive the amount provided for in Subsection (a)(1)(D) of this Section. Such allowances shall not be subject to cost-of-living adjustments provided for under Section 3-3-45 until the first of the month following the member's 55th birthday.
  - (D) Members of Plans D and E shall receive the amount provided for in Subsection (a)(1)(D) of this Section subject to cost-of-living adjustments under Section 3-3-45 as provided in Subsection (a)(1)(E) of this Section.
  - (E) Members of Plan F shall receive the amount provided for in Subsection (a)(1)(D) of this Section subject to cost-of-living adjustments under Section 3-3-45 as provided in Subsection (a)(1)(E) of this Section.
- (3) In addition to the allowances provided in Subsections (a)(1) and (a)(2) of this Section, for participants in Plans A, B, C, D or E retiring after March 18, 2002, the allowances in Subparagraphs (A) and (B) below, referred to as the pre-social security benefit, shall be payable until the first month after the member attains the age of eligibility for an unreduced social security retirement benefit. The pre-social security benefit shall not be subject to cost-of-living adjustments provided for under Section 3-3-45.
- (A) For members of Plans A and B, an additional amount equal to two-tenths of one percent of average final compensation times years of service.
  - (B) For members of Plan C, D, and E, an additional amount equal to three-tenths of one percent of average final compensation times years of service.
  - (C) The pre-social security benefit provided herein shall not be credited to the DROP accounts of members of Plan E who elect to participate in the DROP; however, upon the completion of the member's DROP period, the member shall be entitled to receive the pre-social security benefit provided herein if he or she is not then entitled to an unreduced social security benefit until the first month after such member is entitled to an unreduced social security benefit. Members in Plan F are not entitled to the Pre-social security benefit; however, those members are given an Early Age Option to receive a higher retirement allowance amount before they are entitled to receive an unreduced social security benefit as defined in Subsection (a)(1) (B) of this Section.
  - (D) Early Age Option. Any members in Plan F who retires prior to his or her full retirement age under social security shall be eligible to receive an additional monthly benefit equal to 0.3 percent of his or her average final compensation, not to exceed his or her social security breakpoint times years of service until the first month after such member is entitled to an unreduced social security benefit. Upon reaching the full retirement age under social security, the member's monthly benefit is reduced for life by an amount determined to result in a lifetime benefit under this option that is actuarially equivalent to the lifetime benefit that would be received without this option.
- (b) Early service retirement. An amount which shall be determined in the same manner as for retirement at the member's normal retirement date with years of creditable service and average final compensation being determined as of the date of his or her actual retirement, and the amount of the retirement allowance so determined being reduced on an actuarial equivalent basis for the period that the actual retirement date precedes the normal retirement date; provided, that for members who retire after July 1, 1988, the amount provided for in Subsection (a)(1)(B) of this Section shall not be reduced on the actuarial equivalent basis.
- (1) The allowance for members of Plans A and C except those exempted under Subsection (b)(2) of this Section shall be reduced in accordance with the factors prescribed in Table 1.
  - (2) The allowance for members of Plans B, D, ~~and E~~, and F and members of Plans A and C whose age plus creditable service equal 75 shall be reduced in accordance with the factors prescribed in Table 2.
- (c) Joint and last survivor option. Before the normal retirement date, a member may elect to receive a decreased retirement allowance during his or her lifetime and to have such retirement allowance or a

specified fraction thereof, continued after his or her death to the spouse, for his or her lifetime. The amount of such retirement allowance shall be determined on an actuarial equivalent basis and shall be calculated at the member's actual retirement date using the actuarial adjustment factors in Table 3. In the event a retired member has elected a reduced retirement allowance in consideration of continued allowance to his or her spouse after the member's death and such spouse predeceases the member, such member's retirement allowance shall be increased to that amount to which the member would have been entitled had no election been made. In the event a retired member who has elected the joint and last survivor option shall be divorced from his or her spouse, and such former spouse waives his or her rights to the benefits of the election of the joint and last survivor option, the retired member may revoke his or her joint and last survivor election; such revocation must be accompanied by a certified copy of a court order or decree containing the waiver of the spouse's rights under the joint and last survivor option election. Upon the provision of the request to revoke the election and the certified copy of a court order or decree containing the waiver of the spouse's rights under the joint and last survivor option election, the Executive Director shall revoke the election and increase the member's retirement allowance to the amount it would have been had no joint and last survivor election ever been made. The effective date of the increase in the member's retirement allowance shall be the first of the month next following the submission of the request to revoke the election accompanied by a certified copy of a court order or decree containing the waiver of the spouse's rights under the joint and last survivor option election.

TABLE 1  
FAIRFAX COUNTY UNIFORMED RETIREMENT SYSTEM

Actuarial Reduction Factors That Would Apply to Members  
With a Normal Retirement Age Requirement of 25 Years of Service  
(or, Attainment of Age 55, if Earlier) if They Are Permitted To  
Retire Early With a Reduced Retirement Allowance After 20 Years of Service

(ASSUMES 4% COST-OF-LIVING ADJUSTMENTS ARE EFFECTIVE  
AT AGE 55 WITHOUT CATCH-UP PROVISION)

Age at Retirement	Years of Service					
	20	21	22	23	24	25
38	65.83	71.56	77.79	84.57	91.94	100.00
39	65.83	71.57	77.80	84.58	91.95	100.00
40	65.85	71.58	77.81	84.59	91.96	100.00
41	65.88	71.60	77.82	84.60	91.97	100.00
42	65.93	71.63	77.84	84.61	91.98	100.00
43	65.99	71.67	77.87	84.63	91.99	100.00
44	66.07	71.73	77.91	84.66	92.00	100.00
45	66.17	71.81	77.97	84.69	92.02	100.00
46	66.29	71.91	78.04	84.73	92.04	100.00
47	66.45	72.03	78.13	84.79	92.07	100.00
48	66.64	72.18	78.24	84.86	92.10	100.00
49	66.86	72.36	78.37	84.95	92.14	100.00
50	67.13	72.57	78.53	85.05	92.19	100.00
51	72.81	72.81	78.71	85.18	93.11	100.00

52	78.92	78.92	78.92	86.29	92.97	100.00
53	85.48	85.48	85.48	85.48	92.41	100.00
54	92.50	92.66	92.66	92.66	92.66	100.00
55	100.00	100.00	100.00	100.00	100.00	100.00

TABLE 2  
FAIRFAX COUNTY UNIFORMED RETIREMENT SYSTEM  
Actuarial Reduction Factors That Would Apply to Members  
With a Normal Retirement Age Requirement of 25 Years of Service  
(or, Attainment of Age 55, if Earlier) if They Are Permitted To  
Retire Early With a Reduced Retirement Allowance After 20 Years of Service  
(ASSUMES 4% COST-OF-LIVING ADJUSTMENTS  
ARE EFFECTIVE AT RETIREMENT)

Age at Retirement	Years of Service					
	20	21	22	23	24	25
38	74.50	79.17	84.06	89.18	94.48	100.00
39	74.18	78.89	83.83	89.01	94.39	100.00
40	73.84	78.61	83.60	88.84	94.30	100.00
41	73.49	78.32	83.37	88.67	94.21	100.00
42	73.11	78.01	83.13	88.50	94.12	100.00
43	72.72	77.68	82.88	88.33	94.03	100.00
44	72.32	77.34	82.61	88.14	93.93	100.00
45	71.89	76.98	82.34	87.95	93.83	100.00
46	71.44	76.61	82.04	87.75	93.73	100.00
47	70.97	76.22	81.74	87.53	93.62	100.00
48	70.48	75.81	81.41	87.31	93.50	100.00
49	69.96	75.38	81.08	87.07	93.38	100.00
50	69.42	74.92	80.72	86.83	93.25	100.00
51	74.45	74.45	80.35	86.57	93.11	100.00
52	79.95	79.95	79.95	86.29	92.97	100.00
53	86.00	86.00	86.00	86.00	92.82	100.00
54	92.66	92.66	92.66	92.66	92.66	100.00
55						

TABLE 3

# FAIRFAX COUNTY UNIFORMED RETIREMENT SYSTEM

## Actuarial Adjustment Factors That Would Apply to Members With a Normal or Early Service Retirement Allowance Determined Under Section 3-3-33 Who Elect a Joint and Last Survivor Option

Percent of Retirement Allowance Continued to Spouse Upon Member's Death	Factor for Equal Ages	Increase/Decrease For Each Full Year Beneficiary is Older (Younger) Than Employee	Maximum Factor
100%	87%	0.7%	96%
75%	90%	0.6%	97%
66.67%	91%	0.5%	98%
50%	93%	0.4%	99%

(1961 Code, § 9-103; 11-74-9; 28-7-3; 20-81-3; 34-81-3; 36-83-3; 36-88-3; 29-89-3; 27-90-3, § 3; 48-96-3; 28-97-3; 13-98-3; 5-00-3; 17-02-3; 27-12-3; 51-13-3; 3-16-3.)

### Section 3-3-34. - Ordinary disability retirement.

- (a) Any member in service who has five or more years of creditable service may, at any time before his or her normal retirement date, retire on account of disability, not compensable under the Virginia Workers' Compensation Act, upon written application to the Board, made by the member or his or her appointing authority, setting forth at what time the retirement is to become effective; provided, that such effective date shall be after the last day of service, but shall not be more than 90 days prior to the execution and filing of such application; and provided further, that the Medical Examining Board, after a medical examination of such member, shall certify that such member is, and has been continuously since such effective date if prior to the filing of such application, mentally or physically incapacitated for the further performance of duty, and that such incapacity is likely to be permanent and that such member should be retired.
- (b) Any member not in service at the time of application who is otherwise eligible for ordinary disability retirement may be granted an ordinary disability retirement if:
  - (1) Written application is made within one year of the date he or she ceased to be in service; and
  - (2) The Board finds:
    - (A) The disability arose in the course of the member's service;
    - (B) The disability was the proximate cause of the member's ceasing to be in service; and
    - (C) There was good cause for the employee not to have filed an application while in service.
- (c) In the event a member is granted an ordinary disability retirement pursuant to Subsection (b) of this Section, the Board shall establish an effective date which, considering all the circumstances of the individual case is just; provided, such date shall be no more than 90 days prior to the execution and filing of his or her application. (1961 Code, § 9-104; 11-74-9; 20-81-3; 48-96-3; 3-16-3.)

### Section 3-3-35. - Ordinary disability retirement allowance.

Upon ordinary disability retirement, as provided for in Section 3-3-34, a member shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to two percent of his or her average final compensation multiplied by the number of years of creditable service. However, said retirement allowance shall not be greater than 60 percent of the member's average final compensation. (1961 Code, § 9-105; 11-74-9; 28-77-3; 20-81-3; 48-96-3; 3-16-3.)

Section 3-3-36. - Service-connected disability retirement.

- (a) Any member in service may, at any time before his or her normal retirement date, retire on account of disability which is due to injury by accident and/or disease(s) which arose out of and in the course of the member's service. The Board shall determine a member is disabled due to injury by accident and/or disease(s) which arose out of and in the course of a member's service. In making this determination, the Board shall consult the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia which applied or construed language under the Virginia Workers' Compensation Act. Furthermore, in making this determination, the Board shall consider any medical record or information and/or any further tests or examinations required pursuant to Section 3-3-10.1.
- (b) The member or his or her employer shall be required to submit a written application setting forth at what time the retirement is to become effective; provided, that such effective date shall be after the last day of service but shall not be more than 90 days prior to the date of such application. Prior to submitting such application, the member shall be required to apply for workers' compensation to which he or she may be entitled. The member shall be required to submit to the Board copies of the dispositions as made of his or her workers' compensation claim and any subsequent awards or other documents reflecting any modification or termination of such benefits. With respect to the determination of a member's eligibility for retirement under this Section, the Board shall give great weight to the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia on the compensability of his or her disability under the Virginia Workers' Compensation Act; and the Board may modify its prior determination of eligibility under this Section in light of any such decision within 90 days after the date such decision becomes final.
- (c) Any member otherwise eligible for ordinary disability retirement under Section 3-3-34, who applies for retirement pursuant to this Section, and whom the Board finds to be disabled but not eligible for retirement under this Section, shall be retired pursuant to Section 3-3-34.
- (d) Any member who applied for service-connected disability retirement on or before (effective date of amendment [December 16, 1985]) shall have his or her eligibility for such retirement governed by the provisions of this Section in effect on that date. Members applying thereafter shall have their eligibility determined by the provisions of this Section.
- (e) When an application for service-connected disability retirement has been submitted by a member or on his or her behalf by his or her employer, the appointing authority for the agency in which the member is employed shall certify whether or not there exist any vacant positions within the agency the essential physical job functions of which the member could perform, with or without reasonable accommodation; this certification shall be provided to the member and to the Board. The appointing authority shall have a continuing obligation to notify the member and the Board if any such position becomes vacant between the time of the appointing authority's initial certification and the Board's action on the member's retirement application. A member who has applied for service-connected disability retirement who meets the physical requirements for such position, with or without reasonable accommodation, and who can be retrained to fulfill the other requirements for any such position shall be given the option to accept such position and withdraw his or her application for service-connected disability retirement or to decline such position and proceed with his or her application for service-connected disability retirement. A member shall have seven days from the date of the appointing authority's certification that a position is available to make his or her election as to whether he or she shall accept the position or proceed with his or her retirement application; the failure of the member to make such election shall constitute an election to proceed with his or her application for retirement. In the event that the member elects not to accept a position for which he or she has received notification, the appointing authority shall have no further duty to notify the member and the Board of any further positions that may subsequently become available. In the event that no such positions are vacant or the member elects not to accept a vacant position, the application for service-connected disability retirement shall proceed to a determination by the Board. The certification by an appointing authority that no such positions exist within the member's agency constitutes an application of specific County personnel policies, procedures, rules and regulations. (1961 Code, § 9-106; 11-74-9; 20-81-3; 24-85-3; 48-96-3; 34-04-3; 3-16-3.)

Section 3-3-37. - Service-connected disability retirement allowance.

- (a) Any member who is receiving, or has been approved by the Board to receive, service-connected disability retirement, or who has applied for service-connected disability retirement, or whose employer has submitted as application for service-connected disability retirement for such employee as of December 9, 1996, under Section 3-3-36, shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to 66  $\frac{2}{3}$  percent of the salary the member received at the time of retirement. This allowance shall be reduced by the amount of any compensation awarded under the Virginia Workers' Compensation Act to the member for temporary total or partial incapacity.
- (b) Any member who submits an application for service-connected disability retirement, or for whom his or her employer submits such application under Section 3-3-36 on or after December 9, 1996, shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to 40 percent of the salary the member received at the time of retirement. However, this allowance shall be reduced by the amount of any compensation awarded under the Virginia Workers' Compensation Act to the member for temporary total or partial incapacity.
- (c) The amount of the reduction shall be increased by an award of a cost-of-living increase to the member's compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act). When the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation, the amount of such payments shall no longer be used to reduce the retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without the reduction for such payments.
- (d) If a member receives his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, neither a lump sum payment or portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act nor a lump sum payment or portion thereof representing compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under Section 3-3-36 shall be offset against the member's allowance under this Section; and provided further, that in the event the member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the lump sum represents settlement of his or her entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its judgment represents compensation for such benefits. (1961 Code, § 9-107; 11-74-9; 28-77-3; 20-81-3; 34-81-3; 4-83-3; 36-88-3; 29-89-3; 1-93-3; 48-96-3; 10-01-3; 23-07-3; 47-08-3; 23-11-3; 67-13-3, § 1; 3-16-3; 37-17-3.)

Section 3-3-37.1. - Joint and last survivor option for disability beneficiaries.

A member of the System who applied for an ordinary or service-connected disability retirement allowance, including those members who are determined to be eligible for severe service-connected disability retirement by the Board, on or after July 1, 1988, may, before his or her actual retirement date, elect the joint and last survivor option provided by Section 3-3-33(c). (36-88-3; 48-96-3; 3-16-3.)

Section 3-3-37.2. - Severe service-connected disability retirement.

- (a) Any member in service may, at any time before his or her normal retirement date, be retired on account of a severe disability which is due to injury by accident and/or disease(s) which arose out of and in the course of the member's service. The Board shall determine whether a member has suffered a severe disability as defined herein due to injury by accident and/or disease(s) which arose out of and in the course of a member's service. In making this determination, the Board shall consult the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia which applied or construed language under the Virginia Workers'

Compensation Act. Furthermore, in making this determination, the Board shall consider any medical record or information and/or any further tests or examinations required pursuant to Section 3-3-10.1.

- (b) When a member or his or her employer submits a written application for service-connected disability retirement as set forth in Section 3-3-36, the Board shall determine whether the member meets the requirements for qualification to receive severe service-connected disability as set forth in this Section. Prior to submitting such application, the member shall be required to apply for workers' compensation to which he or she may be entitled. The member shall also be required to submit to the Board copies of the dispositions as made of his or her workers' compensation claim and any subsequent awards or other documents reflecting any modification or termination of such benefits. With respect to the determination of a member's eligibility for retirement under this Section, the Board shall give great weight to the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia on the compensability of his or her disability under the Virginia Workers' Compensation Act; and the Board may modify its prior determination of eligibility under this Section in light of any such decision within 90 days after the date such decision becomes final.
- (c) Any member otherwise eligible for ordinary disability retirement under Section 3-3-34 whom the Board finds to be disabled but not eligible for retirement under this Section, shall be retired pursuant to Section 3-3-34. Any member otherwise eligible for service-connected disability retirement under Section 3-3-36 whom the Board finds to be disabled but not eligible for retirement under this Section, shall be retired pursuant to Section 3-3-36.
- (d) *Severe disability* shall mean an impairment from the list below that permanently incapacitates the member from performing the necessary duties of the position in which he or she had been employed prior to sustaining the impairment.
  - (1) Schedule of impairments:
    - (A) Loss of both hands or both feet;
    - (B) Loss of one hand and one foot;
    - (C) Loss of one hand and the sight of one eye;
    - (D) Loss of one foot and the sight of one eye;
    - (E) Loss of the sight of both eyes;
    - (F) Paralysis, either paraplegia or quadriplegia;
    - (G) Cancers determined to be compensable by the Virginia Workers' Compensation Commission which were caused by documented contact with a toxic substance, pursuant to Section 65.2-402(c) of the *Virginia Code* ;
    - (H) Loss of speech;
    - (I) Loss of hearing;
    - (J) A mental incapacity that meets the criteria for disability benefits under the Federal Old-Age Survivors' and Disability Insurance Act; or
    - (K) Hepatitis C.
  - (2) *Loss* shall mean:
    - (A) With respect to a hand or foot, the dismemberment by severance through or above the wrist or ankle joint, or the partial dismemberment resulting in the loss of functional use of the partially dismembered hand or foot.
    - (B) With respect to sight, central acuity of 20/200 or less with the use of correcting lenses or visual acuity greater than 20/200 if accompanied by a limitation in the field of vision that the widest diameter of the visual field subtends an angle no greater than 20 degrees. These

standards apply to the affected eye if sight loss is claimed for one eye in combination with loss of a hand or foot, or to the better eye if sight loss is claimed for both eyes.

- (C) With respect to hearing, a severe and irreversible bilateral loss of hearing that is not correctable with either the use of hearing aids or with corrective surgery.
- (e) For the purpose of this Section only, *member in service* shall include a member who has not reached his or her normal retirement date and who has been retired on account of a service-connected disability pursuant to the terms of Section 3-3-36.
- (f) A member for whom an application for severe service-connected disability is approved by the Board shall not be required to submit to medical re-evaluations as required by Section 3-3-40. (48-96-3; 19-01-3; 7-03-3; 34-04-3; 3-16-3.)

Section 3-3-37.3. - Severe service-connected disability retirement allowance.

- (a) Any member who retires pursuant to Section 3-3-37.2 shall receive an annual retirement allowance, payable monthly during his or her lifetime, consisting of an amount equal to 90 percent of the salary the member was entitled to receive at the time of his or her retirement. This allowance shall be reduced by the amount of any compensation awarded under the Virginia Workers' Compensation Act to the member for temporary total or partial incapacity.
- (b) The amount of the reduction shall be increased by an award of a cost-of-living increase to the member's compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act). When the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation, the amount of such payments shall no longer be used to reduce the retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without the reduction for such payments.
- (c) If a member receives his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, however, neither a lump sum payment or portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act nor a lump sum payment or portion thereof representing compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under Section 3-3-37.2 shall be offset against the member's allowance under this Section; and provided further, that in the event the member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the lump sum represents settlement of his or her entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its judgment represents compensation for such benefits. (48-96-3; 10-01-3; 23-07-3; 47-08-3; 23-11-3; 68-13-3, § 1; 3-16-3; 38-17-3.)

Section 3-3-38. - Service-connected accidental death benefit.

If death of a member is caused by an accident occurring prior to retirement and such death is compensable under the Virginia Workers' Compensation Act, there shall be paid, in addition to any other benefits of this Article or other legislation, the following:

- (a) For a member whose death occurs before retirement:
  - (1) The member's accumulated contributions as provided in Section 3-3-29(c) to his or her designated beneficiary duly approved, acknowledged, and filed with the Board, otherwise to the member's estate; provided, no benefit is payable under Section 3-3-43; and
  - (2) The sum of \$10,000.00 to his or her designated beneficiary duly approved, acknowledged, and filed with the Board, otherwise to the member's estate.
- (b) For a member whose death occurs after retirement:

- (1) The member's accumulated contributions as provided in Section 3-3-29(c) less the amount of any retirement allowances previously received by the member, such sum to be paid to his or her designated beneficiary duly approved, acknowledged and filed with the Board, otherwise to the member's estate; provided, no benefit is payable under Section 3-3-33; and
- (2) The sum of \$10,000.00 to his or her designated beneficiary duly approved, acknowledged and filed with the Board, otherwise to the member's estate. (1961 Code, § 9-108; 11-74-9; 5-85-3; 3-16-3.)

Section 3-3-39. - Refund of contributions upon withdrawal or death; deferred vested benefit.

(a) Refund of contributions.

- (1) If a member has ceased to be an employee, otherwise than by death or by retirement under the provisions of this Article, and has fewer than five years of creditable service on his or her date of separation, he or she shall be eligible for a refund of the total of his or her accumulated contributions (with interest) which have been reduced by the amount of any retirement allowances previously received by him or her under this Article. The member shall file a written application with the Board for such refund and he or she shall be paid the amount to which he or she is entitled not later than 90 days after receipt of his or her application by the Board. Should a member or a person in retirement die, the amount of his or her accumulated contributions reduced by the amount of any retirement allowances previously received by him or her under this Article shall then be payable in a lump sum to a designated beneficiary or in the absence of a designated beneficiary to his or her estates; provided, no benefit is payable under Section 3-3-33(c).
  - (2) A member who becomes eligible for membership in either the Virginia Retirement System (VRS) and the Educational Employees Supplemental Retirement System of Fairfax County (ERFC), the Fairfax County Employees' Retirement System, or the Fairfax County Police Officers Retirement System prior to receipt of a refund amount may, under such rules and regulations as are adopted by the Board and by the board of the system of which he or she is eligible to become a member, elect in writing to transfer the amount of his or her refund directly from this System to the system for which he or she has become eligible for membership. In the alternative, to the extent that a refund is an "eligible rollover distribution" within the meaning of Section 402(f)(2)(A) of the Internal Revenue Code, such a member may (a) under rules and regulations of the system of which he or she is eligible to become a member, elect in writing to roll over the amount of his or her refund directly from this System to the system for which he or she has become eligible for membership or (b) elect in writing to roll over the portion of his or her refund which is such an eligible rollover distribution directly to an individual retirement account.
  - (3) All refunds shall be mailed to the last address on record with the Board. Refunds that have not been claimed within six months shall become the property of the System.
- (b) Deferred vested benefit. If a member has five or more years of creditable service on his or her date of separation from the County, the member may leave his or her accumulated contributions in the System and receive a deferred vested benefit payable beginning the date the member attains 55 years of age. Members who choose a deferred vested benefit are not eligible to receive the pre-social security benefit. (1961 Code, § 9-109; 11 -74-9; 20-81-3; 34-81-3; 5-85-3; 36-88-3; 45-93-3; 10-01-3; 01-11-3; 3-16-3.)

Section 3-3-40. - Medical reevaluation of disabled members; penalty for unjustified refusal to accept medical attention, vocational rehabilitation or selective employment, or to submit to medical examination.

- (a) Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board shall require any such beneficiary prior to his or her normal retirement date to undergo a medical examination by the Medical Examining Board. Should such a beneficiary refuse to submit to any such medical examination or unreasonably and without just cause or excuse refuse medical attention recommended by the Medical Examining Board, his or her disability retirement allowance shall be

discontinued until his or her withdrawal of such refusal; and should his or her refusal continue for one year, all his or her rights to any further disability retirement allowance shall cease.

- (b) Members who are beneficiaries of service-connected disability retirement allowances pursuant to Section 3-3-36, and who are receiving periodic payments from their employers pursuant to the Virginia Workers' Compensation Act (Act) which are required to be offset against the allowances pursuant to Section 3-3-37, shall cooperate with and accept medical services or vocational rehabilitation and/or selective employment provided by the employer pursuant to the Act. In the event a member's periodic payments are suspended by the Virginia Workers' Compensation Commission (Commission) for unjustified refusal to accept medical services, vocational rehabilitation and/or selective employment, the Board may, if in its determination such refusal was unjustified, direct that the allowance pursuant to Section 3-3-37 shall be computed as if the member received the suspended payments. The Board shall make appropriate adjustment to the member's allowance if the suspension by the Commission is subsequently reversed or modified. Employers shall promptly notify the Board of any suspensions or releases from suspensions affecting members subject to this Subsection, for unjustified refusal creates a rebuttable presumption that the member unjustifiably refused medical services, vocational rehabilitation training, and/or selective employment.
- (c) The requirement for medical examinations of disability retirees established in this Section is not applicable to retirees who are receiving severe service-connected disability retirement benefits pursuant to Section 3-3-37.2. (1961 Code, § 9-110; 11-74-9; 28-77-3; 36-88-3; 3-16-3.)

Section 3-3-41. - Reduction of service-connected disability retirement allowance.  
Repealed by 11-94-3.

Section 3-3-42. - Cessation of disability retirement allowance.

- (a) Should a beneficiary of a disability retirement allowance return to service at any time prior to his or her normal retirement date, his or her disability retirement allowance shall cease, and he or she shall become a member of the System and contributions, in accordance with Section 3-3-26, shall resume. Any service on the basis of which his or her disability retirement allowance was computed shall thereafter be counted as creditable service; and, in addition, the period of disability retirement shall be counted as creditable service for those on service-connected disability retirement.
- (b) Any excess accumulated contributions of such beneficiary over the disability retirement allowances received by him or her shall be transferred from the retirement allowance account to the member's contribution account. (1961 Code, § 9-112; 11-74-9; 5-85-3; 3-16-3.)

Section 3-3-43. - Cessation of normal or early service retirement allowance.

- (a) Subsection (b) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Police Officers Retirement System and who submitted their application for such allowance to the Board of such system on or before July 21, 1986. Subsection (c) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Employees' Retirement System, or the Police Officers Retirement System and who submitted their application for such allowance to the Board of such system after July 21, 1986.
- (b) Should a person receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Police Officers Retirement System (retiree) return to regular service in a permanent position in any office or employment paid directly or indirectly by the County, he or she shall elect to receive such retirement allowance under one of the following two options.
  - (1) Such allowance shall not commence or, if already commenced, shall cease while the retiree is so employed. His or her allowance shall commence or resume upon application or reapplication by the retiree after he or she has ceased permanent employment in such a position. The allowance of a retiree of this System who is appointed to a position covered by the Employees' Retirement System or Police Officers Retirement System shall commence or resume at that cost-of-living adjustment amount pursuant to Section 3-3-54 which would have been payable had the retiree continued to receive his or her allowance without interruption. A retiree of this

System who elects in writing at the time of reappointment to a position covered by this Article not to become a contributing member during the period of his or her reemployment shall be exempted from the requirement to make contributions to this System. A retiree of this System who elects in writing at the time of reappointment to a position covered by this Article to become a contributing member again during the period of his reemployment shall be eligible:

- (A) For a recomputation of his or her allowance to take into account compensation and creditable service attributable to the period of reemployment during which his or her allowance was suspended under this Subsection;
- (B) To make new election for any optional benefit to which he or she is entitled; and
- (C) For a retirement allowance for a service-connected disability arising out of and in the course of his or her reemployment (in lieu of his or her service retirement allowance).

A retiree of the Employees' Retirement System or Police Officers Retirement System who is appointed to a position covered by this Article and elects in writing within 30 days of such appointment may be excluded from membership in this System.

- (2) The retiree may elect to continue to receive his or her service retirement allowance. A retiree electing this option shall not be eligible for membership in the Employees' Retirement System or Police Officers Retirement System if either covers the position in which he or she is reemployed. If he or she is a retiree of this System and the position in which he or she is reemployed is covered by this System, he or she shall not be required to contribute to this System during his or her period of reemployment.
- (c) A person receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Police ~~officers~~ Officers Retirement System (retiree) may return to employment for which compensation is paid directly or indirectly by the County subject to the following conditions:
- (1) A retiree shall not receive in combined compensation and retirement allowance, computed monthly, any more than 115 percent of the then current maximum monthly salary for a Deputy County Executive in the County's Compensation Plan. The appropriate Retirement System Board of Trustees shall reduce the retiree's allowance as necessary to keep the combined salary and allowance at this limit. For purposes of this Subsection, a retiree's allowance shall be deemed to be the allowance that he or she would receive if he or she had not elected a joint or last survivor option which results in an actuarially reduced allowance. Employers under all three systems shall report salaries paid to retirees to the retiree's Board.
  - (2) A retiree who is employed in a position service in which would otherwise make him or her eligible for membership in this System, the Employees' Retirement System, or the Police Officers Retirement System, shall not be eligible for membership in that system.
- (d) Notwithstanding any other provision of this Article or any other Article of this Chapter, a person receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Police Officers Retirement System (retiree) may be employed in a position under his or her former appointing authority subject to the following terms and conditions.
- (1) If the retiree is a member of this System and service in the position to which he or she is to be appointed ordinarily would result in membership this System, his or her normal or early service retirement allowance shall be suspended for the duration of his or her new employment. During his or her new employment, he or she shall make member contributions to this System. At the time of his or her new employment, he or she shall be entitled to make all elections available to new members of this System, and if otherwise eligible, during his or her employment, he or she may apply for ordinary or service-connected disability retirement. In such case, his or her combined years of service and his or her average final compensation based on his or her new employment shall be used in calculating the disability retirement allowance. On re-application for service retirement from his or her new employment, the retiree shall receive as his or her

service retirement allowance the higher of (i) his or her initial service retirement allowance increased by any cost-of-living increases that were granted by the Board to service retirements during the period of his or her new employment or (ii) a service retirement allowance calculated on the basis of his or her combined years of creditable service in his or her initial and new employment and his or her average final compensation calculated on the basis of the creditable compensation that he or she received during both his or her initial and new employment, as if there had been no break in service.

- (2) A retiree who is a member of this System and who is to be re-appointed to a position service in which would result in membership in either the Employees' Retirement System or Police Officers Retirement Systems but for his or her membership in this System, shall be subject to Subsection (b) or (c) of this Section, whichever is applicable.
- (3) If the retiree is a member of either the Employees' Retirement or Police Officers Retirement Systems and service in the position to which he or she is to be appointed would result in membership in this System but for this membership in the other system, the retiree shall be subject to Subsection (b) or (c) of this Section, whichever is applicable.
- (4) This Subsection shall apply to all persons appointed to positions on or after March 1, 1990, service in which would ordinarily make them members of this System, the Employees' Retirement System, or Police Officers Retirement Systems. (20-81-3; 35-81-3; 36-86-3; 27-90-3, § 3; 10-01-3; 11-05-3; 3-16-3.)

Section 3-3-44. - Spouse retirement allowance.

- (a) Should death occur to a member in service who has completed five years of creditable service, a retirement allowance shall be payable to the member's spouse if said spouse is the designated beneficiary duly approved, acknowledged and filed with the Board. The annual retirement allowance, payable monthly for life shall be 50 percent of the annual retirement allowance provided in the first sentence of Section 3-3-33(a), with creditable service and final compensation being determined as of the date of the member's death. Said spouse shall elect within 90 days after notice by the Board of the option of receiving the benefits outlined in this Subsection or a lump sum payment of the member's accumulated contributions as provided in Section 3-3-39, or within 180 days of the death of the member, whichever first occurs. If death is due to a service-connected accident as defined in Section 3-3-38, and the designated beneficiary under Section 3-3-38(1)(A) is the member's spouse, the spouse shall elect in writing within 90 days after the notice by the Board, or within 180 days of the death of the member, whichever first occurs, to receive either the benefits contained in this Subsection or those contained in Section 3-3-38(1)(A). In the event of the spouse's death prior to receiving allowances under this Section equaling the sum of the member's accumulated contribution, said sum, reduced by the amount of any retirement allowances previously paid under this Section, shall be paid to the spouse's designated beneficiary duly approved, acknowledged and filed with the Board, otherwise the spouse's estate.
- (b) Should death occur to a member in service who has completed five years of creditable service and if the member's designated beneficiary, duly approved, acknowledged and filed with the Board, is not the member's spouse, a lump sum payment equaling the member's accumulated contribution as provided in Section 3-3-29(c), shall be paid to the designated beneficiary.
- (c) Should death occur to a member in service who has completed five years of creditable service and the member has no designated beneficiary, a lump sum payment equaling the member's accumulated contribution shall be paid to the member's estate; provided, that if such member's spouse is the sole person entitled under the laws of the Commonwealth of Virginia to the benefits provided hereunder, then said spouse shall have the same right to elect benefits as is provided to spouses in Subsection (a) of this Section.
- (d) Effective on and after January 1, 2007, if a member dies while performing "qualified military service" as defined in Section 414(u) of the Internal Revenue Code, any additional benefits that would have been provided under the System if the member had resumed employment on the day prior to his or her death and then terminated employment due to death shall be paid to such member's designated

beneficiary or, if applicable, estate. (1961 Code, § 9-113; 11-74-9; 28-77-3; 20-81-3; 5-85-3; 29-09-3; 01-11-3; 3-16-3.)

Section 3-3-45. - Cost-of-living adjustments.

Monthly retirement allowances shall be adjusted effective July 1, 1981, and each July 1 thereafter in order to reflect changes in the cost of living since the date of benefit commencement; provided, that such adjustments shall not affect the amount of the social security benefit allowance payable pursuant to Section 3-3-33(a)(1)(B) or Section 3-3-33(a)(2)(B); and provided further, that allowances for service-connected disability retirement shall be subject to Subsection (d) of this Section. The monthly benefit allowance to be effective July 1 of any such year shall be the benefit in effect immediately prior to such adjustment increased for the basic cost-of-living increase provided for in Subsection (a) of this Section and the supplemental cost-of-living increase if any, provided for in Subsection (b) of this Section with such increase reduced as provided in Subsection (c) of this Section in the event the monthly retirement allowance has been in pay status for less than 12 months.

- (a) The basic cost-of-living increase shall be the lesser of four percent and the percentage corresponding to the percentage increase in the Consumer Price Index during the 12-month calendar period ending with the March immediately preceding the July in which the increase is effective. For the purpose of this Section, *Consumer Price Index* shall mean the Consumer Price Index for all Urban Consumers (CPI-U) as issued by the Bureau of Labor Statistics of the U.S. Department of Labor for the appropriate Standard Metropolitan Statistical Area (SMSA) that includes the County.
- (b) As part of each biennial actuarial valuation, the actuary shall determine the percentage supplemental cost-of-living increase (not greater than one percent that can be provided on the following two July first's based upon the available actuarial surplus). The Board then may, but shall not be required to, increase the benefits of all retirement allowances in pay status on each of such July first by such actuarially determined percentage. For the purpose of this Section, *available actuarial surplus* shall mean the excess of the actuarial value of the assets of the System over the actuarial accrued liabilities of the System as disclosed in the biennial actuarial valuation of the System.
- (c) In the event a member receiving a retirement allowance has not been in pay status for 12 full months, the basic cost-of-living increase and the supplemental cost-of-living increase shall be determined as the percentage of the full increase determined in Subsections (a) and (b) of this Section as follows:

Number of Complete Months Benefit Has Been in Pay Status	Percentage of Full Increase
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Less than 3 ..... 0%

3, 4 or 5 ..... 25%

6, 7 or 8 ..... 50%

9, 10 or 11 ..... 75%

- (d) Cost-of-living adjustments provided by this Section shall be applied to the net amount of the member's service-connected disability retirement allowance after all reductions required by Section 3-3-37 have been made. The member's allowance after the adjustments for cost of living provided by this Section at any date in time shall be determined by retroactive computation from the date of initial retirement, and the application of all applicable cost-of-living adjustments to the net allowance which the member is entitled to under Section 3-3-37.

- (e) The Board of Supervisors reserves the right to amend, terminate or modify the post -retirement increases described in Subsection (b) of this Section. Upon termination, no further increases to allowances shall be due or payable to any member or beneficiary. However, any such amendment, termination or modification shall not reduce the amount of the allowance then being paid to any member or beneficiary who has received allowances as of the date of the amendment, termination or modification. Furthermore, no amendment, termination or modification shall reduce the rights of any member as of June 30, 1981, to increases such member was entitled to based upon the terms of the plan in effect on June 30, 1981. (1961 Code, § 9-114; 11-74-9; 20-81-3; 1-93-3; 26-10-3; 3-16-3.)

Section 3-3-46. - Retention rights.

Participation in the System does not convey the right to be retained in service, or any right or claim to any assets of the System unless such right has specifically accrued under this Article. (1961 Code, § 9-116; 11-74-9; 20-81-3; 36-88-3; 3-16-3.)

Section 3-3-47. - Vesting on termination of System; nonreversion of funds.

Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of all members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, are non-forfeitable. No portion of the assets of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the members and their beneficiaries prior to the satisfaction of all liabilities with respect to members and their beneficiaries. (1961 Code, § 9-117; 11-74-9; 20-81-3; 36-88-3; 3-16-3.)

Section 3-3-48. - Nonretroactivity to members retired or terminated prior to July 1, 1974.

The benefits provided by this Article shall not apply to members retired or terminated prior to July 1, 1974, and their rights and benefits shall be determined under the ordinance in effect prior thereto. However, retirement allowances determined thereunder shall be subject to post-1974 cost-of-living adjustments. (1961 Code, § 9-118; 11-74-9; 20-81-3; 3-16-3.)

Section 3-3-49. - Review of adverse decisions.

Any member adversely affected by a decision of the Board shall receive written notice of said decision and may, within 30 days of receipt of such notice, request in writing a review by the Board of said decision, pursuant to procedures established by the Board. (20-81-3; 3-16-3.)

Section 3-3-50. - Transfer to Senior Executive Retirement Plan.

Repealed by 97-26-3.

Section 3-3-51. - Masculine usage includes feminine.

Repealed by 3-16-3.

Section 3-3-52. - Limitation on annual retirement allowance.

Notwithstanding any other provision of this Article, the annual retirement allowance to which any member may be entitled shall not exceed the limits on benefits set forth in Section 415 of the Internal Revenue Code and any regulations issued by the U.S. Department of the Treasury thereunder, and in calculating such limits a member's compensation shall include any differential wage payments for military service as defined under Section 3401(h)(2) of the Internal Revenue Code and paid on or after January 1, 2009. Such limits shall be applied annually for the 12-month period commencing each July 1 and ending the following June 30. A benefit payable other than in the form of an annuity shall not exceed the amount which, when converted to an actuarial equivalent annual benefit, does not exceed the limits on benefits set forth in Section 415(b) of the Internal Revenue Code. Effective June 30, 2000, the mortality tables prescribed by the Uruguay Round Agreement Acts (GATT), as set forth in Internal Revenue Service Revenue Ruling 2001-62 (superseding and modifying Revenue Ruling 95-29), or as further updated or modified by the Internal Revenue Service, shall be used in determining the actuarial equivalent amount of such benefit. (27-90-3, § 4; 21-96-3; 8-03-3; 01-11-3; 3-16-3.)

Section 3-3-53. - Distribution of benefits.

Notwithstanding any other provision of this Article, effective for plan years beginning after December 31, 1986, the entire interest of each member shall be distributed to such member not later than the

required beginning date specified below, or shall be distributed, beginning not later than the required beginning date, over the life of such member or over the lives of such member and a beneficiary or over a period not extending beyond the life expectancy of such member or the life expectancy of such member and a beneficiary. For this purpose, the term *required beginning date* shall mean April 1 of the calendar year following the later of the calendar year in which the member attains 70½ years of age, or the calendar year in which the member retires. If a member dies after distribution of the member's interest has begun, the remaining portion, if any, of such interest shall be distributed at least as rapidly as under the method of distribution being used as of the date of death. If a member dies before the distribution of the member's interest has begun, any death benefit shall be distributed within five years after the death of such member, unless (1) any portion of the member's interest is payable to (or for the benefit of) a designated beneficiary, (2) such portion shall be distributed over the life of such beneficiary or over a period not extending beyond the life expectancy of such beneficiary, and (3) if the beneficiary is someone other than the member's surviving spouse, such distributions shall begin not later than one year after the date of the member's death or such later date as the U.S. Secretary of the Treasury may by regulations prescribe. If the beneficiary is the surviving spouse of the member, (1) distribution shall begin on or before the latest of one year after the date of the member's death, such later date as the U.S. Secretary of the Treasury may by regulations prescribe, or the date on which the member would have attained 70½ years of age and (2) if the surviving spouse dies before the distributions to such spouse begin, the distribution rules specified in this Section shall be applied as if the surviving spouse were the member. Distributions from the System shall be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code, including the rules for incidental death distributions set forth at Section 401(a)(9)(G). (27-90-3, § 4; 51-13-3; 3-16-3.)

Section 3-3-54. - Direct rollovers to other plans.

- (a) General. This Section applies to distributions made on or after January, 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. However, to the extent that any portion of the amount of the rollover is comprised of after-tax contributions, the distribution may only be rolled over to an eligible retirement plan that separately accounts for after-tax contributions.
- (b) Definitions.
  - (1) *Eligible rollover distribution* shall mean any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.
  - (2) *Eligible retirement plan* shall mean any one of the following that accepts the distributee's eligible rollover distribution: an individual retirement account described in Section 408(a) of the Internal Revenue Code; an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; an annuity plan described in Section 403(a) of the Internal Revenue Code; a qualified trust described in Section 401(a) of the Internal Revenue Code; an annuity contract described in Section 403(b) of the Internal Revenue Code; an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state; or effective for distributions made after December 31, 2007, a Roth IRA described in Section 408A of the Internal Revenue Code, provided the eligible rollover distribution is considered a "qualified rollover contribution" under Section 408A(e). However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

- (3) *Distributee* shall mean a member or former member. In addition, the member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is entitled to receive benefits from the System, shall be distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2010, a distributee shall include a non-spouse beneficiary of a deceased member or former member who may make an eligible rollover distribution in a direct trustee-to-trustee transfer to an "inherited" individual retirement account.
- (4) *Direct rollover* shall mean a payment by the System to the eligible retirement plan specified by the distributee. (45-93-3; 21-96-3; 8-03-3; 01-11-3; 3-16-3.)

Section 3-3-55. - Additional retirement allowance.

(a) Definitions.

- (1) *Active member* shall mean a member of the System who is an employee on July 1, 1995, or who became an employee thereafter, and whose membership in the System has not ceased at any time from July 1, 1995, or from when he or she became an employee (whichever is later), until the effective date of his or her subsequent retirement.
  - (2) *Retired member* shall mean a member of the System who is receiving a retirement allowance on July 1, 1995. A member of the System who is receiving a retirement allowance shall include any member whose effective date of retirement is on or before July 1, 1995.
  - (3) *Retirement allowance* shall mean a normal service retirement allowance, an early service retirement allowance, an ordinary disability retirement allowance, a deferred vested benefit, or a spouse retirement allowance.
  - (4) *Base annual retirement allowance* shall mean the initial calculation of a member's or spouse's annual retirement allowance without regard for any deductions for withholding or other benefit elections or adjustments under Section 3-3-8. For a member taking normal service retirement under Section 3-3-32(a), this is the allowance calculated under Section 3-3-33(a)(1) (post-age 55 years) or Section 3-3-33 (a)(2) (pre-age 55 years) less any additional allowance under Section 3-3-33(a)(1)(B); for a member taking early retirement under Section 3-3-32(b), this is the allowance calculated under Section 3-3-33(b), less any additional allowance under Section 3-3-33(a)(1)(B); for a member retired on account of ordinary disability under Section 3-3-34, this is the allowance calculated under Section 3-3-35; for a member receiving a deferred benefit, this is the allowance calculated under Section 3-3-39(b); and for a spouse receiving a spouse retirement allowance, this is the allowance calculated under Section 3-3-44.
  - (5) *Adjusted base annual retirement allowance* shall mean the base annual retirement allowance of a retired member or of the spouse of a member receiving the base spouse annual retirement allowance provided under Section 3-3-44, as increased by any cost-of-living adjustments applied to the member's or spouse's retirement allowance from the effective date of his or her retirement or election of the spouse retirement allowance through July, 1, 1995.
  - (6) *Member in service* shall mean a member of the System.
- (b) The adjusted base annual retirement allowance of each retired member or spouse receiving a retirement allowance on July 1, 1995, shall be increased by three percent, effective July 1, 1995, (modified adjusted base annual retirement allowance). Adjustments to the retired member's or spouse's retirement allowance made under the provisions of this Article after July 1, 1995, shall be computed on the basis of the modified adjusted base annual retirement allowance.
  - (c) When an active member retires, or an eligible spouse of an active member elects to receive the spouse retirement allowance after July 1, 1995, after his or her base annual retirement allowance has been computed under the applicable Section of this Article, the resulting base annual retirement allowance shall be increased by three percent (initial base annual retirement allowance). Adjustments to the member's or spouse's retirement allowance under this Article shall be computed on the basis of the initial base annual retirement allowance.

- (d) If a member is entitled to the three percent increase in the base retirement allowance provided by either Subsection (b) or (c) of this Section and if at the time he or she is entitled to such increase, he or she is also eligible to receive in whole or in part the additional allowance provided by Section 3-3-33(a)(1)(B) under any provision of this Article, such additional allowance shall be also increased by three percent.
- (e) Separation from service.
- (1) A member who:
- (A) Separated from service other than by death or retirement with five or more years of creditable service in the System prior to July 1, 1995, and
- (B) Has not withdrawn his or her accumulated contributions as of July 1, 1995, and
- (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit after July 1, 1995, shall have his or her deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
- (2) A member in service on or after July 1, 1995, who:
- (A) Subsequently separates from service other than by death or retirement with five or more years of creditable service in the System, and
- (B) Does not withdraw his or her accumulated contributions, and
- (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit, shall have his or her deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
- (3) A member in service on or after July 1, 1995, who,
- (A) Subsequently separates from service other than by death or retirement with five or more years of creditable service in the System, and
- (B) Does not withdraw his or her accumulated contributions, and
- (C) Thereafter, returns to service and again becomes a member of the System, and
- (D) Subsequently applies for and is determined to be eligible for a normal service, early service, or ordinary disability retirement allowance, or for a deferred vested benefit, shall have his or her allowance or deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
- (4) A member in service on or after July 1, 1995, who:
- (A) Thereafter separates from service, and
- (B) Withdraws his or her accumulated member's contributions, and
- (C) Subsequently returns to service and again becomes a member of the System, and
- (D) At that time makes arrangements to purchase credit for all of his or her previous service in the System under this Article, and
- (E) Thereafter applies for and is determined to be eligible for a normal service, early service, or ordinary disability retirement or for a deferred vested benefit, shall have his or her allowance or deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (ced) of this Section.
- (f) The spouse of a member who retired on a normal service, early service or ordinary disability retirement who is receiving an allowance under the joint and last survivor option provided by Section 3-3-33(c), on July 1, 1995, shall have such allowance increased by three percent, effective July 1, 1995. Adjustments to such allowance under this Article after July 1, 1995, shall be computed on the basis of this increased allowance.

- (g) Notwithstanding the 60 percent of average final compensation limit contained in Section 3-3-35, the initial base annual retirement allowance of an active member who becomes eligible to receive an ordinary disability retirement allowance and who is entitled to the increase provided by Subsection (c) of this Section shall not exceed 61.8 percent of his or her average final compensation.
- (h) Notwithstanding any provision of this Section to the contrary, no adjustment under this Section shall be made which would violate the limitations provided by Section 3-3-52 concerning the limitations imposed by Section 415 of the Internal Revenue Code and U.S. Treasury regulations issued thereunder; provided, that any adjustment under this Section may be made up to those limitations.

(i) This Section shall not be applicable to members of Plan F.

(12-95-3; 3-16-3.)

Section 3-3-56. - Deferred retirement option program.

Effective October 1, 2003, there is hereby established a Deferred Retirement Option Program (DROP) for eligible members of the System. Members of the System in service who are eligible for normal service retirement are eligible to elect to participate in this program.

(a) Definitions.

- (1) *DROP period* shall mean the three-year period immediately following the commencement of the member's participation in the DROP.
- (2) *Eligible member* shall mean any member who is, or shall become within 60 days, eligible for normal service retirement benefits as those are defined in Section 3-3-32(a).

(b) Election to participate.

- (1) An eligible member may participate in the DROP only once. An eligible member who desires to participate in the DROP must file an application with the Fairfax County Retirement Administration Agency not less than 60 days prior to the date of the commencement of the member's participation in the DROP.
- (2) A member's election to participate in the DROP is irrevocable, with the exception that a member who elects to participate in the DROP may revoke that election prior to the commencement of his or her DROP period; once revoked, a member may not then elect to participate in the DROP for a period of at least 12 months from the date of his or her revocation.
- (3) At the time of an eligible member's election to participate in the DROP, he or she must make an election in writing pursuant to Section 3-3-33(c) as to whether or not to receive a reduced retirement allowance in order to provide a retirement allowance for his or her spouse after the member's death.
- (4) An eligible member who elects to participate in the DROP shall agree to do so for a period of three years.
- (5) Subject to any limitation on the number of accrued sick leave hours that may be converted to creditable service as provided in Section 3-3-24(a)(24), an eligible member who elects to participate in the DROP shall, at the time of his or her election to participate in the DROP, make an election in writing as to whether he or she wishes to convert all of his or her available accrued sick leave to creditable service or to convert all but 40 hours of his or her accrued sick leave to creditable service. Sick leave that is either carried over or that accrues during the DROP period shall not be converted to creditable service at the conclusion of the DROP period.

(c) Continued employment.

- (1) A participating DROP member shall, upon commencement of his or her DROP period, continue to work for the County in the position he or she held before the effective date of his or her election to participate in the DROP. Thereafter, the participating DROP member

shall perform the services of that position or any other position to which he or she is promoted or transferred.

- (2) A participating DROP member shall continue to accrue annual and sick leave and, if eligible, compensatory time during the DROP period. At the conclusion of the DROP period, the member shall receive the payment for his or her accrued annual and compensatory leave that he or she would have received upon retirement. In no case shall a participating DROP member receive payment for his or her accrued annual and compensatory leave at the commencement of the member's participation in the DROP.
  - (3) A participating DROP member shall continue to remain eligible for health and life insurance benefits provided by the County to its employees and shall remain eligible to participate in the County's deferred compensation plan. The deductions from the salary of a participating DROP member for health and life insurance benefits shall be the same deductions that would have been taken had the participating DROP member been an active County employee, not the deductions that would be taken from the retirement allowances and benefits of a retiree.
  - (4) All County personnel policies and regulations shall continue to apply to a participating DROP member after the commencement of his or her DROP period. A participating DROP member shall remain eligible for annual merit pay increments and promotions during the DROP period. However, a participating DROP member's salary during his or her DROP period shall not be included in the computation of the member's average final compensation. A participating DROP member is also subject to the County's disciplinary policies and regulations.
  - (5) If a participating DROP member's continued employment with the County is interrupted by military service, there shall be no interruption of the member's participation in the DROP. During the period of the participating DROP member's military service, the member's retirement allowances and benefits shall continue to be paid into the participating member's DROP account until the member's DROP period ends. At the end of the DROP period, the member's DROP account balance shall be paid to the member whether or not he or she has returned to his or her former County position, and the member shall begin to receive his or her normal retirement benefits.
  - (6) Except as otherwise set forth herein, a participating DROP member's continued service shall be deemed to be normal service retirement and shall not count as creditable service with the System.
  - (7) Upon commencement of a participating DROP member's DROP period, the County shall cease to withhold contributions to the System from the participating DROP member's salary.
  - (8) The salary received by a participating DROP member during his or her DROP period shall not be included by the County in the base that is used to determine the amount of the County's employer contributions to the System.
- (d) DROP account.
- (1) Upon commencement of the participation of a member of ~~the four plans that existed before January 1, 2013 (Plans A, B, C, and D), whose County employment commenced by reporting for work before January 1, 2013,~~ in the DROP, the member's service retirement allowance pursuant to Section 3-3-33(a) and the additional retirement allowance pursuant to Section 3-3-55 shall be paid into the member's DROP account.

Upon commencement of the participation of a member of Plan E, ~~whose County employment commenced by reporting for work on or after January 1, 2013,~~ in the DROP, the member's service retirement allowance pursuant to Section 3-3-33(a) shall be paid into the member's DROP account; the additional retirement benefits provided for in Section 3-3-33(a)(3) shall not be credited to the DROP accounts of members of Plan E, although members of Plan E shall

remain eligible to receive the additional retirement benefits provided for in Section 3-3-33(a)(3) upon the completion of their DROP period, if they then meet the requirements for eligibility for such benefits set forth in Section 3-3-33(a)(3). ~~The initial amount credited to a member's DROP account shall be computed based on his or her average final compensation as of the date of the commencement of the DROP period.~~ Upon commencement of the participation of a member of Plan F, in the DROP, the member's service retirement allowance pursuant Section 3-3-33(a) shall be paid into the member's DROP account, the additional retirement benefits provided for in Section 3-3-33(d) and Section 3-3-55(d) shall not be credited to the DROP account of members of Plan F. The initial amount credited to a member's DROP account shall be computed based on his or her average final compensation as of the date of the commencement of the DROP period.

- (2) The initial monthly amount shall be increased each July 1 based upon the annual cost-of-living adjustment provided to retirees pursuant to Section 3-3-45. Any other changes that occur during the DROP period that would result in an alteration of the participating DROP member's retirement allowances and benefits if he or she were retired shall also result in adjustments to the monthly amount credited to a participating DROP member's DROP account.
  - (3) The participating DROP member's DROP account shall be credited with interest at an annual rate of five percent, compounded monthly. Interest shall not be pro-rated for any period less than a full month.
  - (4) Contributions by the County and the participating DROP member into the System for the participating DROP member shall cease.
  - (5) Amounts credited to a participating DROP member's DROP account shall not constitute annual additions under Section 415 of the Internal Revenue Code.
  - (6) A participating DROP member's DROP account shall not be an account that is separate and distinct from the assets of the System; a participating DROP member's DROP account balance shall remain part of the assets of the System.
- (e) Cessation of County employment.
- (1) At the conclusion of a participating DROP member's DROP period, the member's County employment shall automatically cease. The participating DROP member shall then begin to receive normal service retirement allowances and benefits computed based upon his or her average final compensation at the time of the commencement of the DROP period and his or her creditable service at the time of the commencement of the DROP period, plus cost-of-living increases provided to retirees and any other benefit improvements that may have been granted to retirees during the participating DROP member's DROP period. At least 60 days prior to the conclusion of a participating DROP member's DROP period, the member shall make one of the following elections concerning payment of his or her DROP account balance:
    - (A) The member may receive payment of his or her DROP account balance as a lump sum.
    - (B) The member may elect to roll over his or her DROP account balance into an "eligible retirement plan," as defined in Section 3-3-54(b)(2).
    - (C) The member may elect to receive payment of a portion of his or her DROP account balance and roll over the remaining portion into a qualified retirement plan, such as an IRA. If the member elects this method of receiving his or her DROP account balance, he or she must specify, in writing, the specific amount to be paid as a lump sum and the specific amount to be rolled over.
    - (D) The member may elect to use his or her DROP account balance to increase his or her monthly retirement benefits and allowances. The amount of the increase shall be

determined based on the actuarial equivalent of the member's DROP account balance.

- (E) The member may divide his or her DROP account balance in half, and may then elect to use 50 percent of his or her DROP account balance to increase his or her monthly retirement allowances and benefits, and to receive the remainder in any manner listed in Subparagraphs (A), (B) and (C) above.

In the event that the participating DROP member does not make the election required by this Subsection, the member shall receive payment of his or her DROP account balance as a lump sum.

- (2) A participating DROP member may terminate his or her County employment at any time, in which case the effective date of the member's termination of his or her County employment shall be treated as the end of the DROP period for all purposes of this Section.
  - (3) In the event that the employment of a participating DROP member is terminated by the County during the DROP period for any reason, the effective date of the member's separation from County service shall be treated as the end of the DROP period for all purposes of this Section.
- (f) Death or disability during DROP period.
- (1)
    - (A) If a participating DROP member dies during the DROP period, the participating DROP member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of Section 3-3-33(c), the participating DROP member's surviving spouse shall receive payment of the participating DROP member's DROP account balance and shall begin to receive allowances and benefits pursuant to the joint and last survivor option election of the participating DROP member.
    - (B) If a participating DROP member dies during the DROP period, and the participating DROP member's death is a service-connected accidental death as set forth in Section 3-3-38, the member's beneficiary shall receive the benefits provided for in Section 3-3-38(a)(1); if there is no designated beneficiary on record with the System, payment of these amounts shall be to the member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of Section 3-3-33(c), the participating DROP member's surviving spouse shall receive the benefits provided for in Section 3-3-38(a)(1)(B) and the participating DROP member's DROP account balance, and shall begin to receive allowances and benefits pursuant to the joint and last survivor election of the participating DROP member.
  - (2) If a participating DROP member becomes disabled during the DROP period, the participating DROP member shall receive:
    - (A) In the case that a participating DROP member suffers a disability that would be considered an ordinary disability as defined in Section 3-3-35, the effective date of the member's disability shall be treated as the end of the participating DROP member's DROP period.
    - (B) In the case that a participating DROP member suffers a service-connected disability as set forth in Section 3-3-36 or a severe service-connected disability as set forth in Section 3-3-37.2, the participating DROP member may elect either (i) to receive the

service-connected disability retirement allowances and benefits or the severe service-connected disability retirement allowances and benefits to which he or she would otherwise be entitled or (ii) to receive the normal service retirement benefits and allowances to which he or she would be entitled plus his or her DROP account balance. An election to receive service-connected disability retirement allowances and benefits or severe service-connected disability retirement benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.

- (g) Execution of documents and adoption of rules and regulations. The County Executive is authorized to execute all documents necessary or appropriate to operate the DROP including, but not limited to, the establishment of a trust within which the participating DROP members' DROP accounts shall be held and administered. The Board of Trustees is also authorized to adopt rules and regulations governing the DROP. Any documents executed by the County Executive shall be approved for form by the County Attorney prior to execution. (36-03-3; 41-08-3; 27-10-3; 01-11-3; 27-12-3; 3-16-3.)

Section 3-3-57. - Increased retirement allowance for certain retired members.

(a) For the purposes of this Section only, the following words and phrases shall be defined as follows:

- (1) *Retired member* shall mean a member of the System whose effective date of retirement was on or before March 18, 2002.
- (2) *Retirement allowance* shall mean a normal service retirement allowance, an early service retirement allowance, an allowance to a surviving spouse pursuant to the joint and last survivor option, or a spouse retirement allowance.
- (3) *Spouse receiving a spouse allowance* shall mean a member's surviving spouse who was, on or before March 18, 2002, entitled to receive a spouse retirement allowance.
- (4) *Base annual retirement allowance* shall mean the initial calculation of a member's retirement allowance, a surviving spouse's allowance pursuant to the joint and last survivor option, or a spouse's annual retirement allowance, without regard to any deductions for withholding or other benefit elections or adjustments under Section 3-3-8.
  - (A) For Plan A members taking normal service retirement pursuant to Section 3-3-32(a), this is the allowance calculated pursuant to Sections 3-3-33(a)(1)(A) and (B) as in effect on the effective date of their retirement;
  - (B) For Plan B members taking normal service retirement pursuant to Section 3-3-32(a), this is the allowance calculated pursuant to Section 3-3-33(a)(1)(A), (B) and (C) as in effect on the effective date of their retirement;
  - (C) For Plan C members taking normal service retirement pursuant to Section 3-3-32(a), this is the allowance calculated pursuant to Section 3-3-33(a)(1)(D) as in effect on the effective date of their retirement;
  - (D) For Plan D members taking normal service retirement pursuant to Section 3-3-32(a), this is the allowance calculated pursuant to Section 3-3-33(a)(1)(D) and (E) (Plan D members) as in effect on the effective date of their retirement;
  - (E) For Plan A and C members taking early service retirement pursuant to Section 3-3-32(b) whose age plus creditable service as of the effective date of their retirement was less than 75 years, this is the allowance calculated pursuant to Section 3-3-33(b)(1) as in effect on the effective date of their retirement;
  - (F) For Plan B and D members and for Plan A and C members taking early service retirement pursuant to Section 3-3-32(b) whose age plus creditable service was greater than or equal to 75 years as of the effective date of their retirement, this is the allowance calculated pursuant Section 3-3-33(b)(2) as in effect on the effective date of their retirement; or

- (G) For a surviving spouse receiving an allowance pursuant to the joint and last survivor option, this is the allowance calculated pursuant to Section 3-3-33(c) as in effect on the effective date of the member's retirement; or
- (H) For a spouse receiving a spouse allowance, this is the allowance calculated pursuant to Section 3-3-44(a) as in effect on the date of the commencement of payment of the spouse allowance.
- (5) *Adjusted base annual retirement allowance* shall mean the base annual retirement allowance as set forth in Subparagraph 4 of this Subsection as increased by any cost-of-living adjustments applied to the base annual retirement allowance from the effective date of the retired member's retirement or of the commencement of the receipt of a spouse allowance through December 31, 2003.
- (b) Effective January 1, 2004, the adjusted base annual retirement allowance of each retired member or spouse receiving a retirement allowance shall be increased as follows:
  - (1) For Plan A members, by 23 percent;
  - (2) For Plan B members, by 15 percent;
  - (3) For Plan C members, by five percent;
  - (4) For Plan D members, by five percent;
  - (5) For spouses receiving spouse allowances pursuant to Section 3-3-44(a), by ten percent; or
  - (6) For surviving spouses receiving allowances pursuant to the joint and last survivor option set forth in Section 3-3-33(c), by ten percent.
- (c) No increased retirement allowance calculated pursuant to this Section shall violate the limitations on annual retirement allowances set forth in Section 3-3-52.
- (d) For those persons eligible to receive the increased retirement allowance pursuant to this Section, cost of-living adjustments pursuant to Section 3-3-45 and made after January 1, 2004, shall be calculated based upon the increased retirement allowance set forth in this Section. (43-03-3; 3-16-3.)

Division 9. - Benefit Restoration Plan.

Section 3-3-58. - Benefit restoration plan.

- (a) There is hereby established a Benefit Restoration Plan for the System.
- (b) Purpose and intent; rule of construction.
  - (1) In establishing this Benefit Restoration Plan, the Board of Supervisors intends to establish and maintain a "qualified governmental excess benefit arrangement," as defined and authorized by the Section 415(m) of the Internal Revenue Code, as is permitted by Section 51.1-1302 of the *Virginia Code*. The purpose of this Benefit Restoration Plan is to restore, through a non-qualified arrangement, the benefits lost by the application of the limitation on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans. This Benefit Restoration Plan shall exist in addition to all other retirement, pension, or other benefits available to participants, including the benefits established by the System.
  - (2) This Section shall be construed to ensure compliance with federal and state law, and any regulations promulgated thereunder, governing such qualified governmental excess benefit arrangements, including, but not limited to Section 415(m) of the Internal Revenue Code and Sections 51.1-1302, 51.1-1303, and 51.1-1304 of the *Virginia Code*, as in effect at the time of the adoption of this Section and as subsequently amended.
- (c) Definitions.
  - (1) *Administrator* or *Plan Administrator* shall mean the Board, which is responsible for the general administration and operation of the Benefit Restoration Plan and for making effective the provisions of this Section. Under the oversight of the Board, the Executive Director shall be responsible for the day to day operation and administration of the Benefit Restoration Plan.

- (2) *Beneficiary* shall mean the person or persons entitled under this Article to receive any benefits payable after the participant's death.
  - (3) *Benefit Restoration Plan* or *Plan* shall mean the Benefit Restoration Plan for the System established by this Section.
  - (4) *Effective date* shall mean the date of this Section's adoption [June 5, 2006].
  - (5) *Eligible member* shall mean a retired member of the System whose benefits thereunder are reduced by the application of the limitations on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans.
  - (6) *Enabling statute* shall mean Chapter 13 of Title 51.1 of the *Virginia Code*, as amended.
  - (7) *Grantor trust* shall mean the trust fund described in Subsection (i)(3) of this Section and established and maintained for the Benefit Restoration Plan.
  - (8) *Participant* shall mean an eligible member qualified to participate in the Benefit Restoration Plan.
  - (9) *Plan Sponsor* shall mean the Board of Supervisors.
  - (10) *Plan Year* shall mean the 12-month period beginning on July 1.
  - (11) *Restoration death benefit* shall mean the benefit due the beneficiary of a participant under the Plan as determined under this Section.
  - (12) *Restoration retirement benefit* shall mean the benefit due a participant or his or her beneficiary under the Benefit Restoration Plan determined under this Section.
- (d) Eligibility and Participation.
- (1) Eligibility and date of participation. Each eligible member shall be a participant in the Benefit Restoration Plan commencing with the date he or she first becomes, or again becomes, an eligible member.
  - (2) Length of participation. Each eligible member who becomes a participant shall be or remain a participant for so long as he or she is entitled to future benefits under the terms of the Benefit Restoration Plan.
- (e) Restoration retirement benefit. Subject to the terms and conditions set forth in this Section, a participant who retires or is retired under the System and who is entitled to the payment of benefits under the System shall be entitled to a restoration retirement benefit, generally expressed as a benefit payable monthly for the life of the participant and commencing at the applicable time provided under this Article, equal to the excess, if any, of:
- (1) The amount of the participant's retirement allowance under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
  - (2) The amount of the participant's retirement allowance under the System.
- To the extent that the participant's retirement allowance payable under the System is increased at any time due to increases in limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the U. S. Treasury Secretary or his or her delegate or otherwise, the participant's restoration retirement benefit shall be reduced correspondingly.
- (f) Death Benefit.
- (1) Death after benefit commencement. If a participant dies after his or her restoration retirement benefit commences to be paid, the only benefits payable under the Benefit Restoration Plan to his or her beneficiary after his or her death shall be those, if any, provided under the form of payment being made to him or her at his or her death.

- (2) Death before benefit commencement. If a participant dies before his or her restoration retirement benefit commences to be paid, the only benefit payable under the Benefit Restoration Plan with respect to him or her shall be the restoration death benefit, if any, provided in Subsection (f)(3) of this Section.
- (3) Restoration death benefit. Subject to the terms and conditions set forth herein, if a participant dies on or after the effective date and before his or her restoration retirement benefit commences to be paid, his or her beneficiary shall be entitled to a restoration death benefit as follows:
  - (A) If his or her beneficiary is entitled to receive any death benefit under the System, such beneficiary shall be entitled to receive as a restoration death benefit under the Benefit Restoration Plan an amount equal to the excess, if any, of:
    - (i) The amount of such death benefit under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
    - (ii) The actual amount of such death benefit under the System.

To the extent that the participant's accrued benefit or any death benefit payable under the System is increased at any time due to increases in the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the U.S. Secretary of the Treasury or his or her delegate or otherwise, the participant's restoration death benefit shall be reduced correspondingly.
- (g) Vesting. A participant's restoration retirement benefit or restoration death benefit, as the case may be, shall be vested at the time of his or her retirement under the System or death, but only to the extent, and determined in the manner, that such participant has a vested and non-forfeitable right to his or her retirement allowance under the System.
- (h) Payment of Benefits.
  - (1) Time and manner for payment of benefits. A participant's restoration retirement benefit, or the restoration death benefit, shall be payable at the same time and in the same manner as the participant's retirement allowance or comparable death benefit (other than his or her accumulated contributions or contribution refund death benefit) is paid under the System, whether as elected by the participant or otherwise payable. For a member who is receiving a retirement allowance under the System on the effective date, and who would immediately be an eligible member upon the effective date, such Member shall immediately commence receiving a restoration retirement benefit on a prospective basis.
  - (2) Discretionary use of other methods of payment. In the sole discretion of the Administrator, monthly payment amounts of less than \$100.00, or such amount as the Administrator may from time to time determine, may be paid on an annual or semi-annual basis, in arrears and without interest.
  - (3) Benefit determination and payment procedure. The Administrator shall make all determinations concerning eligibility for benefits under the Benefit Restoration Plan, the time or terms of payment, and the form or manner of payment to the participant (or the participant's beneficiary in the event of the death of the participant). The Administrator shall promptly notify the employer and, where payments are to be made from a grantor trust, the trustee thereof, of each such determination that benefit payments are due and provide to the employer or trustee such other information necessary to allow the employer or trustee to carry out said determination, whereupon the employer or trustee shall pay such benefits in accordance with the Administrator's determination.
  - (4) Payments to minors and incompetents. If a participant or beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits shall be paid to such person as the Administrator may designate for the benefit of such

participant or beneficiary. Such payments shall be considered a payment to such participant or beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Benefit Restoration Plan.

- (5) Distribution of benefit when distributee cannot be located. The Administrator shall make all reasonable attempts to determine the identity and/or whereabouts of a participant or his or her beneficiary entitled to benefits under the Benefit Restoration Plan, including the mailing by certified mail of a notice to the last known address shown on the employer's or the Administrator's records. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no such claim made for such benefits, the employer shall continue to hold the benefit due such person, subject to any applicable statute of escheats.

(i) Funding.

- (1) The undertaking to pay the benefits hereunder shall be unfunded obligations payable solely from the general assets of the employer and subject to the claims of the employer's creditors.
- (2) Except as provided in a grantor trust established as permitted in Subsection (i)(3) of this Section, nothing contained in the Benefit Restoration Plan and no action taken pursuant to this Section shall create or be construed to create a trust of any kind of a fiduciary relationship between the employer and the participant or his or her beneficiary or any other person or to give any participant or beneficiary any right, title, or interest in any specific asset or assets of the employer. To the extent that any person acquires a right to receive payments from the employer under the Benefit Restoration Plan, such rights shall be no greater than the right of any unsecured general creditor of the employer.
- (3) Use of grantor trust permitted. Notwithstanding any provision of this Section to the contrary, the Benefit Restoration Plan Sponsor may in its sole discretion elect to establish and fund a grantor trust for the purpose of providing benefits under the Benefit Restoration Plan.

(j) Plan Administrator.

- (1) The Plan Administrator shall have full and complete authority and discretion to control and manage the operation of and shall decide all matters under the Benefit Restoration Plan pursuant to this Section and the enabling statute. The Administrator shall have any and all powers as may be necessary or advisable to discharge its duties under the Benefit Restoration Plan including the power and authority to interpret the terms of the Benefit Restoration Plan.
- (2) The Plan Administrator shall be responsible for performing the duties required for the operation of the Benefit Restoration Plan, and shall be responsible for supervising the performance of any other persons who may assist in the performance of the Plan Administrator's responsibilities under this Section and the enabling statute.
- (3) To enable the Plan Administrator to perform its responsibilities, employer(s) shall promptly provide to the Plan Administrator complete and accurate information on any matter that is required by the Administrator in order to make any decision or determination under the Benefit Restoration Plan. The Plan Administrator shall rely upon this information supplied by the employer, and shall have no duty or responsibility to verify this information.
- (4) Except as prohibited by law or by this Section, the Plan Administrator may delegate any of its duties to the Executive Director. The Plan Administrator may contract with any person to provide services to assist in the administration of the Benefit Restoration Plan. The Plan Administrator shall make such contracts in compliance with all applicable state and local laws and regulations. Any person other than the Plan Administrator who performs services regarding the Benefit Restoration Plan is subject to the supervision and direction of the Plan Administrator, and does not have the authority to control the operation of the Plan.

(k) Termination and amendment of Benefit Restoration Plan.

- (1) Termination. The Board of Supervisors hereby reserves the right to terminate the Benefit Restoration Plan at any time; provided, that no such termination shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such termination.
- (2) Amendment. The Board of Supervisors hereby reserves the right to amend this Benefit Restoration Plan at any time; provided, that no such amendment shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such amendment.

(l) Non-assignability.

The interests of each participant hereunder the Benefit Restoration Plan are not subject to the claims of the participant's creditors; and neither the participant nor his or her beneficiary, shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Benefit Restoration Plan, which payments and interest are expressly declared to be non-assignable and non-transferable. Notwithstanding the foregoing, the Plan Administrator shall honor any process for a debt to the employer who has employed the participant and any administrative actions pursuant to Section 63.2-1900 et seq. of the *Virginia Code*, or any court process to enforce a child or spousal support obligation, in the manner as described in Section 3-3-7 mutatis mutandi. Restoration retirement benefits and/or restoration death benefits created under this Section which are deemed to be marital property pursuant to Section 20-89.1 et seq. of the *Virginia Code* may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Virginia Code*. Under no circumstances may a payment under this Subsection take place before the participant's benefit under the System is actually paid. (12-06-3; 3-16-3.)

ARTICLE 7. - Fairfax County Police Officers Retirement System.

Division 1. - Generally.

Section 3-7-1. - Fairfax County Police Officers Retirement System established.

- (a) Under the authority granted by Chapter 303, 1944 Acts of the Assembly, as amended, the Police Pension and Retirement System, established previously under the authority of Chapter 303, 1944 Acts of the Assembly, is hereby continued and is adopted and enacted by ordinance, as hereinafter set forth, and is to be known henceforth as the "Fairfax County Police Officers Retirement System."
- (b) The previously established Policemen's Pension and Retirement Board is hereby continued and shall be referred to as the "Board of Trustees of the Fairfax County Police Officers Retirement System." Members of the Board of Trustees in office on the effective date of this Article (June 22, 1981) shall continue in office as trustees until the expiration of their present terms and may be reappointed in accordance with the provisions of this Article.
- (c) The Fairfax County Police Officers Retirement System is intended to satisfy the requirements of Sections 401(a) and 414(d) of the Internal Revenue Code for qualified governmental pension plans. (20-81-3; 52-13-3.)

Section 3-7-2. - Definitions.

Unless provided otherwise in another Section, the following definitions shall apply to this Article:

(a) *Accrued sick leave credit* shall mean:

- (1) For employees who ~~are so County employment commenced by reporting for work before January 1, 2013~~ (members of Plan A), the credit allowed a member at a rate of one (1) month for each one-hundred-seventy-two (172) hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof.
- (2) For employees ~~whose County employment commenced by reporting for work on or after January 1, 2013~~ (who are members of Plans B or C), the credit allowed a member with more than five (5) years of service for purposes of determining retirement eligibility. Credit shall be allowed at the rate of one (1) month for every one-hundred-seventy-two (172) hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof; however, for employees whose County employment commenced by reporting to work on or after January 1, 2013, notwithstanding the amount of the employee's accrued sick leave balance, the maximum amount of accrued sick leave credit that may be used for determining retirement eligibility and for computing the member's retirement allowances and benefits shall be the employee's accrued sick leave balance or two-thousand-eighty (2,080) hours, whichever is less.

(b) *Actuarial equivalent* shall mean a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board.

(c) *Average final compensation* shall mean the average annual creditable compensation of a member during the thirty-six (36) consecutive months (seventy-eight (78) consecutive pay periods) ~~in which the member received his or her highest creditable compensation~~ for a member of Plans A or B, or 60 consecutive months (130 consecutive pay periods) for a member of Plan C, in which the member received his or her highest creditable compensation. In the event a member's creditable service is less than 36 months (78 pay periods) for a member of Plan A or B, or less than 60 months (130 pay periods) for a member of Plan C, his or her average final compensation shall be his or her average monthly creditable compensation received during the entire period of creditable service multiplied by 12 (average biweekly creditable compensation multiplied by 26 for biweekly paid members).

- (1) In determining average final compensation for members who retire after July 1, 1988, the member's accrued unused sick leave at the time of retirement may, at the option of the member, be substituted for an equivalent period of creditable service as if the member had continued to work at his or her final salary during the period of his or her accrued unused sick leave; provided, that in determining the average final compensation for members who became members of the System on or after January 1, 2013 (members of Plans B or C), no more than two-thousand-eighty (2,080) hours of the member's accrued unused sick leave may be used for this purpose.
- (2) If a member ordered or called to active duty with the armed forces of the United States on or after August 2, 1990, with or without his or her consent, other than for training at the request of the member, is entitled to service credit as a result of such military service pursuant to Section 3-7-23(d) and he or she otherwise would have no creditable compensation attributable to some portion or all of such period of service, his or her average final compensation shall be calculated as if he or she had continued to receive the salary, including pick-up contributions, approved and established for his or her position by the County Compensation Plan during the period of military service for which he or she is receiving service credit. A member shall be entitled to the benefit of the application of this rule for up to a cumulative total of four (4) years of military service commencing on or after August 2, 1990. The Board shall make any and all necessary retroactive adjustments to members' allowances as a result of this rule.
- (3) Notwithstanding the foregoing, whenever the Director of the Department of Human Resources, at the request of the Board, the member, or the member's beneficiary determines that the member's receipt of a merit increment was delayed as a result of either or both of the amendments to Section 4.3-2 of the Personnel Regulations, effective July 13, 1991, and July 11, 1992, and that the member would otherwise have been entitled to such merit increment under the Personnel Regulations, based upon the Human Resources Director's review of the member's personnel and payroll records, the Board shall calculate the member's average final compensation as if the member had received the merit increment at the time he or she would have but for the aforesaid amendments to Section 4.3-2 of the Personnel Regulations. This Subparagraph shall apply to all applications for allowances and benefits filed with the Board on or after July 13, 1991. The Board shall make any necessary retroactive adjustments to allowances and benefits.
- (4) Periods of leave without pay under the federal Family and Medical Leave Act of 1993 (FMLA) shall be disregarded in determining periods of consecutive months or pay periods in calculating average final compensation.
- (d) *Average salary*, as used in Section 3-7-34, shall mean the current salary of the position the member was in at the time he or she was disabled.
- (e) *Beneficiary* shall mean any person, other than a member, entitled to receive benefits as provided by the System. The Board shall provide a member with a form on which to designate in writing one or more beneficiaries of the member's benefits upon the member's death. The Board shall maintain any such written designation on file. A designated beneficiary may be changed from time to time by written notice by the member filed with the Board.
- (f) *Board* shall mean the Board of Trustees of the System, as provided in this Article.
- (g) *Creditable compensation* shall mean payment of salary including pick-up contributions, roll call and holiday pay but excluding performance bonuses. Effective for plan years after December 31, 1988, compensation in excess of \$200,000.00, as indexed under Section 415(d) of the Internal Revenue Code, shall be disregarded. Notwithstanding the foregoing, effective for members hired on or after July 1, 1996, compensation in excess of the limit set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. In determining the compensation of an employee under this definition, the rules of Section 415(c)(3) of the Internal Revenue Code shall apply. Effective for plan years on or after January 1, 2001 an employee's compensation shall include amounts not includible in gross income by reason of Section 132(f)(4) of the Internal Revenue Code.

- (h) *Creditable service* shall mean the total of membership service credit, plus portability service credit purchased pursuant to Section 3-7-23.1.
- (i) *DROP* shall mean the Deferred Retirement Option Program, as provided in Section 3-7-52.
- (j) *Employee* shall mean any law enforcement officer within the Fairfax County Police Department, whose compensation is fully paid by the County, and excluding any person as defined by Section 3-3-1(a)(9) of the *Code of the County of Fairfax*.
- (k) *Employer* shall mean the Chief of Police for the Fairfax County Police Department or an authority in the County having power to appoint police officers paid directly or indirectly by the County and/or the Board of Trustees of the System.
- (l) *Executive Director* shall mean the Executive Director of the Fairfax County Retirement Administration Agency.
- (m) *Handicapped child* shall mean natural or legally adopted member's progeny who has demonstrated to the Board by medical evidence acceptable to the Board, in its sole discretion, to be permanently mentally incompetent or permanently physically handicapped, unless and until a determination has been made by the Board that such progeny no longer is permanently mentally incompetent or permanently physically handicapped in accordance with Section 3-7-41.
- (n) *Internal Revenue Code* shall mean the federal income tax statutes, as they may be amended or superseded from time to time in the future.
- (o) *Member* shall mean a full-time employee, or a part-time employee, provided the Board first determines that it desires to receive a part-time employee into the System, or a former employee entitled to benefits under the System.
- (p) *Membership service credit* shall mean credit for service while a member of the System.
- (q) *Partial disability* shall mean the inability of the member to perform some part of the duties of a police officer, such as in administrative or desk assignments.
- (r) *Pick-up contributions* shall mean a member's regular contribution to the System which is picked up, through a salary reduction, by the County from the member's compensation for service rendered on or after December 22, 1984.
- (s) *Plan A* shall mean the provisions of this Article as applicable to all employees whose County employment commenced by reporting for work before January 1, 2013.
- (t) *Plan B* shall mean the provisions of this Article as applicable to all employees whose County employment commenced by reporting for work on or after January 1, 2013, and before July 1, 2019.
- ~~(u)~~ (u) *Plan C* shall mean the provisions of this Article as applicable to all employees whose County employment commenced by reporting for work on or after July 1, 2019.
- ~~((v))~~ (v) *Retirement allowance* shall mean the retirement payments to which a member is entitled as provided in this Article.
- ~~(w)~~ (w) *Salary* shall mean the compensation, including pick-up contributions, established for each position as approved in the County Compensation Plan.
- ~~(x)~~ (x) *Service* shall mean service as an employee for which compensation is paid by the employer, but shall not include time spent on leave without pay.
- ~~(y)~~ (y) *System* shall mean the Fairfax County Police Officers Retirement System. When any part of this Article refers to multiple retirement systems, the Police Officers Retirement System shall be referred to as "this System," rather than "the System."
- ~~(z)~~ (z) *Total disability* shall mean the inability of a member to reasonably perform his or her duties as a police officer. (20-81-3; 5-85-3; 36-88-3; 27-90-3, § 5; 13-92-3; 43-92-3; 15-93-3; 37-94-3; 21-96-3; 14-00-3; 18-01-3; 8-03-3; 8-04-3; 28-12-3.)

Section 3-2-2.1. - Definitions elsewhere in County Code and in County Personnel Regulations.

Unless this Article provides otherwise, the definitions provided in Sections 1-1-2, 3-3-1, and 3-3-12 of the *Code of the County of Fairfax*, and Chapter 2 of the Fairfax County Personnel Regulations shall apply herein.

Section 3-7-3. - Duties of the employer.

The employer shall keep all necessary records relating to the hiring and employment of members, and from time to time shall furnish such information as the Board may require in the discharge of its duties. Upon employment of a member, the employer shall inform the member of his or her duties and obligations in connection with the System as a condition of employment. (20-81-3.)

Section 3-7-4. - Consent to provisions of Article required for employment.

By and upon acceptance of employment with the employer, every member shall be deemed to consent and agree to any deductions or employer pick-up of amounts from his or her compensation required by this Article and to all other provisions thereof. (20-81-3; 5-85-3.)

Section 3-7-5. – Protection against fraud.

In addition to any other provisions of law, any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record or records of the System in any attempt to defraud the System shall be guilty of a misdemeanor and shall be punished accordingly. (20-81-3.)

Section 3-7-6. - Benefits unassignable; non-attachable.

The right of any member to a retirement allowance, to the return of contributions, including picked-up amounts, or any other right accrued or accruing to any person under this Article, and the funds created by this Article shall be unassignable and shall not be subject to execution, garnishment, attachment, bankruptcy, insolvency, or any other process of law whatsoever except for administrative actions pursuant to Section 63.2-1900 *et seq.* of the *Code of Virginia* or any court process to enforce a child or child and spousal support obligation, and shall be unassignable except as specifically provided in this Article. However, retirement benefits and assets created under this Article which are deemed to be marital property pursuant to Section 20-89.1 *et seq.* of the *Code of Virginia* may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Code of Virginia*. (5-85-3; 13-92-3; 1-93-3)

Section 3-7-7. – Errors resulting in over- or under-payment.

- (a) Should any change or error in the records or in the computation of a member's benefits result in any member or beneficiary receiving from the System more (overpayment) or less than he or she would have been entitled to had the records or computation been correct, the Board shall have the authority to correct such error and, as far as practicable, adjust the payments in such a manner that the actuarial equivalent of the benefit, to which such member or beneficiary was correctly entitled, shall be paid.
- (b) The Board is authorized to negotiate and compromise with a member with respect to any amounts which the Board determines have been paid to the member in excess of amounts to which the member is entitled. (20-81-3; 13-92-3.)

Section 3-7-8. – Amendment of Article.

- (a) The Board of Supervisors shall have the continuing right and power to amend, ~~suspend, or revoke or supplement~~ this Article at any time, which right and power is hereby expressly reserved, so long as the benefits payable are consistent with Va. Code Ann. 51.1-800. But no amendment shall be made inconsistent with the provisions of Section 51.1-821 of the Code of Virginia, as amended, and Chapter 303, 1944 Acts of Assembly, as amended.

- (b) No amendment, suspension or revocation, including termination or partial termination of the System, shall have the effect of diverting the trust fund of the System to purposes other than the exclusive benefit of the participating employees or their beneficiaries, until all liabilities for accrued benefits payable under the terms of the System shall have been fully satisfied. Upon termination of the System or a discontinuance of contributions to the System, each member's benefit accrued as of such date will be nonforfeitable. (20-81-3; 21-96-3; 52-13-3)

Division 2. - Board of Trustees.

Section 3-7-9. - Administration of System vested in Board of Trustees.

The general administration and the responsibility for the proper operation of the System and for making effective the provisions of this Article are hereby vested in the Board. (20-81-3.)

Section 3-7-10. – Membership; term of office; election of officers.

- (a) The Board of Trustees of the System shall consist of the following members:
- Director of the Department of Finance, who shall be the Treasurer of the Board, or his or her permanent designee, sitting ex officio;
  - Three (3) persons appointed by the Board of Supervisors;
  - Two (2) persons currently employed by the Fairfax County Police Department as sworn police officers elected by the members of the System currently employed by the Fairfax County Police Department as sworn police officers; and
  - One (1) person who is retired from employment as a sworn police officer of Fairfax County elected by the retired members of the System.
- (b) With the exception of the Director of the Department of Finance, the term of office of trustees shall be four (4) years. (20-81-3; 10-01-3.)

Section 3-7-11. - Vacancies in office.

Vacancies which occur in the office of trustee of the System shall be filled for the unexpired term in the same manner as the office was previously filled. (20-81-3.)

Section 3-7-12. - Compensation of trustees.

The three (3) trustees appointed by the Board of Supervisors may receive compensation at the rate set by the Board of Supervisors. (20-81-3.)

Section 3-7-13. – Election of officers.

The Board shall elect one (1) member as president, one (1) as secretary, and may elect one (1) as vice-president. Such election shall occur at the first meeting of the Board in each calendar year. (20-81-3.)

Section 3-7-14. – Accountable to the Board of Supervisors.

The Board of Trustees of the System shall be accountable to the Board of Supervisors. (20-81-3.)

Section 3-7-15. - Functions of the Board.

The general powers and authorized duties of the Board, subject to the limitations of this Article, are as follows:

- (a) To adopt bylaws, rules and regulations, lawful and necessary for the proper conduct of its affairs.
- (b) To conduct hearings, make investigations, and determine the amount of awards or pensions to be paid any police officer or his or her beneficiaries.

- (c) To provide for the expense of such clerical, legal, medical, investment counsel, and other services as it deems necessary or proper.
- (d) To provide for, and require deductions from, the salaries of active and paid members of the Police Department, and to cause the amounts deducted to be paid into its treasury, for its use in the administration of the System.
- (e) To draw warrants, signed in its name and countersigned by its president, and its treasurer, for the payments of pensions and benefits hereunder, and of costs and expenses of administration.
- (f) To determine who shall be members of the System.
- (g) To submit to the Board of Supervisors annually an independent audit showing the fiscal transactions of the System for the preceding fiscal year, the amount of accumulated cash and securities of the System, and the last balance sheet indicating the financial condition of the System.
- (h) To cause an actuarial evaluation to be made of the System as of July 1, 1982, and at least once in each succeeding two-year period. The Board shall keep in convenient form such data as shall be necessary for an actuarial evaluation of the System and for checking the experience of the System.
- (i) To review adverse decisions as provided by Section 3-7-45. (20-81-3; 8-82-3.)

Division 3. – Management of Funds.

Section 3-7-16. - Board trustee of funds; investment of same.

- (a) The Board shall be the trustee of funds created by this Article and shall have full power to invest and re-invest such funds. Such investments and re-investments shall be conducted with bona fide discretion and in accordance with the laws of the Commonwealth of Virginia, as such laws apply to fiduciaries investing such funds. The Board may upon the exercise of bona fide discretion employ investment counsel, who shall be subject to the same limitations herein provided for the Board. Subject to such limitations, the Board shall have the full power to hold, purchase, sell, assign, transfer or otherwise dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as the proceeds of such investments and any money belonging to such funds.
- (b) No trustee shall be personally liable for losses suffered by the System on investments made under the authority of and in compliance with this Section. (20-81-3.)

Section 3-7-17. - Treasurer fiscal officer of the Board.

The Treasurer of the Board shall be the custodian of all of its funds and securities, and may designate a fiduciary agent, upon the direction and approval of the Board. He or she shall give bond, in such amount, and with such surety, as the Board requires, as a condition for the faithful performance of his or her duties and the proper accounting for all funds and securities coming into his or her hands. He or she shall disburse the funds on warrants drawn by the Board, signed and countersigned as provided herein. (20-81-3.)

Section 3-2-18. - Prohibited interest of member or employee of Board.

- (a) The State and Local Government Conflict of Interests Act, Section 2.2-3100 *et seq.*, of the *Code of Virginia*, shall apply to members and employees of the Board.
- (b) No member or employee of the Board shall, directly or indirectly, for himself or herself or as an agent in any manner use the funds of the System, except to make such current and necessary payments as are authorized by the Board. (20-81-3.)

Division 4. - Membership in System.

Section 3-7-19. – Membership composition.

- (a) Membership shall be composed of the following:
  - (1) Present employees.

- (2) All persons who were employees on June 22, 1981, or who were on authorized leave from service on such date.
- (3) Future employees.
- (4) Former park police officers who elected to transfer to this System from the Fairfax County Uniformed Retirement System pursuant to the provisions of Section 3-3-20(b)(3). Membership in this System shall commence on January 22, 1983. For purposes of this Article, such members shall be deemed to have been appointed on or after July 1, 1981, regardless of being granted any prior service credit pursuant to Section 3-7-20(b). Such members may receive service credit for prior service as a park police officer if the member pays into this System the difference between the amount he or she contributed to the Uniformed Retirement System and the amount he or she would have contributed to this System had he or she been a member during the period for which he or she is seeking prior service credit plus an amount equal to the total return of this System's assets in each year for which prior service credit is applied to those contributions that have been in this System had he or she been a member at the time. At the Board's discretion, such a member may pay in installments over a period not to exceed one year. However, prior service credit shall not be granted until payment has been received in full. This offer to purchase service shall be effective for a period of one year from the approval date of this change [February 26, 2001].
- (b) Employees of the County who are members of the Virginia Retirement System (VRS) or the Fairfax County Uniformed Retirement System, and future employees who are eligible to become members of those systems, are not eligible for membership in this System.
- (c) Persons receiving a normal service or early service retirement allowance from this System, the Fairfax County Employees' Retirement System or the Fairfax County Uniformed Retirement System are eligible for membership only under the terms and conditions set forth in Section 3-7-40.
- (d) Notwithstanding any other provision of this Chapter or Article to the contrary, an active member of this System who has more than five (5) years of creditable service in this System and who is appointed to serve as a Deputy County Executive shall remain a member of this System, and shall not become a member of the Fairfax County Employees' Retirement System as a result of such appointment. Any such member shall remain a member of this System for so long as he or she is so employed or subsequently resumes working in a position that is covered under this System. (20-81-3; 35-81-3; 22-83-3; 36-86-3; 27-90-3, § 5; 8-91-3; 56-93-3; 10-01-3; 28-12-3.)

#### Division 5. Service Credit.

##### Section 3-7-20. - Statement to be filed with Board.

Under such rules and regulations as are adopted by the Board, each member or someone on his or her behalf shall file with the Board, in such form as the Board may prescribe, a statement of the facts pertaining to his or her status as a member, which shall include a statement of all service as an employee, and such other information as the Board may require. Until such statement is filed, no member or his or her beneficiary shall be eligible to receive any benefits under this Article. (20-81-3.)

##### Section 3-7-21. - Year of service.

The Board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in no case shall it allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months. (20-81-3.)

##### Section 3-7-22. - Membership service credit.

- (a) Each member shall receive membership service credit for service rendered while a member of the System, or after he or she last became a member in the event of a break in his or her membership.

- (b) Each member shall receive membership service credit for any period he or she is on service-connected total disability retirement. All members who have been retired before, and all members who are retired on or after, July 7, 2003, on account of service-connected partial disability pursuant to Section 3-7-29 shall receive membership service credit for any period they are on service-connected partial disability retirement.
- (c) Each member shall be allowed membership service credit for accrued unused sick leave upon making application for retirement, at the rate of one (1) month of credit for each one-hundred-seventy-two (172) hours of accrued unused sick leave; and pro rata credit shall be allowed for each fraction thereof. In determining average final compensation, the member's accrued unused sick leave at the time of retirement may, at the option of the member, be substituted for an equivalent period of creditable service as if the member had continued to work at his or her final salary during the period of his or her accrued unused sick leave.
- (d) Each member shall receive membership service credit for military leave, provided he or she returns to full employment within ninety (90) days of discharge and such discharge is other than dishonorable. (20-81-3; 36-88-3; 8-03-3; 33-03-3.)

Section 3-7-23. – Prior service credit.

- (a) A member shall receive membership service credit for prior employment as a police officer with the County, provided he or she shall return his or her contributions, including picked-up amounts, previously paid, in addition to interest received at the yearly rates earned by the System during the period the member's contributions, including picked-up amounts, had been withdrawn. The Board may, in its discretion, accept a return of a member's contributions, including picked-up amounts on an installment basis, as determined by the Board. Such member may satisfy some or all of the amount due from him or her for the purchase of such service through a rollover from an individual retirement account if the entire amount in that account is attributable to a rollover from the System. Such member may also satisfy some or all of the amount due from him or her for the purchase of such service through a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), or through a direct trustee-to-trustee transfer from an annuity described in Section 403(b) of the Internal Revenue Code.
- (b) Former park police officers who elected to transfer to this System pursuant to Section 3-3-20(b)(3) and to transfer their contributions from the Fairfax County Uniformed Retirement System pursuant to Section 3-3-20(b)(4)(C) shall be granted membership service credit for their service as park police officers. Any deficits created by this action shall be funded by increasing the rate of employer contributions as determined by the required actuarial evaluation of this System as of June 30, 1983.
- (c) Any former Fairfax County park police officer who transferred to this System from the Fairfax County Uniformed Retirement System between August 1, 1974, and October 31, 1982, and who has remained in continuous service in this System since such transfer, may receive membership service credit in this System for his or her prior service as a park police officer if such member pays into this System:
  - (1) The difference between the amount that he or she had contributed to the Uniformed Retirement System and the amount that he or she would have been required to contribute to this System had he or she been a member during the period for which he or she is seeking prior service credit; and
  - (2) An additional sum representing the amount that this System would have earned on the contributions that he or she would have been required to make to this System had he or she been a member during the period for which service credit is sought under this Subsection.

In determining the amount required under condition (2), the Board shall use the historical rate(s) of return on this System's assets during the period for which service credit is sought. At the Board's discretion, such a member may pay in installments over a period not to exceed one (1) year. However, prior service credit shall not be granted until payment has been received in full. This option to purchase service shall be effective for a period of one (1) year from the date of enactment of this Subsection [February 26, 2001]. The purchase of service credit for prior service as a park police officer under this Subsection by a member

shall not alter the minimum amount of creditable service that the member is required to have to be eligible for normal service retirement under this Article. Where a member elects to purchase service credit for prior service as a park police officer under this Subsection, the Board of Trustees of the Uniformed Retirement System shall transfer from its funds the employer contributions attributable to the member's service for which prior service credit is being purchased under this Subsection to this System.

- (d) Members who are former park police officers who transferred their member contributions from the Fairfax County Uniformed Retirement System, including member's contributions from service in a position covered by the Fairfax County Employees' Retirement System prior to their service as a park police officer, may elect to either (i) receive a refund of their Employees' Retirement System member contributions from this System or (ii) purchase membership service credit in this System based upon their prior service in the Employees' Retirement System on the terms and conditions set forth in this Subsection.
  - (1) Such members must elect in writing to purchase such service credit within one (1) year of the effective date of this Subsection [December 6, 1993]. Members who do not elect to purchase such credit within one (1) year of the effective date of this Subsection shall have such contributions refunded to them and shall be deemed to have waived any right to purchase such service credit.
  - (2) Members electing to purchase such credit may do so by paying into this System (A) the difference between the amount which they had contributed to the Employees' Retirement System and the amount they would have been required to contribute to this System had they been members during the period for which they are seeking prior service credit and (B) an additional sum representing the amount that this System would have earned on the contributions they would have been required to make to this System had they been a member during the period for which service credit is sought, as determined by using the historical rate(s) of return of this System.
  - (3) At the discretion of the Board, such members may pay the required amounts in installments over a period not to exceed one (1) year. However, such service credit shall not be granted until payment has been made in full.
  - (4) The purchase of such service credit shall not alter the minimum amount of creditable service that the member is required to have to be eligible for normal or early service retirement under this Article. (20-81-3; 36-88-3; 8-03-3; 33-03-3) (20-81-3; 22-88-3; 5-85-3; 56-93-3; 36-94-3; 10-01-3; 8-03-3.)

Sec. 3-7-23.1. - Portability service credit.

- (a) Definitions.
  - (1) *Accepting plan* shall mean the retirement plan or system which is receiving membership assets from another retirement plan or system in order to permit a current member to purchase portability service credit in the accepting plan through the use of his or her membership contributions in the transferring plan.
  - (2) *Portability service credit* shall mean service credit purchased in an accepting plan by the transfer of membership assets from the transferring plan.
  - (3) *Transferring plan* shall mean the retirement plan or system which is transferring membership assets to an accepting plan to enable a former employee of the transferring plan or system to purchase service in the accepting plan through the use of his or her membership contributions in the transferring plan.
- (b) The Board of Supervisors may enter into agreements with the Virginia Retirement System (VRS) or with any other political subdivision of the Commonwealth of Virginia, provided that the retirement system of any other political subdivision of the Commonwealth of Virginia is a defined benefit plan or eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), to permit any vested member of such plan to purchase portability service credit in this System.

- (c) The purchase of portability service credit in the System pursuant to this Section may only be made within eighteen (18) months of the date when an employee commences employment in a position covered by the System, or, for employees who are members of the System on March 24, 2003, within eighteen (18) months thereafter.
- (d) In order to purchase portability service credit in the System, the member shall have served as a sworn law enforcement officer and shall be a vested member of the transferring plan. The transferring plan shall be holding member contributions that are subject to transfer. A member desiring to purchase portability service credit shall make written application for the purchase of such credit to the System. The System shall determine from the transferring plan the amount of the member's assets that would be subject to transfer to the System. Based upon the amount subject to transfer, the Board shall determine the amount of portability service credit that would be actuarially equivalent to the amount of assets to be transferred to the System; this amount shall represent the maximum amount of portability service credit that can be purchased. The Board shall communicate the amount of portability service credit that can be purchased to the member in writing; however, in no event shall the amount of portability service credit that can be purchased exceed the duration of the member's employment in a position that was covered by the transferring plan. The member shall have thirty (30) days from the date of the letter advising him or her of the amount of portability service credit that can be purchased to determine whether to proceed with the purchase or to withdraw his or her application for the purchase of portability service credit.
- (e) In the event that the assets transferred are not sufficient to purchase portability service credit in the System equivalent to five (5) years of service, the member shall not become vested in the System until his or her creditable service equals five (5) years.
- (f) The purchase of portability service credit in the Virginia Retirement System (VRS) or the retirement system of any political subdivision of the Commonwealth of Virginia that is covered by this Section shall be accomplished upon the transfer of assets from the transferring plan to this System. Upon the completion of such transfer, the member shall lose all rights to any allowances and benefits from the transferring plan, and shall only be entitled to receive allowances and benefits from this System.
- (g) When a vested member of this System leaves his or her covered employment and enters a position covered by the Virginia Retirement System (VRS) or by a defined benefit retirement plan of a political subdivision of the Commonwealth of Virginia with which the Board of Supervisors has entered into a portability agreement, the former member of this System may transfer an amount equal to the greater of (i) his or her accumulated member contributions, or (ii) an amount representing the present value of his or her accrued benefits with this System. In order to accomplish the transfer of assets from this System to the accepting plan, the member shall lose all rights to any allowances or benefits from this System based upon the service giving rise to the assets transferred to the accepting plan by this System. Should such a person resume service in a position covered by this System in the future, he or she may purchase service credit for such prior service or purchase portability service credit if eligible to do so, in accordance with the provisions of this Article at the time he or she again becomes a member of this System. (18-01-3; 8-03-3.)

#### Division 5. – Contributions.

##### Section 3-7-24. - Member contributions.

- (a) Contributions shall be made by each employee equal to eight-and-sixty-five-one-hundredths percent (8.65%) of his or her creditable compensation per payroll period.
- (b) There shall be deducted or picked up from the compensation of each member for each and every payroll period subsequent to the date of the establishment of the System to contribution payable by such member as provided in this Section.
- (c) Notwithstanding any other provisions of this Article, no deduction shall be made nor shall amounts be picked up from any member's compensation if the employer's contribution as required is in default.

- (d) The Board of Supervisors may, from time to time, revise the rates of member contributions to the System.
- (e) Subsequent to December 22, 1984, the County shall pick up all employee contributions required herein, for all compensation earned on or after December 22, 1984. All amounts picked up by the County shall be treated as the employer's contribution in determining tax treatment under Section 414(h)(2) of the Internal Revenue Code. For all other purposes, under this Chapter and otherwise, such picked-up contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to December 22, 1984. All picked-up amounts shall be included in compensation for purpose of calculating benefits under Division 6. The County shall pay such picked-up amounts from the same source of funds which is used in paying earnings to the employee. (20-81-3; 5-85-3; 22-07-3; 46-08-3; 25-14-3.)

Section 3-7-25. - Employer contributions.

The aggregate present value of future employer contributions payable into the retirement allowance account shall be sufficient, when combined with the amount then held in the members' contribution account and the retirement allowance account together with the present value of future member contributions, to provide the estimated prospective benefits payable. The annual employer contribution rate shall be fixed as equal to the employer normal cost plus an expense rate, as long as the System's funding ratio (actuarial value of the System's assets divided by actuarial accrued liability of the System) remains within a corridor, the lower measurement of which is described below and the upper measurement of which is one-hundred-twenty percent (120%). The employer normal cost and System actuarial accrued liability are to be measured using the entry age normal funding method.

- To the extent that the System's funding ratio exceeds one-hundred-twenty percent (120%), a credit shall be established equal to the amount of assets in excess of one-hundred-twenty percent (120%) of the actuarial accrued liability.
- To the extent that the System's funding ratio is lower than the lower measure of the corridor, a charge shall be established equal to the difference between the lower measure plus the actuarial accrued liability and the assets.

The employer contribution shall be adjusted by a fifteen (15) year amortization of the credit or charge described in this Section, to be paid until the funding ratio re-enters the corridor, at which time it shall cease.

Effective with the fiscal year 2016 County contribution rate, the lower measure of the corridor shall be established at ninety-five percent (95%). The ninety-five (95%) threshold shall be increased until it reaches one-hundred percent (100%), no later than by the year 2020. Once the lower measurement of the corridor reaches one-hundred percent (100%), the fifteen (15) year amortization described above shall be over a fixed fifteen (15) years with additional fifteen (15) year amortization layers created annually. Once the System's funding ratio reaches one-hundred percent (100%), such amortizations shall cease.

In the event of an ordinance change that affects member benefits, the employer contribution rate shall be changed effective with the July 1 coincident with or next following the date of adoption of the ordinance change. The employer normal cost component shall be adjusted to the level required by the ordinance change and there shall be an additional component to the employer cost equal to the increase in actuarial accrued liability. Any additional actuarial accrued liability which does not reduce the funding level below one-hundred-twenty percent (120%) shall be excluded from this component.

All contributions made to the System are made for the exclusive benefit of the members and their beneficiaries, and such contributions shall not be used for, nor diverted to, purposes other than for the exclusive benefit of the members. Notwithstanding the foregoing, to the extent that such refunds do not, in themselves, deprive the System of its qualified status, refunds of contributions shall be made to the employer under the following circumstances:

- (a) If the System is determined not to initially satisfy qualification requirements of Section 401(a) of the Internal Revenue Code and the employer declines to amend the System to satisfy such qualification requirements, contributions made prior to the determination the System has failed to qualify shall be returned to the employer;

- (b) To the extent that a federal income tax deduction is disallowed in whole or in part for any employer contribution; and
- (c) If a contribution is made in whole or in part by reason of a mistake of fact, the employer contribution attributable to the mistake of fact shall be returned to the employer. (20-81-3; 16-02-3; 52-13-3; 28-15-3, § 3.)

Division 6. – Benefits.

Section 3-7-26. – Service retirement.

- (a) Normal service retirement.
  - (1) Any member employed on active duty on or before June 30, 1981, who has attained twenty (20) years of creditable service or age fifty-five (55) years shall be eligible for retirement on that date when written notification is provided to the Board by the member setting forth at that time when the retirement is to become effective.
  - (2) Any member employed on active duty following July 1, 1981, who has attained twenty-five (25) years of creditable service or age fifty-five (55) years shall be eligible for retirement on that date when written notification is provided to the Board by the member setting forth at that time when the retirement is to become effective.
- (b) Early service retirement. Any member appointed subsequent to July 1, 1981, who has attained twenty (20) years of creditable service, shall be eligible for early service retirement, when written notification is provided to the Board by the member setting forth at that time when the retirement is to become effective.
- (c) Ineligibility. Any member who applies for service-connected disability pursuant to Section 3-7-28, or who applies for partial service-connected disability pursuant to Section 3-7-29, and who receives the allowance and benefits prescribed by Section 3-7-28 as a result thereof, on or after the effective date of Subsection 3-7-28(d) [July 1, 1988], shall not be eligible for retirement under this Section while receiving allowances and benefits for disability. (20-81-3; 14-87-3; 36-88-3.)

Section 3-7-27. – Service retirement allowance.

- (a) Normal service retirement. Any member who retires on or after July 1, 2000, pursuant to Section 3-7-26(a) shall receive an annual retirement allowance, payable monthly for life, consisting of two-and-eight-tenths percent (2.8%) of his or her average final compensation for each year of creditable service, as computed on the basis provided in Section 3-7-2; but in no event shall his or her total retirement allowance exceed eighty-four percent (84%) of his or her average final compensation. The annual retirement allowance of a member who retires or who has retired on or before June 30, 2000, or of a surviving spouse or surviving handicapped child of such a member receiving an allowance under an election made by the member under Section 3-7-39, shall be increased, effective July 1, 2000, by twelve percent (12%).
- (b) Early service retirement. Upon retirement, with twenty (20) years of creditable service pursuant to Section 3-7-26(b), any member appointed subsequent to July 1, 1981, shall receive the annual retirement allowance computed on the basis provided in Subsection (a) of this Section reduced on an actuarial equivalent basis for the period that the actual retirement date precedes the normal retirement date as projected on Table 1.

TABLE 1

FAIRFAX COUNTY POLICE OFFICERS RETIREMENT SYSTEM

Actuarial Reduction Factors That Would Apply to Members With a Normal Retirement Age Requirement of 25 years of Service (or, Attainment of Age 55, if Earlier) if They Are Permitted To Retire Early With a Reduced Retirement Allowance After 20 Years of Service

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(ASSUMES 4% COST-OF-LIVING ADJUSTMENTS ARE EFFECTIVE AT RETIREMENT)						
Age at	Years of Service					
Retirement	20	21	22	23	24	25
38	74.50	79.17	84.06	89.18	94.48	100.00
39	74.18	78.89	83.83	89.01	94.39	100.00
40	73.84	78.61	83.60	88.84	94.30	100.00
41	73.49	78.32	83.37	88.67	94.21	100.00
42	73.11	78.01	83.13	88.50	94.12	100.00
43	72.72	77.68	82.88	88.33	94.03	100.00
44	72.32	77.34	82.61	88.14	93.93	100.00
45	71.89	76.98	82.34	87.95	93.83	100.00
46	71.44	76.61	82.04	87.75	93.73	100.00
47	70.97	76.22	81.74	87.53	93.62	100.00
48	70.48	75.81	81.41	87.31	93.50	100.00
49	69.96	75.38	81.08	87.07	93.38	100.00
50	69.42	74.92	80.72	86.83	93.25	100.00
51	74.45	74.45	80.35	86.57	93.11	100.00
52	79.95	79.95	79.95	86.29	92.97	100.00
53	86.00	86.00	86.00	86.00	92.82	100.00
54	92.66	92.66	92.66	92.66	92.66	100.00

55	100.00	100.00	100.00	100.00	100.00	100.00
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- (c) Joint and contingent spouse and handicapped child options. Any member who qualifies for normal or early service retirement under this Section is eligible to elect a joint and contingent spouse and handicapped child option under Section 3-7-39. (20-81-3; 6-00-3, § 1; 36-83-3; 28-89-3; 27-90-3, § 5; 13-92-3; 34-94-3.)

Section 3-7-28. - Service-connected disability retirement.

- (a) Any member who in the discharge of his or her official duties has become totally disabled as a result of an accident or personal injury on or before June 30, 1981, shall receive an annual retirement allowance, payable monthly, equaling sixty-six-and-two-thirds percent (66 2/3%) of the salary that would have been received had no injury occurred and the performance of duty had continued. Such allowance and benefits shall continue during the existence of such total disability, or until such time as eligibility is reached for normal service retirement pursuant to Section 3-7-26(a)(1).
- (b) Any member who in the discharge of his or her official duties has become totally disabled as a result of an accident or personal injury on or after July 1, 1981, shall receive an annual retirement allowance, payable monthly, equaling sixty-six-and-two-thirds percent (66 2/3%) of the salary the member received on the date of the accident or personal injury subject to the provisions of Section 3-7-37. Such allowance shall continue during the existence of such total disability, or until such time as eligibility is reached for normal service retirement pursuant to Section 3-7-26(a)(2).
- (c) The amount of compensation awarded under the Virginia Workers' Compensation Act (Act) to such members for temporary total or partial incapacity, including any awards of cost-of-living increases under the Act, shall be deducted from such retirement allowance. Whenever the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation, such payments shall no longer be used to reduce the monthly retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without reduction for such payments.
- (d) Any member who applies for a service-connected disability retirement allowance pursuant to Subsection (a) or (b) of this Section, or who applies pursuant to Section 3-7-29, and who receives the allowance prescribed by this Section as a result thereof, on or after the effective date of this Subsection [July 1, 1988], shall receive the allowance so provided during the existence of such disability, until the total membership service credit period equals twenty-five (25) years, whereafter said allowance shall be reduced to sixty percent (60%) of the salary that would have been received had no injury occurred and the performance of duty continued.
- (e) With respect to all retirements after the effective date of this Subsection (January 11, 1993) pursuant to this Section or as a result of an application pursuant to Section 3-7-29 as a result of which the member receives the allowance provided by this Section, if a member receives some or all of his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, neither a lump sum payment or any portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act nor a lump sum payment or a portion thereof representing compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under this Section shall be offset against the member's allowance under this Section; and provided further, that in the event that the member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the sum represents settlement of his or her entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its

judgment represents compensation for such benefits. (20-81-3; 8-82-3; 4-83-3; 36-88-3; 13-92-3; 1-93-3.)

Section 3-7-29. - Partial service-connected disability retirement.

- (a) Members granted a retirement allowance and benefits for partial disability shall be subject to recall to active service by the Board when police officer positions are available in the Police Department that they are capable of performing, as determined by the Chief of Police. If so recalled, all retirement allowances and benefits for partial disability shall terminate from and after the date of such recall.
- (b) Any member becoming partially disabled in the manner provided in this Section, who shall remain in the Police Department in a police officer position which he or she is capable of performing, shall not receive retirement allowances and benefits until such service credit is acquired as would otherwise be required for service retirement.
- (c) If the Chief of Police determines that there is no suitable police officer position available for a partially disabled member, such member shall then be treated as totally disabled under the provisions of this Article from and after the date of his or her separation from employment with the Police Department.
- (d) The surviving spouses and dependents of all members who have been retired before and of those who are retired on or after July 7, 2003, on account of partial service-connected disability shall be entitled to benefits under Section 3-7-41. (20-81-3; 33-03-3).

Section 3-7-30. – Processing disabilities.

- (a) Upon receiving a member's or the employer's written request for disability benefits, the Board shall require the member to submit, from a physician of the member's choice, a written report of findings and recommendations. The Board shall then select a physician of its choice and require the member to submit to a medical examination. In the event there is not a clear preponderance of medical evidence from the above two (2) physicians, a third physician shall be selected by the original two (2) physicians, who shall also examine the member and submit a written report of findings and recommendations.
- (b) A waiver of examinations, as required by this Section, may be made by either the Board or member for justifiable causes; but in no event shall any member be granted disability benefits without submitting to at least one (1) medical examination.
- (c) Failure of any member to submit to medical examination as required by this Section may result in the denial, loss or reduction of the member's disability benefits.
- (d) Any member submitting a written request for disability benefits on or after the effective date [of Ord. No. 24-85-3] shall, prior to or simultaneously with submitting such request, apply for all workers' compensation benefits to which he or she may be entitled. The member shall also be required to submit to the Board copies of the dispositions as made of his or her workers' compensation claims and any subsequent awards or other documents reflecting any modification or termination of any awarded workers' compensation benefits. With respect to the determination of a member's eligibility for disability benefits, the Board shall give great weight to the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia on the compensability of his or her disability under the Virginia Workers' Compensation Act, and the Board may modify its prior determination of his or her eligibility under this Section in light of any such decision within ninety (90) days after the date such decision becomes final. (20-81-3; 24-85-3; 13-92-3.)

Section 3-7-31. - Non-service-connected disability retirement.

- (a) Any member who becomes totally disabled, but not as a result of activities in the discharge of his or her official duties, may receive a non-service-connected disability benefit equal to the same benefit pursuant to Section 3-7-27, provided the service credit requirements exist thereof.
- (b) Members who do not have the service credit required in Section 3-7-26 shall receive a disability benefit in an amount equivalent to the greater of (1) ten percent (10%) of his or her average final compensation, or (2) an amount determined under Section 3-7-27(a).

- (c) Members granted benefits under this Section shall not receive service credit while on non-service-connected disability, nor shall their surviving spouses or dependents be eligible for benefits under this Article. (20-81-3.)

Section 3-7-32. - Rehabilitation of disabled members.

- (a) The Board may determine, upon receiving supporting medical data from any two (2) physicians, as referred to in Section 3-7-30, that a disabled member has sufficiently recovered to perform a part or all the duties of a police officer, or to engage in other gainful employment in which he or she might reasonably be expected to be engaged, in light of education, training, or experience. To the extent that such member has sufficiently recovered but is unable to be certified to full-time active duty as a police officer, the Board may determine the degree of partial disability then still existing and reduce the disability benefits accordingly. The determination of partial disability shall be based upon the medical record and the ability of the member to seek gainful employment in light of education, training, experience, retraining, and rehabilitation.
- (b) The Board is authorized to enter into contracts or agreements for the rehabilitation of disabled members and to pay reasonable costs thereof. (20-81-3; 33-03-3).

Section 3-7-33. - Medical reevaluation of disabled members; penalty for unjustified refusal of medical attention, vocational rehabilitation or selective employment, or to submit to medical reevaluation.

- (a) Once each year during the first five (5) years following disability, and once every three (3) year period thereafter, the Board shall require such members to undergo medical examinations by the same physicians as specified in Section 3-7-30, if available. Should any such physician be unavailable, a successor shall be designated, as previously determined in Section 3-7-30. Each physician shall independently examine such member and submit a written report of findings and recommendations to the Board. In the event that such member fails to submit to these medical examinations, benefits shall be discontinued until the member submits to the examinations; and should the refusal continue for one (1) year, all rights to disability benefits under this Article shall terminate. In lieu of the examinations specified in this Subsection, the Board, in its discretion, may accept the reports of physicians who are treating or examining the member for purposes of the Virginia Workers' Compensation Act.
- (b) Members who are receiving service-connected disability retirement allowances pursuant to Section 3-7-28, and who are receiving periodic payments pursuant to the Virginia Workers' Compensation Act (Act) which payments are required to be offset against such allowances pursuant to Section 3-7-28 shall cooperate with and accept medical services, vocational rehabilitation, and/or selective employment provided pursuant to the Act. In the event that such a member's periodic payments are suspended by the Virginia Workers' Compensation Commission (Commission) then the allowance pursuant to Section 3-7-28 shall be computed as if the member had received the suspended payments unless the Board, in its discretion determines not to accept the decision of the Commission. Should such member's refusal to accept medical services, vocational rehabilitation and/or selective employment continue for three-hundred-sixty-five (365) days whether or not consecutive, all his or her rights to any future disability allowance shall cease. The Board shall make appropriate adjustments to the member's allowance if the suspension by the Commission is subsequently reversed or modified. Employers shall promptly notify the Board of any suspensions or releases from suspensions affecting members subject to this Subsection. For purposes of this Subsection, an order of the Commission suspending compensation for refusal creates a rebuttable presumption that the member unjustifiably refused medical services, vocational rehabilitation, and/or selective employment. (20-81-3; 41-93-3; 29-97-3.)

Section 3-7-34. - Reduction of disability allowance.

- (a) Whenever the Board concludes that any member receiving a disability retirement allowance pursuant to either Section 3-7-28 or 3-7-29 is, prior to his or her normal service retirement date, engaged in a gainful occupation or work paying more than the difference between his or her service-connected disability allowance and his or her average salary, the Board shall reduce such retirement allowance

to an amount which, together with the amount earned by the member, equals the amount of his or her average salary.

- (b) Members receiving a disability retirement allowance pursuant to either Section 3-7-28 or 3-7-29 shall submit by May 30 of each year a copy of that portion of their federal income tax returns showing the amount of their earned income and copies of W-2 forms (wage statements) provided by their employers to the Board for the previous calendar year. Failure to submit such documentation on request shall result in the loss of the allowance until the documentation is provided; and should a member's refusal continue for one (1) year, all his or her rights to any further disability retirement allowances shall cease.
- (c) The Board shall adopt written regulations governing the administration of this Section, providing for, among other things, the notification to the members deemed appropriate, and allowing for late submission of required documentation for good cause shown. (20-81-3; 36-88-3.)

Section 3-7-35. - Presumption; hypertension or heart disease.

Any condition or impairment of health of any such member caused by hypertension or heart disease resulting in total disability shall be presumed to have been suffered in the discharge of his or her official duties unless the contrary be shown by competent evidence; provided, that prior to making any claim based upon such presumption for retirement allowances and benefits under this Section on account of such total or partial disability, such member shall have been found free from cardiovascular disease by a physical examination which shall include such appropriate laboratory and other diagnostic studies as the Board may prescribe, and which shall have been conducted by physicians whose qualifications shall have been prescribed by the Board; and provided further, that any such member claiming that his or her disability was suffered in the discharge of his or her official duties shall, if requested by the Board, submit to physical examination by any physician designated by the Board, which examination may include such tests or studies as may reasonably be prescribed by the physician so designated. Such member shall have the right to have present at such examination, at his or her own expense, any qualified physician he or she may be designate. (20-81-3.)

Section 3-7-36. - Disability as a result of negligence.

Should an accident or personal injury causing total disability be the result of the member's own gross and willful negligence, wanton neglect of duties and responsibilities, drunkenness, or illicit use of narcotics, such disability shall be deemed to be a non-service-connected disability and the benefits shall be fixed pursuant to provisions of Section 3-7-31. (20-81-3.)

Section 3-7-37. - Cost-of-living adjustments.

Monthly retirement allowances shall be adjusted effective July 1, 1981, and each July 1 thereafter in order to reflect changes in the cost of living since the date of benefit commencement; provided, that allowances for service-connected disability retirement shall be subject to the provisions of Subsection (d) of this Section. The monthly allowance to be effective July 1 of any such year shall be the allowance in effect immediately prior to such adjustment increased for the basic cost-of-living increase provided for in Subsection (a) of this Section, with such increase reduced as provided in Subsection (c) of this Section in the event the monthly retirement allowance has been in pay status for less than twelve (12) months.

- (a) The basic cost-of-living increase shall be the lesser of four percent (4%) and the percentage corresponding to the percentage increase in the Consumer Price Index during the twelve (12) month calendar period ending with the March immediately preceding the July in which the increase is effective. For the purpose of this Section, *Consumer Price Index* shall mean the Consumer Price Index for all Urban Consumers (CPI-U) as issued by the Bureau of Labor Statistics of the U.S. Department of Labor for the appropriate Standard Metropolitan Statistical Area (SMSA) that includes the County.
- (b) As part of each biennial actuarial valuation, the actuary shall determine the percentage supplemental cost-of-living increase (not greater than one percent (1%) that can be provided on the following two (2) July firsts (1sts) based upon the available actuarial surplus). The Board then may, but shall not be

required to, increase all retirement allowances in pay status on each of such July first (1st) by such actuarially determined percentage. For the purpose of this Section, *available actuarial surplus* shall mean the excess of the actuarial value of the assets of the System over the actuarial accrued liabilities of the System as disclosed in the biennial actuarial valuation of the System.

- (c) In the event a retired member has not been receiving his or her retirement allowance for twelve (12) full months, the basic cost-of-living increase and the supplemental cost-of-living increase shall be determined as the percentage of the full increase determined in Subsections (a) and (b) of this Section as follows:

Number of Complete Months Member Has Been in Pay Status	Percentage of Full Increase
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Less than 3 .....0%

3, 4 or 5 .....25%

6, 7 or 8 .....50%

9, 10 or 11 .....75%

- (d) Cost-of-living adjustments provided by this Section shall be applied to the net amount of the member's service-connected disability retirement allowance after all reductions required by Section 3-7-28 have been made. The member's allowance after the adjustments for cost of living provided by this Section at any date in time shall be determined by retroactive computation from the date of initial retirement, and the application of all applicable cost-of-living adjustments to the net allowance which the member is entitled to under Section 3-7-28. (20-81-3; 1-93-3; 26-10-3.)

Section 3-7-38. - Refund of contributions upon withdrawal or death; deferred vested benefit.

- (a) Refund of contributions.

- (1) In the event of the death of any member, active or retired, the difference between the total contributions made hereunder by such member, including picked-up amounts, and any benefit payments received by him or her, his or her surviving spouse or dependents, shall be payable to his or her estate or designated beneficiary; provided, that such payment shall be made only after the cessation of benefits under Section 3-7-41 or Section 3-7-43.
  - (2) Any member who shall have been separated from the service and whose employment shall have been terminated otherwise than by death or retirement shall, on application made within two (2) years from the date of such separation, be refunded all of his or her accumulated contributions, including picked-up amounts; provided, that if such member has received payments or benefits under the System, the amount of such payments or benefits shall be deducted from the amount to be refunded; and provided further, that should any retired member be receiving benefits hereunder at the time of his or her death then, and in that event, his or her dependents, or beneficiaries if any, who are not eligible to receive benefits under this Article shall receive the difference between the total contributions made hereunder by such member, including picked-up amounts, and any payments received, and at the same rate which such retired member was receiving benefits.
- (b) Deferred vested benefit. If a member has five (5) or more years of creditable service on his or her date of separation from the County, the member may leave his or her accumulated contributions, including picked-up amounts, in the System and receive a deferred vested benefit payable beginning the date the member attains age fifty-five (55) years, or in an actuarially reduced amount payable at the optional early retirement age, in accordance with applicable provisions of this Article. (20-81-3; 5-85-3; 28-89-3; 10-01-3.)

Section 3-7-39. - Joint and contingent spouse and handicapped child options.

Any member who qualifies for normal or early service retirement under Section 3-7-26, and with the exception of any member converting from disability retirement to normal service retirement at twenty-five (25) years of creditable service, may elect at the time of retirement to have his or her retirement compensation continue to be paid to either (1) his or her spouse in the event such spouse survives the member, or (2) his or her surviving handicapped child, if at the time of election the member has no spouse; in either event, the retirement allowance provided for in Section 3-7-27 shall be recomputed for a joint and survivor annuity in accordance with Table 2. Such reduced amount shall be paid the member during his or her lifetime, with the indicated percentage of the reduced amount paid to his or her surviving spouse for such spouse's lifetime, or to his or her surviving handicapped child for such child's lifetime, as the case may be. Such election shall become irrevocable upon commencement of such payments except in the case that such spouse or surviving handicapped child, as the case may be, predeceases the member or if the handicapped child is determined by the Board to no longer be permanently mentally incompetent or permanently physically handicapped, then such member's retirement allowance shall be increased to that amount to which the member would have been entitled had no election been made.

TABLE 2  
FAIRFAX COUNTY POLICE RETIREMENT OFFCERS RETIREMENT SYSTEM

Actuarial Adjustment Factors That Would Apply to Members With a Normal or Early Service Retirement Allowance Determined Under Section 3-7-27 Who Elect a Joint and Contingent Spouse and Handicapped Child Options

Percent of Allowance Continued to Spouse Upon Member's Death	Factor for Equal Ages <sup>1</sup>	Increase/Decrease For Each Full Year Beneficiary Is Older (Younger) Than Employee	Maximum Factor
100%	89.2%	0.6%	96%
66 2/3%	92.1%	0.4%	98%
50%	93.1%	0.3%	99%

1. Factor applied to adjust member's allowance, as determined under Section 3-7-27, for joint and contingent spouse and handicapped child option for a member and spouse of equal age.

Section 3-7-40. - Cessation of normal or early retirement allowance.

- (a) Subsection (b) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or the Fairfax County Employees' Retirement System and who submitted their application for such allowance to the Board of such system on or before July 21, 1986. Subsection (c) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Uniformed Retirement System, or the Employees' Retirement System and who submitted their application for such allowance to the Board of such system after July 21, 1986.
- (b) Should a person receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Uniformed Retirement System (retiree) return to regular service in a permanent position in any office or employment paid directly or indirectly

by the County, he or she shall elect to receive such retirement allowance under one (1) of the following two (2) options.

- (1) Such allowance shall not commence or, if already commenced, shall cease while the retiree is so employed. His or her allowance shall commence or resume upon application or reapplication by the retiree after he or she has ceased permanent employment in such a position. The allowance of a retiree of this System who is appointed to a position covered by the Employees' Retirement System or Uniformed Retirement System shall commence or resume at that cost-of-living adjustment amount pursuant to Section 3-7-27 which would have been payable had the retiree continued to receive his or her allowance without interruption. A retiree of this System who elects in writing at the time of reappointment to a position covered by this Article not to become a contributing member during his or her period of reemployment shall be exempted from the requirement to make contributions to this System. A retiree of this System who elects in writing at the time of reappointment to a position covered by this Article to become a contributing member during his or her period of reemployment shall be eligible:
  - (A) For a recomputation of his or her allowance to take into account creditable compensation and creditable service attributable to the period of reemployment during which his or her allowance was suspended under this Subsection.
  - (B) To make a new election for any optional benefit to which he or she is entitled; and
  - (C) For a retirement allowance for a service-connected disability arising out of and in the course of his or her reemployment (in lieu of his or her service retirement allowance).

A retiree of the Employees' Retirement System or Uniformed Retirement System who is appointed to a position covered by this Article and elects in writing within thirty (30) days of such appointment may be excluded from membership in this System.

- (2) The retiree may elect to continue to receive his or her service retirement allowance. A retiree electing this option shall not be eligible for membership in the Employees' Retirement System or Uniformed Retirement System if either covers the position in which he or she is reemployed. If he or she is a retiree of this System and the position in which he or she is reemployed is covered by this System, he or she shall not be required to contribute to this System during his or her period of reemployment.
- (c) A person receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Uniformed Retirement System (retiree) may return to employment for which compensation is paid directly or indirectly by the County subject to the following conditions:
- (1) A retiree shall not receive in combined compensation and retirement allowance, computed monthly, any more than one-hundred-fifteen percent (115%) of the then current maximum monthly salary for a Deputy County Executive in the County's Compensation Plan. The appropriate Retirement System Board of Trustees shall reduce the retiree's allowance as necessary to keep the combined salary and allowance at this limit. For purposes of this Subsection, a retiree's retirement allowance shall be deemed to be the allowance that he or she would receive if he or she had not elected a joint and contingent spouse or handicapped child option which results in an actuarially reduced allowance. Employers under all three (3) systems shall report salaries paid to retirees to the retiree's Board.
  - (2) A retiree who is employed in a position of service which would otherwise make him or her eligible for membership in this System, the Uniformed Retirement System, or the Employees' Retirement System shall not be eligible for membership in that system.
- (d) Notwithstanding any other provision of this Article or any other Article of this Chapter, a person receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Uniformed Retirement System (retiree) may be employed in a position under his or her former appointing authority subject to the following terms and conditions.

- (1) If the retiree is a member of this System and service in the position to which he or she is to be re-appointed ordinarily would result in membership in this System, his or her normal or early service retirement allowance shall be suspended for the duration of his or her new employment. During his or her new employment, he or she shall make member contributions to this System. At the time of his or her new employment, he or she shall be entitled to make all elections available to new members of this System, and if otherwise eligible, during his or her employment, he or she may apply for service-connected or non-service-connected disability retirement. In such case, his or her combined years of service and his or her average final compensation based on his or her new employment shall be used in calculating the disability retirement allowance. On re-application for service retirement from his or her new employment, the retiree shall receive as his or her service retirement allowance the higher of (i) his or her initial service retirement allowance increased by any cost-of-living increases that were granted by the Board to service retirements during the period of his or her new employment or (ii) a service retirement allowance calculated on the basis of his or her combined years of creditable service in his or her initial and new employment and his or her average final compensation calculated on the basis of the creditable compensation that he or she received during both his or her initial and new employment, as if there had been no break in service.
- (2) A retiree who is a member of this System and who is to be re-appointed to a position of service which would result in membership in either the Employees' Retirement System or Uniformed Retirement System but for his or her membership in this System, shall be subject to the provisions of Subsection (b) or (c) of this Section, whichever is applicable.
- (3) If the retiree is a member of either the Employees' Retirement System or Uniformed Retirement System and service in the position to which he or she is to be appointed would result in membership in this System but for his or her membership in the other system, the retiree shall be subject to the provisions of Subsection (b) or (c) of this Section, whichever is applicable.
- (4) This Subsection shall apply to all persons appointed to positions on or after March 1, 1990, service in which would ordinarily make them members of this System, the Employees' Retirement System, or the Uniformed Retirement System. (20-81-3; 35-81-3; 27-90-3, § 5; 10-01-3; 11-05-3.)

Section 3-7-41. - Benefits to surviving spouse and children of members deceased before or during service retirement.

- (a) The surviving spouse of a member who dies before retirement or while receiving a service retirement allowance shall be entitled to receive relief from the System in an amount equal to \$1,000.00 per month. Any surviving children of such member under eighteen (18) years of age shall be entitled to receive relief in an amount equal to \$400.00 per month; and any child under the age of twenty-three (23) years who is a full-time student in an accredited college or secondary school shall also receive such relief; and any handicapped child shall receive such relief during the child's lifetime. Upon death of the surviving spouse, a surviving handicapped child, if any, shall be entitled to receive continued relief from the System as if that child were a surviving spouse, in addition to any other relief he or she is entitled to as a surviving child. Relief granted any child, not handicapped, shall cease upon said child's marriage or said child's becoming self-supporting, whichever shall occur first. Relief granted to a handicapped child shall cease if said child becomes self-supporting or if said child is determined by the Board no longer to be permanently mentally incompetent or permanently physically handicapped based on evidence available to the Board in accordance with Section 3-7-41(b). No combination of the relief previously granted shall be paid to the spouse or handicapped child, as the case may be, and children of any one member in an amount exceeding \$2,000.00 per month. Benefit amounts as listed above shall be adjusted on July 1 of each year after enactment by the lesser of four percent (4%) and the percentage corresponding to the percentage increase in the Consumer Price Index during the twelve (12) month calendar period ending with the March immediately preceding the July in which the increase is effective. For the purpose of this Section, *Consumer Price Index* shall mean the Washington, DC-MD-VA index of the Consumer Price Index for all Urban Consumers (CPI-U) as issued by the Bureau of Labor Statistics of the U.S. Department of Labor. Benefits conferred upon a

surviving spouse pursuant to this Section shall extend to the surviving spouses of service retirees who died prior to the enactment of this Article.

- (b) Once each year during the first five (5) years following the Board's commencement of payments to the handicapped child, and once every three (3) year period thereafter, the Board shall require such handicapped child to undergo medical examinations by the same physicians as specified in the selection process set forth in Section 3-7-30, if available. Should any such physician be unavailable, a successor shall be designated, as previously determined in Section 3-7-30.

Each physician shall independently examine such handicapped child and submit a written report of findings and recommendations to the Board. In the event that such handicapped child fails to submit to these medical examinations, benefits shall be discontinued until the handicapped child submits to the examinations; and should the failure continue for one (1) year, all rights to benefits under this Article shall terminate. The Board is authorized to determine that the handicapped child no longer qualifies as such, based on such written report and other evidence acceptable to the Board in its sole discretion.

- (c) Handicapped children receiving an allowance pursuant to Section 3-7-39 shall submit by May 30 of each year a copy of that portion of their federal income tax returns showing the amount of their earned income and copies of W-2 forms (wage statements) provided by their employers to the Board for the previous calendar year. Failure to submit such documentation on request shall result in the loss of allowance until the documentation is provided; and should a handicapped child's failure continue for one (1) year, all rights to benefits shall cease.
- (d) Effective on and after January 1, 2007, if a member dies while performing "qualified military service" as defined in Section 414(u) of the Internal Revenue Code, any benefits under this Section that would have been provided under the System if the member had resumed employment on the day prior to his or her death and then terminated employment due to death shall be paid to such member's designated beneficiary or, if applicable, estate. (20-81-3; 8-82-3; 28-89-3; 13-92-3; 29-09-3; 01-11-3.)

Section 3-7-42. - Benefits to surviving spouses and children of members receiving service-connected disability.

The entitlements and conditions of surviving spouses and children of members receiving service-connected disability compensation shall be as provided in Section 3-7-41. (20-81-3.)

Section 3-7-43. - Benefits to surviving spouses and children of members killed while in performance of official duties.

The surviving spouse or, if no surviving spouse, the surviving handicapped child, of any member killed while in performance of official duties may elect to receive relief from the System in the amount of sixty-six-and-two-thirds percent (66 2/3%) of the member's current salary in lieu of any benefits provided in Section 3-7-41. The surviving spouse shall make such election in writing filed with the Board within ninety (90) days of receiving notice in writing from the Board of his or her right to make such election, or within one-hundred-eighty (180) days of the death of the member, whichever first occurs. In the event that the surviving spouse does not make a timely election, benefits shall be paid as provided under Section 3-7-41. Such election, if approved by the Board, shall become irrevocable upon commencement of payments and shall cease if such handicapped child shall become self-supporting, as determined by the Board based on standards established by the Board, or if said child is determined by the Board no longer to be permanently mentally incompetent or permanently physically handicapped based on evidence available to the Board in accordance with Section 3-7-41(b), as the case may be. Upon death of the surviving spouse, a surviving handicapped child, if any, shall be entitled to receive continued relief from the System as if that child were a surviving spouse. (20-81-3; 13-92-3; 29-09-3.)

Section 3-7-44. - Medical insurance benefits.

Repealed by 35-94-3.

Section 3-7-45. - Review of adverse decisions.

Any member adversely affected by a decision of the Board shall receive written notice of said decision and may, within thirty (30) days of receipt of such notice, request in writing a review by the Board of said decision, pursuant to procedures established by the Board. (20-81-3.)

Section 3-7-46. – Transfer to Senior Executive Retirement Plan.

Repealed by 97-26-3.

Section 3-7-47. – Masculine usage includes the feminine.

Repealed by 16-\_\_-3.

Section 3-7-48. - Limitation on annual retirement allowance.

Notwithstanding any other provision of this Article, the annual retirement allowance to which any member may be entitled shall not exceed the limits on benefits set forth in Section 415(b) of the Internal Revenue Code and any regulations issued by the U.S. Department of the Treasury thereunder, and in calculating such limits a member's compensation shall include any differential wage payments for military service as defined under Section 3401(h)(2) of the Internal Revenue Code and paid on or after January 1, 2009. Notwithstanding any provision of the Internal Revenue Code to the contrary, the limitations imposed by this Section apply only to retirement allowances granted under this Article, and not to any retirement allowance provided to any employee under any other Article of this Chapter. Such limits shall be applied annually for the twelve (12) month period commencing each July 1 and ending the following June 30. A benefit payable other than in the form of an annuity shall not exceed the amount which, when converted to an actuarial equivalent annual benefit, does not exceed the limits on benefits set forth in Section 415(b) of the Internal Revenue Code. Effective June 30, 2000, the mortality tables prescribed by the Uruguay Round Agreement Acts (GATT), as set forth in Internal Revenue Service Revenue Ruling 2001-62 (superseding and modifying Revenue Ruling 95-29), or as further updated or modified by the Internal Revenue Service, shall be used in determining the actuarial equivalent amount of such benefit. (27-90-3, § 6; 21-96-3; 8-03-3; 01-11-3.)

Section 3-7-49. - Distribution of benefits.

Notwithstanding any other provision of this Article, effective for plan years beginning after December 31, 1986, the entire interest of each member shall be distributed to such member not later than the required beginning date specified below, or shall be distributed, beginning not later than the required beginning date, over the life of such member or over the lives of such member and a beneficiary or over a period not extending beyond the life expectancy of such member or the life expectancy of such member and a beneficiary. For this purpose, the term *required beginning date* means April 1 of the calendar year following the later of the calendar year in which the member attains seventy-and-a-half (70½) years of age, or the calendar year in which the member retires. If a member dies after distribution of the member's interest has begun, the remaining portion, if any, of such interest shall be distributed at least as rapidly as under the method of distribution being used as of the date of death. If a member dies before the distribution of the member's interest has begun, any death benefit shall be distributed within five (5) years after the death of such member, unless (1) any portion of the member's interest is payable to (or for the benefit of) a designated beneficiary, (2) such portion shall be distributed over the life of such beneficiary or over a period not extending beyond the life expectancy of such beneficiary, and (3) if the beneficiary is someone other than the member's surviving spouse, such distributions shall begin not later than one (1) year after the date of the member's death or such later date as the U.S. Secretary of the Treasury may by regulations prescribe. If the beneficiary is the surviving spouse of the member, (1) distribution shall begin on or before the latest of one (1) year after the date of the member's death, such later date as the U.S. Secretary of the Treasury may by regulations prescribe, or the date on which the member would have attained seventy-and-a-half (70½) years of age and (2) if the surviving spouse dies before the distributions to such spouse begin, the distribution rules specified in this Section shall be applied as if the surviving spouse were the member. Distributions from the System shall be made in accordance with the requirements of Section 401(a)(9) Internal Revenue Code, including the rules for incidental death distributions set forth at Section 401(a)(9)(G). (27-90-3, § 6; 52-13-3.)

Section 3-7-50. - Direct rollovers to other plans.

- (a) General. This Section applies to distributions made on or after January, 1, 1993. Notwithstanding any provision of this Article to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. However, to the extent that any portion of the amount of the rollover is comprised of after-tax contributions, the distribution may only be rolled over to an eligible retirement plan that separately accounts for after-tax contributions.
- (b) Definitions.
- (1) *Eligible rollover distribution* shall mean any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.
  - (2) *Eligible retirement plan* shall mean any one of the following that accepts the distributee's eligible rollover distribution: an individual retirement account described in Section 408(a) of the Internal Revenue Code; an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; an annuity plan described in Section 403(a) of the Internal Revenue Code; a defined contribution plan described in Section 401(a) of the Internal Revenue Code; an annuity contract described in Section 403(b) of the Internal Revenue Code; an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state; a qualified trust described in Section 401(a) of the Internal Revenue Code; or effective for distributions made after December 31, 2007, a Roth IRA described in Section 408A of the Internal Revenue Code, provided the eligible rollover distribution is considered a "qualified rollover contribution" under Section 408A(e). However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan shall be an individual retirement account or individual retirement annuity.
  - (3) *Distributee* shall mean a member or former member. In addition, the member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is entitled to receive benefits from the System, shall be distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2010, a distributee also shall include a non-spouse beneficiary of a deceased member or former member who may make an eligible rollover distribution in a direct trustee-to-trustee transfer to an "inherited" individual retirement account.
  - (4) *Direct rollover* shall mean a payment by the System to the eligible retirement plan specified by the distributee. (45-93-3; 21-96-3; 8-03-3; 01-11-3)

Section 3-7-51. - Additional retirement allowance.

- (a) Definitions.
- (1) *Active member* shall mean a member of the System who is an employee on July 1, 1995, or who became an employee thereafter, and whose membership in the System has not ceased at any time from July 1, 1995, forward or from when he or she became an employee (whichever is later) until the effective date of his or her subsequent retirement.
  - (2) *Retired member* shall mean a member of the System who is receiving a retirement allowance on July 1, 1995. A member of the System who is receiving a retirement allowance shall include any member whose effective date of retirement is on or before July 1, 1995.

- (3) *Retirement allowance* shall mean a normal service retirement allowance, an early service retirement allowance, a nonservice-connected disability retirement allowance, a deferred vested benefit, or a surviving spouse and children's benefit.
- (4) *Base annual retirement allowance* shall mean the initial calculation of a member's, spouse's or children's annual retirement allowance without regard for any deductions for withholding or other benefit elections or adjustments under Section 3-7-7. For a member taking normal service retirement under Section 3-7-26(a), this is the allowance calculated under Section 3-7-27(a); for a member taking early service retirement under Section 3-7-26(b), this is the allowance calculated under Section 3-7-27(b); for a member retired on account of non-service-connected disability under Section 3-7-31, this is the allowance calculated under Section 3-7-31; for a member receiving a deferred vested benefit, this is the allowance calculated under Section 3-7-38(b); and for a surviving spouse and children receiving a spouse and children's benefit, this is the allowance calculated under the provisions of Section 3-7-41, 3-7-42 or 3-7-43.
- (5) *Adjusted base annual retirement allowance* shall mean the base annual retirement allowance of a retired member or of the spouse and children of a member receiving the base surviving spouse and children annual retirement allowance provided under Section 3-7-41, 3-7-42 or 3-7-43 as increased by any cost-of-living adjustments applied to the member's retirement from the effective date of his or her retirement or election of the spouse and children retirement allowance through July 1, 1995.
- (6) *Member in service* shall mean a member of the System.
- (b) The adjusted base annual retirement allowance of each retired member or spouse and children receiving a retirement allowance on July 1, 1995, shall be increased by three percent (3%), effective July 1, 1995 (modified adjusted base annual retirement allowance). Adjustments to the retired member's or spouse and children's retirement allowance made under this Article after July 1, 1995, shall be computed on the basis of the modified adjusted base retirement allowance.
- (c) When an active member retires or an eligible spouse and children elect to receive the spouse and children's retirement allowance after July 1, 1995, after his or her base annual retirement allowance has been computed under the applicable Section of this Article, the resulting base annual retirement allowance shall be increased by three percent (3%) (initial base annual retirement allowance). Adjustments to the member's or spouse and children's retirement allowance under this Article shall be computed on the basis of the initial base annual retirement allowance.
- (d) Separation from service.
  - (1) A member who:
    - (A) Separated from service other than by death or retirement with five (5) or more years of creditable service in the System prior to July 1, 1995, and
    - (B) Has not withdrawn his or her accumulated contributions as of July 1, 1995, and
    - (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit after July 1, 1995, shall have his or her deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
  - (2) A member in service on July 1, 1995, who:
    - (A) Subsequently separates from service other than by death or retirement with five (5) or more years of creditable service in the System, and
    - (B) Does not withdraw his or her accumulated contributions, and
    - (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit, shall have his or her deferred vested benefit determined under Subsection (c) of this Section.
  - (3) A member in service on July 1, 1995, who:

- (A) Subsequently separates from service and withdraws his or her accumulated members' contributions, and
- (B) Thereafter returns to service and again becomes a member of the System and thereafter retires, shall have his or her retirement allowance calculated under Subsection (c) of this Section as if he or she were an active member as defined in this Section if at the time he or she subsequently returns to service, he or she has made arrangements to purchase credit for all of his or her previous service in the System under this Article.
- (e) Notwithstanding the eighty-four percent (84%) of average final compensation limit contained in Section 3-7-27(a), the initial base annual retirement allowance of an active member who is entitled to the increase provided by Subsection (c) of this Section shall not exceed eighty-six-and-fifty-two-one-hundredths percent (86.52%) of his or her average final compensation.
- (f) Notwithstanding any provision of this Section to the contrary, no adjustment under this Section shall be made which would violate the limitations provided by Section 3-7-48 concerning the limitations imposed by Section 415 of the Internal Revenue Code and any U.S. Treasury Regulations issued thereunder; provided, that any adjustment under this Section may be made up to those limitations. (12-95-3; 6-00-3, § 2.)

(g) This Section shall not be applicable to members of Plan C.

Section 3-7-52. - Deferred Retirement Option Program.

Effective October 1, 2003, there is hereby established a Deferred Retirement Option Program (DROP) for eligible members of the System. Members of the System in service who are eligible for normal service retirement are eligible to elect to participate in this program.

- (a) Definitions.
  - (1) *DROP period* shall mean the three (3) year period immediately following the commencement of the member's participation in the DROP.
  - (2) *Eligible member* shall mean any member who is, or will become within sixty (60) days, eligible for normal service retirement benefits as those are defined in Section 3-7-26(a).
- (b) Election to participate.
  - (1) An eligible member may participate in the DROP only once. An eligible member who desires to participate in the DROP must file an application with the Fairfax County Retirement Administration Agency not less than sixty (60) days prior to the date of the commencement of the member's participation in the DROP.
  - (2) A member's election to participate in the DROP is irrevocable, with the exception that a member who elects to participate in the DROP may revoke that election prior to the commencement of his or her DROP period; once revoked, a member may not then elect to participate in the DROP for a period of at least twelve (12) months from the date of his or her revocation.
  - (3) At the time of an eligible member's election to participate in the DROP, he or she shall make an election in writing pursuant to Section 3-7-39 as to whether or not to receive a reduced retirement allowance in order to provide a retirement allowance for his or her spouse and/or handicapped child after the member's death.
  - (4) An eligible member who elects to participate in the DROP shall agree to do so for a period of three (3) years.
  - (5) Subject to any limitation on the number of accrued sick leave hours that may be converted to creditable service as provided in Section 3-7-2(a)(2), an eligible member who elects to participate in the DROP shall, at the time of his or her election to participate in the DROP, make an election in writing as to whether he or she wishes to convert all of his or her available accrued sick leave to creditable service or to convert all but forty (40) hours of his or her accrued sick leave to

creditable service. Sick leave that is either carried over or that accrues during the DROP period shall not be converted to creditable service at the conclusion of the DROP period.

(c) Continued employment.

- (1) A participating DROP member shall, upon commencement of his or her DROP period, continue to work for the County in the position he or she held before the effective date of his or her election to participate in the DROP. Thereafter, the participating DROP member shall perform the services of that position or any other position to which he or she is promoted or transferred.
- (2) A participating DROP member shall continue to accrue annual and sick leave and, if eligible, compensatory time during the DROP period. At the conclusion of the DROP period, the member shall receive the payment for his or her accrued annual and compensatory leave that he or she would have received upon retirement. In no case shall a participating DROP member receive payment for his or her accrued annual and compensatory leave at the commencement of the member's participation in the DROP.
- (3) A participating DROP member shall continue to remain eligible for health and life insurance benefits provided by the County to its employees and shall remain eligible to participate in the County's deferred compensation plan. The deductions from the salary of a participating DROP member for health and life insurance benefits shall be the same deductions that would have been taken had the participating DROP member been an active County employee, not the deductions that would be taken from the retirement benefits and allowances of a retiree.
- (4) All County personnel policies and regulations shall continue to apply to a participating DROP member after the commencement of his or her DROP period. A participating DROP member shall remain eligible for annual merit pay increments and promotions during the DROP period. However, a participating DROP member's salary during his or her DROP period shall not be included in the computation of the member's average final compensation. A participating DROP member shall also be subject to the County's disciplinary policies and regulations.
- (5) If a participating DROP member's continued employment with the County is interrupted by military service, there shall be no interruption of the member's participation in the DROP. During the period of the participating DROP member's military service, the member's retirement benefits and allowances shall continue to be paid into the participating member's DROP account until the member's DROP period ends. At the end of the DROP period, the member's DROP account balance shall be paid to the member whether or not he or she has returned to his or her former County position, and the member shall begin to receive his or her normal retirement benefits.
- (6) Except as otherwise set forth herein, a participating DROP member's continued service shall be deemed to be normal service retirement and shall not count as creditable service with the System.
- (7) Upon commencement of a participating DROP member's DROP period, the County shall cease to withhold contributions to the System from the participating DROP member's salary.
- (8) The salary received by a participating DROP member during his or her DROP period shall not be included by the County in the base that is used to determine the amount of the County's employer contributions to the System.

(d) DROP account.

- (1) Upon commencement of the ~~member's~~ participation of a member in either Plan A or Plan B in the DROP, the member's service retirement allowance pursuant to Section 3-7-27 and the additional retirement allowance pursuant to Section 3-7-51 shall be paid into the member's DROP account. ~~The initial amount credited to a member's DROP account shall be computed based on his or her average final compensation as of the date of the commencement of the DROP period.~~ Upon commencement of participation of a member in Plan C in the DROP, the member's service retirement allowance shall be determined pursuant to Section 3-7-27. The initial amount credited to a member's DROP account shall be computed based on his or her average final compensation as of the date of the commencement of the DROP period.

- (2) The initial monthly amount shall be increased each July 1 based upon the annual cost-of- living adjustment provided to retirees pursuant to Section 3-7-37. Any other changes that occur during the DROP period that would result in an alteration of the participating DROP member's retirement allowances and benefits if he or she were retired shall also result in adjustments to the monthly amount credited to a participating DROP member's DROP account.
  - (3) The participating DROP member's DROP account shall be credited with interest at an annual rate of five percent (5%), compounded monthly. Interest shall not be pro-rated for any period less than a full month.
  - (4) Contributions by the County and the participating DROP member into the System for the participating DROP member shall cease.
  - (5) Amounts credited to a participating DROP member's DROP account shall not constitute annual additions under Section 415 of the Internal Revenue Code.
  - (6) A participating DROP member's DROP account shall not be an account that is separate and distinct from the assets of the System; a participating DROP member's DROP account balance shall remain part of the assets of the System.
- (e) Cessation of County employment.
- (1) At the conclusion of a participating DROP member's DROP period, the member's County employment shall automatically cease. The participating DROP member shall then begin to receive normal service retirement allowances and benefits computed based upon his or her average final compensation at the time of the commencement of the DROP period and his or her creditable service at the time of the commencement of the DROP period, plus cost-of-living increases provided to retirees and any other benefit improvements that may have been granted to retirees during the participating DROP member's DROP period. At least sixty (60) days prior to the conclusion of a participating DROP member's DROP period, the member shall make one of the following elections concerning payment of his or her DROP account balance:
    - (A) The member may receive payment of his or her DROP account balance as a lump sum.
    - (B) The member may elect to roll over his or her DROP account balance into an "eligible retirement plan", as defined in Section 3-7-50(b)(2).
    - (C) The member may elect to receive payment of a portion of his or her DROP account balance and roll over the remaining portion into a qualified retirement plan, such as an IRA. If the member elects this method of receiving his or her DROP account balance, he or she must specify, in writing, the specific amount to be paid as a lump sum and the specific amount to be rolled over.
    - (D) The member may elect to use his or her DROP account balance to increase his or her monthly retirement allowances and benefits. The amount of the increase shall be determined based on the actuarial equivalent of the member's DROP account balance.
    - (E) The member may divide his or her DROP account balance in half, and may then elect to use fifty percent (50%) of his or her DROP account balance to increase his or her monthly retirement allowances and benefits, and to receive the remainder in any manner listed in Subparagraphs (A), (B) and (C) above.

In the event that the participating DROP member does not make the election required by this Subsection, the member shall receive payment of his or her DROP account balance as a lump sum.
  - (2) A participating DROP member may terminate his or her County employment at any time, in which case the effective date of the member's termination of his or her County employment shall be treated as the end of the DROP period for all purposes of this Section.

- (3) In the event that the employment of a participating DROP member is terminated by the County during the DROP period for any reason, the effective date of the member's separation from County service shall be treated as the end of the DROP period for all purposes of this Section.
- (f) Death or disability during DROP period.
  - (1) (A) If a participating DROP member dies during the DROP period, the participating DROP member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate. In the event that the participating DROP member has elected a joint and contingent spouse and handicapped child option pursuant to the terms of Section 3-7-39, the participating DROP member's surviving spouse or handicapped child shall receive payment of the participating DROP member's DROP account balance and shall begin to receive allowances and benefits pursuant to the joint and contingent spouse and handicapped child option election of the participating DROP member in addition to the benefits to which they may be entitled under Section 3-7-41.
  - (B) If a participating DROP member is killed while in performance of his or her official duties during the DROP period, as set forth in Section 3-7-43, the member's spouse, or, if there is no surviving spouse, the member's handicapped child, may elect to receive the benefits set forth in Section 3-7-43, pursuant to the terms and conditions set forth in that Section. Such an election shall constitute a waiver of the right to receive the participating DROP member's DROP account balance.
  - (C) If a participating DROP member is killed while in performance of his or her official duties and there is no surviving spouse or handicapped child, the member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate.
- (2) If a participating DROP member becomes disabled during the DROP period, the participating DROP member shall receive:
  - (A) In the case that a participating DROP member suffers a disability that would be considered a non-service-connected disability as defined in Section 3-7-31 or a disability as a result of negligence as defined in Section 3-7-36, the effective date of the member's disability shall be treated as the end of the participating DROP member's DROP period.
  - (B) In the case that a participating DROP member suffers a service-connected disability as defined in Section 3-7-28, the participating DROP member may elect either (i) to receive the service-connected disability retirement allowances and benefits to which he or she would otherwise be entitled or (ii) to receive the normal service retirement allowances and benefits to which he or she would be entitled plus his or her DROP account balance. An election to receive service-connected disability retirement allowances and benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.
- (g) Execution of documents and adoption of rules and regulations. The County Executive is authorized to execute all documents necessary or appropriate to operate the DROP including, but not limited to, the establishment of a trust within which the participating DROP members' DROP accounts shall be held and administered. The Board is also authorized to adopt rules and regulations governing the DROP. Any documents executed by the County Executive shall be approved for form by the County Attorney prior to execution. (36-03-3; 41-08-3; 27-10-3; 01-11-3; 28-12-3.)

Division 7. - Benefit Restoration Plan.

Section 3-7-53. - Benefit Restoration Plan.

- (a) There is hereby established a Benefit Restoration Plan for the System.
- (b) Purpose and intent; rule of construction.
  - (1) In establishing this Benefit Restoration Plan, the Board of Supervisors intends to establish and maintain a "qualified governmental excess benefit arrangement," as defined and authorized by Section 415(m) of the Internal Revenue Code, as is permitted by Section 51.1-1302 of the *Code of Virginia*. The purpose of this Benefit Restoration Plan is to restore, through a non-qualified arrangement, the benefits lost by the application of the limitation on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans. This Benefit Restoration Plan shall exist in addition to all other retirement, pension, or other benefits available to participants, including the benefits established by the System.
  - (2) This Section shall be construed to ensure compliance with federal and state law, and any regulations promulgated thereunder, governing such qualified governmental excess benefit arrangements, including, but not limited to Section 415(m) of the Internal Revenue Code and Sections 51.1-1302, 51.1-1303, and 51.1-1304 of the *Code of Virginia*, as in effect at the time of the adoption of this Section and as subsequently amended.
- (c) Definitions.
  - (1) *Administrator* or *Plan Administrator* shall mean the Board, which is responsible for the general administration and operation of the Benefit Restoration Plan and for making effective the provisions of this Section. Under the oversight of the Board, the Executive Director shall be responsible for the day to day operation and administration of the Benefit Restoration Plan.
  - (2) *Beneficiary* shall mean the person or persons entitled under this Article to receive any benefits payable after the participant's death.
  - (3) *Benefit Restoration Plan* or *Plan* shall mean the Benefit Restoration Plan for the System established by this Section.
  - (4) *Effective date* shall mean the date of this Section's adoption [June 5, 2006].
  - (5) *Eligible member* shall mean a retired member of the System whose benefits thereunder are reduced by the application of the limitations on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans.
  - (6) *Enabling statute* shall mean Chapter 13 of Title 51.1 of the *Code of Virginia*, as amended.
  - (7) *Grantor trust* shall mean the trust fund described in Subsection (i)(3) of this Section and established and maintained for the Benefit Restoration Plan.
  - (8) *Participant* shall mean an eligible member qualified to participate in the Benefit Restoration Plan.
  - (9) *Plan sponsor* shall mean the Board of Supervisors.
  - (10) *Plan year* shall mean the twelve (12) month period beginning on July 1.
  - (11) *Restoration death benefit* shall mean the benefit due the beneficiary of a participant under the Benefit Restoration Plan as determined under this Section.
  - (12) *Restoration retirement benefit* shall mean the benefit due a participant or his or her beneficiary under the Benefit Restoration Plan determined under this Section.
- (d) Eligibility and participation
  - (1) Eligibility and date of participation. Each eligible member shall be a participant in the Benefit Restoration Plan commencing with the date he or she first becomes, or again becomes, an eligible member.
  - (2) Length of participation. Each eligible member who becomes a participant shall be or remain a participant for so long as he or she is entitled to future benefits under the terms of the Benefit Restoration Plan.

(e) Restoration retirement benefit. Subject to the terms and conditions set forth in this Section, a participant who retires or is retired under the System and who is entitled to the payment of benefits under the System shall be entitled to a restoration retirement benefit, generally expressed as a benefit payable monthly for the life of the participant and commencing at the applicable time provided under this Article, equal to the excess, if any, of:

- (1) The amount of the participant's retirement allowance under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
- (2) The amount of the participant's retirement allowance under the System.

To the extent that the participant's retirement allowance payable under the System is increased at any time due to increases in limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the Secretary of the U. S. Treasury or his or her delegate or otherwise, the participant's restoration retirement benefit shall be reduced correspondingly.

(f) Death Benefit.

- (1) Death after benefit commencement. If a participant dies after his or her restoration retirement benefit commences to be paid, the only benefits payable under the Benefit Restoration Plan to his or her beneficiary after his or her death shall be those, if any, provided under the form of payment being made to him or her at his or her death.
- (2) Death before benefit commencement. If a participant dies before his or her restoration retirement benefit commences to be paid, the only benefit payable under the Benefit Restoration Plan with respect to him or her shall be the restoration death benefit, if any, provided in Subsection (f)(3) of this Section.
- (3) Restoration death benefit. Subject to the terms and conditions set forth herein, if a participant dies on or after the effective date and before his or her restoration retirement benefit commences to be paid, his or her beneficiary shall be entitled to a restoration death benefit as follows:
  - (A) If his or her beneficiary is entitled to receive any death benefit under the System, such beneficiary shall be entitled to receive as a restoration death benefit under the Benefit Restoration Plan an amount equal to the excess, if any, of:
    - (i) The amount of such death benefit under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
    - (ii) The actual amount of such death benefit under the System.

To the extent that the participant's accrued benefit or any death benefit payable under the System is increased at any time due to increases in the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the U.S. Secretary of the Treasury or his or her delegate or otherwise, the participant's restoration death benefit shall be reduced correspondingly.

(g) Vesting. A participant's restoration retirement benefit or restoration death benefit, as the case may be, shall be vested at the time of his or her retirement under the System or death, but only to the extent, and determined in the manner, that such participant has a vested and non-forfeitable right to his or her retirement allowance under the System.

(h) Payment of benefits.

- (1) Time and manner for payment of benefits. A participant's restoration retirement benefit, or the restoration death benefit, shall be payable at the same time and in the same manner as the participant's retirement allowance or comparable death benefit (other than his or her accumulated contributions or contribution refund death benefit) is paid under the System, whether as elected by the participant or otherwise payable. For a member who is receiving a retirement allowance

under the System on the effective date, and who would immediately be an eligible member upon the effective date, such member shall immediately commence receiving a restoration retirement benefit on a prospective basis.

- (2) Discretionary use of other methods of payment. In the sole discretion of the Administrator, monthly payment amounts of less than \$100.00, or such amount as the Administrator may from time to time determine, may be paid on an annual or semi-annual basis, in arrears and without interest.
  - (3) Benefit determination and payment procedure. The Administrator shall make all determinations concerning eligibility for benefits under the Benefit Restoration Plan, the time or terms of payment, and the form or manner of payment to the participant (or the participant's beneficiary in the event of the death of the participant). The Administrator shall promptly notify the employer and, where payments are to be made from a grantor trust, the trustee thereof, of each such determination that benefit payments are due and provide to the employer or trustee such other information necessary to allow the employer or trustee to carry out said determination, whereupon the employer or trustee shall pay such benefits in accordance with the Administrator's determination.
  - (4) Payments to minors and incompetents. If a participant or beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits shall be paid to such person as the Administrator may designate for the benefit of such participant or beneficiary. Such payments shall be considered a payment to such participant or beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Benefit Restoration Plan.
  - (5) Distribution of benefit when distributee cannot be located. The Administrator shall make all reasonable attempts to determine the identity and/or whereabouts of a participant or his or her beneficiary entitled to benefits under the Benefit Restoration Plan, including the mailing by certified mail of a notice to the last known address shown on the employer's or the Administrator's records. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no such claim made for such benefits, the employer shall continue to hold the benefit due such person, subject to any applicable statute of escheats.
- (i) Funding.
- (1) The undertaking to pay the benefits hereunder shall be unfunded obligations payable solely from the general assets of the employer and subject to the claims of the employer's creditors.
  - (2) Except as provided in a grantor trust established as permitted in Subsection (i)(3) of this Section, nothing contained in the Benefit Restoration Plan and no action taken pursuant to this Section shall create or be construed to create a trust of any kind of a fiduciary relationship between the employer and the participant or his or her beneficiary or any other person or to give any participant or beneficiary any right, title, or interest in any specific asset or assets of the employer. To the extent that any person acquires a right to receive payments from the employer under the Benefit Restoration Plan, such rights shall be no greater than the right of any unsecured general creditor of the employer.
  - (3) Use of grantor trust permitted. Notwithstanding any provision of this Section to the contrary, the Benefit Restoration Plan Sponsor may in its sole discretion elect to establish and fund a grantor trust for the purpose of providing benefits under the Benefit Restoration Plan.
- (j) Plan Administrator.
- (1) The Plan Administrator shall have full and complete authority and discretion to control and manage the operation of and shall decide all matters under the Benefit Restoration Plan pursuant to this Section and the enabling statute. The Administrator shall have any and all powers as may be necessary or advisable to discharge its duties under the Benefit Restoration Plan including the power and authority to interpret the terms of the Benefit Restoration Plan.

- (2) The Plan Administrator shall be responsible for performing the duties required for the operation of the Benefit Restoration Plan, and shall be responsible for supervising the performance of any other persons who may assist in the performance of the Plan Administrator's responsibilities under this Section and the enabling statute.
  - (3) To enable the Plan Administrator to perform its responsibilities, employer(s) shall promptly provide to the Plan Administrator complete and accurate information on any matter that is required by the Administrator in order to make any decision or determination under the Benefit Restoration Plan. The Plan Administrator shall rely upon this information supplied by the employer, and shall have no duty or responsibility to verify this information.
  - (4) Except as prohibited by law or by this Section, the Plan Administrator may delegate any of its duties to the Executive Director. The Plan Administrator may contract with any person to provide services to assist in the administration of the Benefit Restoration Plan. The Plan Administrator shall make such contracts in compliance with all applicable state and local laws and regulations. Any person other than the Plan Administrator who performs services regarding the Benefit Restoration Plan shall be subject to the supervision and direction of the Plan Administrator and shall not have the authority to control the operation of the Plan.
- (k) Termination and amendment of Benefit Restoration Plan.
- (1) Termination. The Board of Supervisors hereby reserves the right to terminate this Benefit Restoration Plan at any time; provided, that no such termination shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such termination.
  - (2) Amendment. The Board of Supervisors hereby reserves the right to amend this Benefit Restoration Plan at any time; provided, that no such amendment shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such amendment.
- (l) Non-assignability.
- The interests of each participant hereunder the Benefit Restoration Plan are not subject to the claims of the participant's creditors; and neither the participant nor his or her beneficiary, shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Benefit Restoration Plan, which payments and interest are expressly declared to be non-assignable and non-transferable. Notwithstanding the foregoing, the Plan Administrator shall honor any process for a debt to the employer who has employed the participant and any administrative actions pursuant to Sections 63.2-1900 *et seq.* of the *Code of Virginia* or any court process to enforce a child or spousal support obligation, in the manner as described in Section 3-7-6 *mutatis mutandi*. Restoration retirement benefits and/or restoration death benefits created under this Section which are deemed to be marital property pursuant to Sections 20-89.1 *et seq.* of the *Code of Virginia*, may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Code of Virginia*. Under no circumstances may a payment under this Subsection take place before the participant's benefit under the System is actually paid. (12-06-3.)

*Via Electronic Mail*

September 13, 2018

Board of Trustees  
Fairfax County Employees' Retirement System  
12015 Lee Jackson Memorial Highway, Suite 350  
Fairfax, Virginia 22033

**Re: Follow-up Information to June 26 Meeting on Personnel Committee Meeting**

Dear Members of the Board:

At the Personnel Committee meeting on June 26, 2018, the Board of Supervisors narrowed down a list of potential offerings for a new tier of benefits. We are writing to provide information on possible combinations of these potential offerings and the impact on the Fairfax County Employees' Retirement System (ERS).

The potential changes that are being considered to benefits for all new hires after the effective date of the ordinance under the current Plan D include:

- Raise the minimum retirement age from 55 to 60
- Raise the Rule of 85 to the Rule of 90
- Change the average final compensation from high three years to high five years average
- Eliminate Pre-Social Security (pre-SS) Supplements
- Eliminate the 3% increase in the benefit formula

While the actual cost impact of a new hire plan will be unknown until the members have actually been hired, we are able to estimate the impact using the Plan D active population and the normal cost reduction for each possible combination being considered. The impact of any of these changes will be felt slowly over a number of years as new members are hired. If the contribution rate were recalculated each year to reflect the valuation results, we anticipate that the normal cost rate would begin to change immediately, albeit slowly. However, the County has decided not to let the ERS contribution rate decline until the Plan reaches 100% funding. Consequently, it is more likely that no savings would emerge until the Plan reaches 100% funding, at which time the contribution would drop enough to recoup the savings that had been suppressed in the interim.

Normal cost is an actuarial measure of the value of each year's accrual of benefits and will be lower for new hires under the proposed changes. The table on the following page lists the combinations that are being considered as well as the impact on normal cost. Note that combining changes in a certain order will change the potential savings since the changes are interdependent. For example, if you were to eliminate the pre-Social Security supplements as the first step in making a change, the change of increasing the minimum retirement age to 60 would be less of a savings since part of the savings was due to the pre-SS supplement piece of the benefit. This is why it is important to view the changes in packages rather than looking at each change on an individual basis.

ERS Normal Cost Impact of Prospective Changes to New Hires								
	A	B	C	D	E	F	G	H
1a. Minimum retirement age of 60	-0.22%	-0.22%	N/A	-0.22%	-0.22%	N/A	N/A	N/A
2. Rule of 90 retirement	-0.04%	N/A	-0.08%	-0.04%	N/A	-0.08%	N/A	N/A
3a. 5-year average final compensation	-0.35%	-0.35%	-0.35%	-0.35%	-0.35%	-0.35%	N/A	-0.36%
4. Eliminate pre-SS supplement	-0.42%	-0.44%	-0.49%	-0.42%	-0.44%	-0.49%	-0.58%	-0.58%
9. Eliminate 3% formula increase	-0.32%	-0.32%	-0.33%	N/A	N/A	N/A	-0.33%	-0.32%
Total Change	-1.35%	-1.33%	-1.25%	-1.03%	-1.01%	-0.92%	-0.91%	-1.26%


### Assumptions and Statement of Reliance

These cost estimates were prepared using the same actuarial assumptions and methods as described in our June 30, 2016 actuarial valuation reports. The data used in this analysis was the active data provided for the 2016 valuation for members participating in Plan D. We note that the average age at hire for active members of Plan D has not significantly changed in the last three years of valuation data that we have collected and so we feel the 2016 active group is an appropriate proxy for future hires who may accrue benefits under this provision.

I hereby certify that, to the best of my knowledge, this letter and its contents are complete and have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as a credentialed actuary, I meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this letter. This letter does not address any contractual or legal issues. I am not an attorney, and my firm does not provide any legal services or advice.

Please call if you have any questions or comments.

Sincerely,  
Cheiron



Fiona E. Liston, FSA, EA  
Principal Consulting Actuary



*Via Electronic Mail*

August 3, 2018

Board of Trustees  
Fairfax County Uniformed Retirement System  
12015 Lee Jackson Memorial Highway, Suite 350  
Fairfax, Virginia 22033

**Re: Follow-up Information to June 26 Meeting on Personnel Committee Meeting**

Dear Members of the Board:

At the Personnel Committee meeting on June 26, 2018, the Board of Supervisors narrowed down a list of potential offerings for a new tier of benefits. We are writing to provide information on possible combinations of these potential offerings and the impact on the Fairfax County Uniformed Retirement System (URS).

The potential changes that are being considered to benefits for all new hires after the effective date of the ordinance under the current Plan E include:

- Change the average final compensation from high three years to high five years average
- Eliminate Pre-Social Security (pre-SS) Supplements
- Eliminate the 3% increase in the benefit formula

While the actual cost impact of a new hire plan will be unknown until the members have actually been hired, we are able to estimate the impact using the Plan E active population and the normal cost reduction for each possible combination being considered. The impact of any of these changes will be felt slowly over a number of years as new members are hired. If the contribution rate were recalculated each year to reflect the valuation results, we anticipate that the normal cost rate would begin to change immediately, albeit slowly. However, the County has decided not to let the URS contribution rate decline until the Plan reaches 100% funding. Consequently, it is more likely that no savings would emerge until the Plan reaches 100% funding, at which time the contribution would drop enough to recoup the savings that had been suppressed in the interim.

Normal cost is an actuarial measure of the value of each year's accrual of benefits and will be lower for new hires under the proposed changes. The table on the following page lists the combinations that are being considered as well as the impact on normal cost. Note that combining changes in a certain order will change the potential savings since the changes are interdependent. For example, if you were to eliminate the pre-Social Security supplements as the first step in making a change, the change of increasing the average final compensation years from three to five would be less of a savings since part of the savings was due to the pre-SS supplement piece of the benefit. This is why it is important to view the changes in packages rather than looking at each change on an individual basis.

URS Normal Cost Impact of Prospective Changes to New Hires			
	A	B	C
3a. 5-year average final compensation	-0.84%	-0.84%	N/A
4. Eliminate pre-SS supplement	-0.89%	-0.89%	-0.92%
9. Eliminate 3% formula increase	-0.57%	N/A	0.59%
Total Change	-2.30%	-1.73%	-1.51%

### Assumptions and Statement of Reliance

These cost estimates were prepared using the same actuarial assumptions and methods as described in our June 30, 2016 actuarial valuation reports. The data used in this analysis was the active data provided for the 2016 valuation for members participating in Plan E. We note that the average age at hire for active members of Plan E has not significantly changed in the last three years of valuation data that we have collected and so we feel the 2016 active group is an appropriate proxy for future hires who may accrue benefits under this provision.

I hereby certify that, to the best of my knowledge, this letter and its contents are complete and have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as a credentialed actuary, I meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this letter. This letter does not address any contractual or legal issues. I am not an attorney, and my firm does not provide any legal services or advice.

Please call if you have any questions or comments.

Sincerely,  
Cheiron



Fiona E. Liston, FSA, EA  
Principal Consulting Actuary



*Via Electronic Mail*

August 3, 2018

Board of Trustees  
Fairfax County Police Officers Retirement System  
12015 Lee Jackson Memorial Highway, Suite 350  
Fairfax, Virginia 22033

**Re: Follow-up Information to June 26 Meeting on Personnel Committee Meeting**

Dear Members of the Board:

At the Personnel Committee meeting on June 26, 2018, the Board of Supervisors narrowed down a list of potential offerings for a new tier of benefits. We are writing to provide information on possible combinations of these potential offerings and the impact on the Fairfax County Police Officers Retirement System (PORS).

The potential changes that are being considered to benefits for all new hires after the effective date of the ordinance under the current Plan B include:

- Change the average final compensation from high three years to high five years average
- Eliminate the 3% increase in the benefit formula

While the actual cost impact of a new hire plan will be unknown until the members have actually been hired, we are able to estimate the impact using the Plan B active population and the normal cost reduction for each possible combination being considered. The impact of any of these changes will be felt slowly over a number of years as new members are hired. If the contribution rate were recalculated each year to reflect the valuation results, we anticipate that the normal cost rate would begin to change immediately, albeit slowly. However, the County has decided not to let the PORS contribution rate decline until the Plan reaches 100% funding. Consequently, it is more likely that no savings would emerge until the Plan reaches 100% funding, at which time the contribution would drop enough to recoup the savings that had been suppressed in the interim.

Normal cost is an actuarial measure of the value of each year's accrual of benefits and will be lower for new hires under the proposed changes. The table below lists the combinations that are being considered as well as the impact on normal cost.

PORS Normal Cost Impact of Prospective Changes to New Hires			
	A	B	C
3a. 5-year average final compensation	-0.79%	-0.79%	N/A
9. Eliminate 3% formula increase	-0.63%	N/A	-0.65%
Total Change	-1.42%	-0.79%	-0.65%

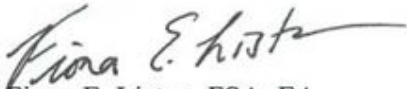
### **Assumptions and Statement of Reliance**

These cost estimates were prepared using the same actuarial assumptions and methods as described in our June 30, 2016 actuarial valuation reports. The data used in this analysis was the active data provided for the 2016 valuation for members participating in Plan B. We note that the average age at hire for active members of Plan B has not significantly changed in the last three years of valuation data that we have collected and so we feel the 2016 active group is an appropriate proxy for future hires who may accrue benefits under this provision.

I hereby certify that, to the best of my knowledge, this letter and its contents are complete and have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as a credentialed actuary, I meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this letter. This letter does not address any contractual or legal issues. I am not an attorney, and my firm does not provide any legal services or advice.

Please call if you have any questions or comments.

Sincerely,  
Cheiron



Fiona E. Liston, FSA, EA  
Principal Consulting Actuary



Board Agenda Item  
December 4, 2018

3:30 p.m.

Decision Only on PRC B-846-05 (Woodfield Acquisitions, LLC) to Amend the PRC Plan Associated with RZ-B-846 to Permit High Density Residential Development on a Portion of the Site with Existing Office to Remain at a Density of 46.9 Dwelling Units Per Acre and an Overall Floor Area Ratio of 1.30. Located on Approximately 6.56 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PCA-B-846-04 and DPA-HM-117-03)

and

Decision Only on PCA-B-846-04 (Woodfield Acquisitions, LLC) to Amend the Proffers for RZ-B-846 Previously Approved for Office to Permit Residential Development on a Portion of the Site with the Existing Office to Remain at a Density of 46.9 Dwelling Units Per Acre and an Overall Floor Area Ratio of 1.30 and Associated Modifications to Proffers and Site Design, Located on Approximately 6.56 Acres of Land Zoned PRC (Hunter Mill District (Concurrent with DPA-HM-117-03 and PRC-B-846-05)

and

Decision Only on DPA-HM-117-03 (Woodfield Acquisitions, LLC) to Permit the Third Amendment of the Development Plan for DP-117 to Permit Residential Development on a Portion of the Site and Office to Remain at a Density of 46.9 Dwelling Units Per Acre and Overall Floor Area Ratio of 1.30 and Associated Modifications to Site Design, Located on Approximately 6.56 Acres of Land Zoned PRC (Hunter Mill District) (Concurrent with PCA-B-846-04 and PRC-B-846-05

This property is located on the S. side of Dulles Airport Access and Toll Road at the terminus of Roland Clarke Place approximately 336 feet N. of its intersection with Sunrise Valley Drive. Tax Map 17-4 ((14)) (1A) 2 and 3.

This property is located on the S. side of Dulles Airport Access and Toll Road at the terminus of Roland Clarke Place approximately 336 feet N. of its intersection with Sunrise Valley Drive. Tax Map 17-4 ((14)) (1A) 2 and 3.

This property is located on the S. side of Dulles Airport Access and Toll Road at the terminus of Roland Clarke Place approximately 336 feet N. of its intersection with Sunrise Valley Drive. Tax Map 17-4 ((14)) (1A) 2 and 3.

The Board of Supervisors deferred these public hearings from their October 30, 2018 meeting until November 20, 2018, at 3:30 p.m. Public hearings were held on November 20, 2018, and decision only was deferred to December 4, 2018, at 3:30 p.m.

Board Agenda Item  
December 4, 2018

PLANNING COMMISSION RECOMMENDATION:

On November 15, 2018, the Planning Commission voted 11-0 (Commissioner Hurley was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA B-846-04 and DPA HM-117-03 subject to the execution of proffered conditions consistent with those dated November 8, 2018;
- Approval of PRC B-846-05 subject to the PRC development conditions dated September 27, 2018;
- Approval of a modification of Paragraph 1 of Section 2-414 of the Zoning Ordinance for the minimum distances between a residential building and the Dulles International Airport Access Highway and Dulles Toll Road right-of-way from 200 feet to 59 feet;
- Approval of a modification of Section 11-203 of the Zoning Ordinance to permit a reduction in the required number of loading spaces from eight to five spaces;
- Approval of a waiver of Paragraph 2 of Section 11-302 of the Zoning Ordinance to permit a private street in a residential development to exceed 600 feet in length; and
- Approval of a modification of Section 13-303 of the Zoning Ordinance for the transitional screening requirement to that shown on the DPA/PRC Plan.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Mary Ann Tsai, Planner, DPZ

**REVISED  
TO BE DEFERRED**

Board Agenda Item  
December 4, 2018

3:30 p.m.

Public Hearing on RZ 2018-MV-012 (Fairfax County DPWES CAP BDCD) to Rezone from R-2, R-20 and HC to R-20 and HC to Permit Public Use with an Overall Floor Area Ratio of 0.39, Located on Approximately 1.5 Acres of Land (Mount Vernon District)

This property is located on the East side of Lukens Lane approximately 600 feet South of its intersection with Richmond Highway. Tax Map 75-1 ((1)) 8Z.

The Board of Supervisors deferred this public hearing from October 16, 2018 to December 4, 2018, at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing will be held on December 5, 2018. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Jay Rodenbeck, Planner, DPZ

Board Agenda Item  
December 4, 2018

3:30 p.m.

Public Hearing on PRCA-C-020 (Stanley Martin Companies, LLC) to Amend the PRC Plan Associated with RZ-C-020 to Permit Modifications to Development Conditions for a Mixed-Use Development, Located on Approximately 7.46 Acres of Land Zoned PRC (Hunter Mill District)

This property is located E. of Wiehle Avenue, N. and W. of North Shore Drive. Tax Map 18-1 ((5)) 8A3 and 8A4.

PLANNING COMMISSION RECOMMENDATION:

On November 29, 2018, the Planning Commission voted 11-0-1 (Commissioner Hurley abstained from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of PRCA C-020, subject to the PRCA development conditions dated November 28, 2018; and
- Reaffirmation of the following waivers and modifications:
  - Modification of Par. 2 of Sect. 6-306 of the Zoning Ordinance for the 200-square foot privacy yard requirement for single family attached dwelling unit lots to that shown on the PRC Plan/SE Plat;
  - Waiver of Par. 10 of Sect. 11-102 of the Zoning Ordinance to permit tandem parking for the two-over-two dwelling units to count towards the off-street parking requirement for multi-family dwelling units;
  - Modification of Sect. 11-203 of the Zoning Ordinance for the required number of loading spaces to that shown on the PRC Plan/SE Plat; and
  - Modification of Sects. 13-303 and 13-304 of the Zoning Ordinance for the transitional screening and barrier requirements to that shown on the PRC Plan/SE Plat.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Mary Ann Tsai, Planner, DPZ

Board Agenda Item  
December 4, 2018

3:30 p.m.

Public Hearing on RZ 2016-HM-024 (JBG/1831 Wiehle, LLC & EYA Development LLC) to Rezone from I-4 to PRM to Permit Mixed-Use Development with an Overall Floor Area Ratio of 2.4 and Approval of the Conceptual Development Plan, Located on Approximately 17.50 Acres of Land (Hunter Mill District)

This property is located on the N. side of Dulles Toll Road, E. side of Wiehle Avenue, S. side of Sunset Hills Road and W. side of Michael Faraday Drive. Tax Map 17-4 ((18)) 1A, 1B, 2B and 3.

PLANNING COMMISSION RECOMMENDATION:

On November 1, 2018, the Planning Commission 10-0-1 (Commissioner Hurley abstained from the vote and Commissioner Hart was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2016-HM-024 and the associated Conceptual Development Plan, subject to the execution of proffered conditions consistent with those dated October 17, 2018, and with the addition of a proffered condition related to the coordination of streetscape and wayfinding signage along Reston Station Boulevard;
- Approval of a modification of Paragraph 1 of Section 2-414 of the Zoning Ordinance on the minimum distances between residential and commercial buildings and the Dulles International Airport Access Highway and Dulles Toll Road right-of-way from 200 feet for residential buildings and 75 feet for office buildings to 70 feet and 10 feet, respectively;
- Approval of a waiver of Paragraph 2 of Section 6-407 of the Zoning Ordinance for the 200square foot privacy yard requirement for each single-family attached dwelling unit;
- Approval of a modification of Section 11-203 of the Zoning Ordinance for the loading space requirements to that shown on the CDP/FDP;

Board Agenda Item  
December 4, 2018

- Approval of a waiver of Paragraph 2 of Section 11-302 of the Zoning Ordinance for private streets in a residential development to exceed 600 feet in length;
- Approval of a modification of Sections 13-303 and 13-304 of the Zoning Ordinance for the transitional screening and barrier requirements to that shown on the CDP/FDP; and
- Approval of parking reduction #3729-PKS-007-03, subject to the conditions consistent with those dated September 13, 2018, as amended.

In a related action, on November 1, 2018, the Planning Commission voted 11-0 (Commissioner Hart was absent from the meeting) to approve FDP 2016-HM-024, subject to the development conditions dated October 25, 2018, and subject to the Board of Supervisors' approval of RZ 2016-HM-024.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Mary Ann Tsai, Planner, DPZ

Board Agenda Item  
December 4, 2018

3:30 p.m.

Public Hearing on RZ 2018-HM-004 (AG-ARC Reston 1 Owner LLC, AG-ARC Reston 2 Owner LLC, AG-ARC Reston 3 Owner LLC) to Rezone from I-4 to PRM to Permit Residential Development with an Overall Intensity of 0.93 Floor Area Ratio and Approval of the Conceptual Development Plan, Located on Approximately 4.31 Acres of Land (Hunter Mill District) (Concurrent with SE 2018-HM-002)

and

Public Hearing on SE 2018-HM-002 (AG-ARC Reston 1 Owner LLC, AG-ARC Reston 2 Owner LLC, AG-ARC Reston 3 Owner LLC) to Permit an Increase in Floor Area Ratio from 0.5 up to a Maximum of 0.7, Located on Approximately 9.90 Acres of Land Zoned I-4 (Hunter Mill District) (Concurrent with RZ 2018-HM-004)

This property is located on the S.W. corner of Reston Parkway and Sunrise Valley Drive. Tax Map 17-3 ((8))(4) 1 (pt), 2(pt), 3(pt) and 17-3((1)) 26(pt)

This property is located on the S.W. corner of Reston Parkway and Sunrise Valley Drive. Tax Map 17-3 ((8))(4) 1(pt), 2(pt), 3(pt) and 17-3 ((1)) 26(pt).

PLANNING COMMISSION RECOMMENDATION:

On October 18, 2018, the Planning Commission voted 11-0-1 (Commissioner Tanner abstained from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2018-HM-004 and the associated Conceptual Development Plan, subject to the execution of proffered conditions consistent with those dated October 12, 2018;
- Approval of SE 2018-HM-002, subject to the proposed development conditions dated September 20, 2018;
- Approval of a waiver of Paragraph 1, Section 11-102 of the Zoning Ordinance to permit the use of off street parking located at Tax Map parcel 17-3 ((8)) (4) 2; and
- Approval of a waiver of Section 13-202 of the Zoning Ordinance and Section 12-0514(3)(D) of the Public Facilities Manual, to provide interior parking lot landscaping on the top level of the freestanding parking garage.

Board Agenda Item  
December 4, 2018

In a related action, on October 18, 2018, the Planning Commission voted 11-0-1 (Commissioner Tanner abstained from the vote) to approve FDP 2018-HM-004, subject to the proposed development conditions dated September 20, 2018, and subject to the Board of Supervisors' approval of RZ 2018-HM-004.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Mary Ann Tsai, Planner, DPZ

Board Agenda Item  
December 4, 2018

3:30 p.m.

Public Hearing on SEA 2006-LE-030 (PMIG 1009, LLC) to Amend SE 2006-LE-030 Previously Approved for a Service Station, Mini-Mart and Car Wash to Permit a Service Station, Quick-Service Food Store and Car Wash in a Highway Corridor Overlay District, Located on Approximately 31,776 Square Feet of Land Zoned C-6 and HC (Lee District)

This property is located at 5500 Franconia Road, Alexandria, 22310. Tax Map 81-4 ((1)) 71C.

PLANNING COMMISSION RECOMMENDATION:

On November 1, 2018, the Planning Commission voted 10-0-1 (Commissioner Carter abstained from the vote and Commissioner Hart was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SEA 2006-LE-030, subject to the proposed development conditions dated October 31, 2018, with the editorial revision noted in the verbatim;
- Approval of a waiver of the barrier requirement along Franconia Road pursuant to Section 13-304 of the Zoning Ordinance; and
- Approval of a modification of the transitional screening and barrier requirements along Old Rolling Road pursuant to Sections 13-303 and 13-304 of the Zoning Ordinance, in favor of the proposed landscaping strip with a width of 17 feet and a four-foot tall masonry wall, as shown on the SEA Plat.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Kelly Posusney, Planner, DPZ

Board Agenda Item  
December 4, 2018

4:00 p.m.

Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Section 7-2-13 and Rename the Ravenwood Precinct Polling Location in the Mason District, Change the Street Address for the Belvoir Precinct Polling Location in the Mount Vernon District, and Relocate the Polling Locations for the Cedar Lake and Centerpointe Precincts in the Springfield District

ISSUE:

Public hearing to consider an ordinance that proposes to amend and readopt Fairfax County Code Section 7-2-13 relating to election precincts and polling locations, and to:

- 1) rename the polling location for the Ravenwood precinct;
- 2) change the address of the polling location for the Belvoir precinct;
- 3) move the polling location for the Cedar Lake precinct; and
- 4) move the polling location for the Centerpointe precinct.

RECOMMENDATION:

The County Executive recommends adoption of the proposed ordinance.

TIMING:

On October 30, 2018, the Board authorized a public hearing to be held on December 4, 2018, at 4:00 p.m. to consider this ordinance. Board action on December 4, 2018, is necessary to comply with the February 1, 2019, moratorium on polling place changes, as required by § 24.2-309.2 of the Virginia Code.

BACKGROUND:

The Virginia Code permits the governing body of each county and city to establish by ordinance as many precincts as it deems necessary with one polling place for each precinct. The Board of Supervisors is authorized to change polling place locations subject to the requirements of Virginia Code Sections 24.2-307, 24.2-310 and 24.2-310.1. All registered voters who are affected by a change in their precinct or polling location will be mailed a notice in advance of the next election, which is expected to be the June 11, 2019, Primary Election. If approved, the proposed ordinance will make the following changes:

Board Agenda Item  
December 4, 2018

1) In Mason District, the Fairfax County School Board changed the name of the school housing the Ravenwood precinct polling location from Stuart High School to Justice High School. Staff recommends recognizing and adopting this change.

2) In Mount Vernon District, the Facilities Management Department changed the street address of the Newington DVS facility, which houses the Belvoir precinct polling location, from 6900 Newington Road to 8201 Cinder Bed Road. This change was necessary due to renovation of the Newington DVS facility, resulting in permanent closure of the entrance located at 6900 Newington Road. Road improvements and realignment of portions of Newington and Cinder Bed Road have created a more accessible entrance off of Cinder Bed Road. Staff recommends recognizing and adopting this change of address.

3) In Springfield District, staff recommends moving the polling location for the Cedar Lake precinct. The proposal will move the Cedar Lake precinct polling location to the Michael R. Frey Animal Shelter, 4500 West Ox Road, Fairfax. Relocating this polling location will reduce the number of voters at the Virginia Department of Transportation building, which currently serves as the polling location for both the Cedar Lake and Fair Oaks precincts.

4) In Springfield District, staff recommends moving the polling location for the Centerpointe precinct. The proposal will move the Centerpointe precinct polling location to The Waterford at Fair Oaks, 12025 Lee Jackson Memorial Hwy, Fairfax. This move is necessary because the current location, Centerpointe Church, has been sold and will be demolished.

The Electoral Board voted unanimously to support these proposed changes at its September 17, 2018, meeting.

FISCAL IMPACT:

Insignificant. Funding for precinct and polling place change notifications is provided in the agency's FY 2019 Adopted Budget.

ENCLOSED DOCUMENTS:

Attachment 1: Virginia Code Pertaining to Election Precincts and Polling Places

Attachment 2: Summary of Proposed Changes

Attachment 3: Descriptions and Maps of Proposed Changes

Attachment 4: Proposed Ordinance

Board Agenda Item  
December 4, 2018

STAFF:

Gary D. Scott, General Registrar and Director of Elections  
Beth Dixon Methfessel, Clerk to the Fairfax County Electoral Board

ASSIGNED COUNCIL:

Martin R. Desjardins, Assistant County Attorney

**§ 24.2-307. Requirements for county and city precincts.**

The governing body of each county and city shall establish by ordinance as many precincts as it deems necessary. Each governing body is authorized to increase or decrease the number of precincts and alter precinct boundaries subject to the requirements of this chapter.

At the time any precinct is established, it shall have no more than 5,000 registered voters. The general registrar shall notify the governing body whenever the number of voters who voted in a precinct in an election for President of the United States exceeds 4,000. Within six months of receiving the notice, the governing body shall proceed to revise the precinct boundaries, and any newly established or redrawn precinct shall have no more than 5,000 registered voters.

At the time any precinct is established, each precinct in a county shall have no fewer than 100 registered voters and each precinct in a city shall have no fewer than 500 registered voters.

Each precinct shall be wholly contained within any election district used for the election of one or more members of the governing body or school board for the county or city.

The governing body shall establish by ordinance one polling place for each precinct.

(Code 1950, §§ 24-45, 24-46; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1992, c. 445; 1993, c. 641; 1999, c. [515](#).)

**§ 24.2-309.2. Election precincts; prohibiting precinct changes for specified period of time.**

No county, city, or town shall create, divide, abolish, or consolidate any precincts, or otherwise change the boundaries of any precinct, effective during the period from February 1, 2019, to May 15, 2021, except as (i) provided by law upon a change in the boundaries of the county, city, or town, (ii) the result of a court order, (iii) the result of a change in the form of government, or (iv) the result of an increase or decrease in the number of local election districts other than at-large districts. Any ordinance required to comply with the requirements of § [24.2-307](#) shall be adopted on or before February 1, 2019.

If a change in the boundaries of a precinct is required pursuant to clause (i), (ii), (iii), or (iv), the county, city, or town shall comply with the applicable requirements of law, including §§ [24.2-304.3](#) and [30-264](#), and send copies of the ordered or enacted changes to the State Board of Elections and the Division of Legislative Services.

This section shall not prohibit any county, city, or town from adopting an ordinance revising precinct boundaries after January 1, 2021. However, no revisions in precinct boundaries shall be implemented in the conduct of elections prior to May 15, 2021.

2008, c. [112](#); 2018, cc. [778](#), [779](#).

**§ 24.2-310. Requirements for polling places.**

A. The polling place for each precinct shall be located within the county or city and either within the precinct or within one mile of the precinct boundary. The polling place for a county precinct may be located within a city (i) if the city is wholly contained within the county election district served by the precinct or (ii) if the city is wholly contained within the county and the polling place is located on property owned by the county. The polling place for a town precinct may be located within one mile of the precinct and town boundary. For town elections held in November, the town shall use the polling places established by the county for its elections.

B. The governing body of each county, city, and town shall provide funds to enable the general registrar to provide adequate facilities at each polling place for the conduct of elections. Each polling place shall be located in a public building whenever practicable. If more than one polling place is located in the same building, each polling place shall be located in a separate room or separate and defined space.

C. Polling places shall be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act (§ [51.5-1](#) et seq.), the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. § 20101 et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The State Board shall provide instructions to the local electoral boards and general registrars to assist the localities in complying with the requirements of the Acts.

D. If an emergency makes a polling place unusable or inaccessible, the electoral board or the general registrar shall provide an alternative polling place and give notice of the change in polling place, including to all candidates, or such candidate's campaign, appearing on the ballot to be voted at the alternative polling place, subject to the prior approval of the State Board. The general registrar shall provide notice to the voters appropriate to the circumstances of the emergency. For the purposes of this subsection, an "emergency" means a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

E. It shall be permissible to distribute campaign materials on the election day on the property on which a polling place is located and outside of the building containing the room where the election is conducted except as specifically prohibited by law including, without limitation, the prohibitions of § [24.2-604](#) and the establishment of the "Prohibited Area" within 40 feet of any entrance to the polling place. However, and notwithstanding the provisions of clause (i) of subsection A of § [24.2-604](#), and upon the approval of the local electoral board, campaign materials may be distributed outside the polling place and inside the structure where the election is conducted, provided that the "Prohibited Area" (i) includes the area within the structure that is beyond 40 feet of any entrance to the polling place and the area within the structure that is within 40 feet of any entrance to the room where the election is conducted and (ii) is maintained and enforced as provided in § [24.2-604](#). The local electoral board may approve campaigning activities inside the building where the election is conducted when an entrance to the building is from an adjoining building, or if establishing the 40-foot prohibited area outside the polling place would hinder or delay a qualified voter from entering or leaving the building.

F. Any local government, local electoral board, or the State Board may make monetary grants to any non-governmental entity furnishing facilities under the provisions of § [24.2-307](#) or [24.2-308](#)

for use as a polling place. Such grants shall be made for the sole purpose of meeting the accessibility requirements of this section. Nothing in this subsection shall be construed to obligate any local government, local electoral board, or the State Board to appropriate funds to any non-governmental entity.

Code 1950, §§ 24-45, 24-46, 24-171, 24-179 through 24-181; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37, 24.1-92, 24.1-97; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1984, c. 217; 1985, c. 197; 1986, c. 558; 1992, c. 445; 1993, cc. 546, 641; 1994, c. [307](#); 2003, c. [1015](#); 2004, c. [25](#); 2005, c. [340](#); 2008, cc. [113](#), [394](#); 2010, cc. [639](#), [707](#); 2012, cc. [488](#), [759](#); 2016, cc. [18](#), [492](#).

**§ 24.2-310.1. Polling places; additional requirement.**

The requirement stated in this section shall be in addition to requirements stated in §§ [24.2-307](#), [24.2-308](#), and [24.2-310](#), including the requirement that polling places be located in public buildings whenever practical. No polling place shall be located in a building which serves primarily as the headquarters, office, or assembly building for any private organization, other than an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature, unless the State Board has approved the use of the building because no other building meeting the accessibility requirements of this title is available.

(1993, c. 904, § 24.1-37.1; 1993, c. 641.)

Attachment 2: Summary of Proposed Changes

<b><i>December 2018 SUMMARY OF PRECINCT AND POLLING PLACE CHANGES</i></b>							
<b>SUPERVISOR DISTRICT</b>	<b>OLD PRECINCT(S)</b>	<b>REGISTERED VOTERS*</b>	<b>OLD POLLING PLACE(S)</b>	<b>NEW PRECINCT(S)</b>	<b>PROJECTED REGISTERED VOTERS</b>	<b>NEW POLLING PLACE(S)</b>	<b>NOTES ON CHANGES</b>
MASON	511 RAVENWOOD	2,604	Stuart High School	511 RAVENWOOD	2,604	Justice High School	Recognize the change in the name of the polling location.
MOUNT VERNON	619 BELVOIR	3,982	Newington DVS	619 BELVOIR	3,982	Newington DVS	Recognize the change in the street address of the polling location.
SPRINGFIELD	802 CEDAR LAKE	1,653	Va Dept of Transportation	802 CEDAR LAKE	1,653	Michael R. Frey Animal Shelter	Move polling place to eliminate co-located precincts at Va Dept of Transportation.
SPRINGFIELD	844 CENTERPOINTE	3,424	Centerpointe Church	844 CENTERPOINTE	3,424	The Waterford of Fair Oaks	Move polling place due to sale and demolition of current polling location.

\* Registered voters as of September 15, 2018

Commonwealth of Virginia  
**COUNTY OF FAIRFAX**

**MASON DISTRICT**

**DESCRIPTION:**

Beginning at the intersection of Holmes Run (stream) and Arlington Boulevard (Route 50), thence with Arlington Boulevard in a northeasterly direction to its intersection with the south corporate boundary of the City of Falls Church, thence with corporate boundary of the City of Falls Church in an easterly, then northerly direction to its intersection with the Arlington County/Fairfax County Line, thence with the Arlington County/Fairfax County Line in a southeasterly direction to its intersection with the west corporate boundary of the City of Alexandria, thence with the corporate boundary of the City of Alexandria in southwesterly, then generally southerly direction to its intersection with the Norfolk Southern Railroad, thence with the Norfolk Southern Railroad in a southwesterly direction to its intersection with the Shirley Memorial Highway (I-395), thence with the Shirley Memorial Highway in a southwesterly direction to its intersection with the Capital Beltway (I-495), thence with the Capital Beltway in a northwesterly direction to its intersection with Backlick Road, thence with Backlick Road in a northerly direction to its intersection with Leesville Boulevard, thence with Leesville Boulevard in a westerly direction to its intersection with Backlick Run (stream), thence with the meanders of Backlick Run in a northwesterly direction to its intersection with Braddock Road, thence with Braddock Road in a westerly direction to its intersection with Ravensworth Road, thence with Ravensworth Road in a northeasterly direction to its intersection with Heritage Drive, thence with Heritage Drive in a northwesterly, then northerly direction to its intersection with Little River Turnpike (Route 236), thence with Little River Turnpike in a northwesterly direction to its intersection with Glenbrook Road, thence with Glenbrook Road in a northerly direction to its intersection with Crook Branch (stream), thence with the meanders of Crook Branch in an easterly direction to its intersection with Prosperity Avenue, thence with Prosperity Avenue in a southerly direction to its intersection with Leroy Place, thence with Leroy Place in an easterly direction to its intersection with Woodburn Road, thence with Woodburn Road in a northeasterly, then easterly direction to its intersection with Gallows Road, thence with Gallows Road in a southeasterly direction to its intersection with Annandale Road, thence with Annandale Road in a northeasterly direction to its intersection with Holmes Run (stream), thence with the meanders of Holmes Run in a generally northwesterly direction to its intersection with Arlington Boulevard, point of beginning.

**As adopted by the Board of Supervisors on June 11, 2001**

**Section 7-2-8.           Mason District**

**The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Brook Hill, Camelot, Columbia, Edsall, Glen Forest East, Glen Forest West, Holmes East, Holmes West, Hummer, Lincolnia, Masonville, the northeastern portion of North Springfield No. 3, Parklawn, Poe, Ravenwood, Ridgelea, Skyline, Sleepy Hollow, Saint Albans, Walnut Hill No. 1, Westlawn, Weyanoke, Whittier and Willston.**

**As amended and readopted by the Board of Supervisors on August 6, 2001**

**Section 7-2-8.           Mason District**

**The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Brook Hill, Camelot, Columbia, Edsall, Glen Forest No. 1, Glen Forest No. 2, Holmes No. 1, Holmes No. 2, Hummer, Leewood, Lincolnia, Masonville, Parklawn, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill No. 1, Westlawn, Weyanoke, Whittier and Willston.**

**NOTES:** On August 6, 2001, Glen Forest East, Glen Forest West, Holmes East and Holmes West were renamed Glen Forest No. 1, Glen Forest No. 2, Holmes No. 1 and Holmes No. 2, respectively. The “northeastern portion of North Springfield No. 3” was renamed Leewood.

The boundary between Brook Hill and Poe precincts was adjusted to conform to the boundary between the Thirty-Eighth and Thirty-Ninth House of Delegates Districts.

**As recodified and readopted by the Board of Supervisors on March 24, 2003**

**Section 7-2-8.           Mason District**

**The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Brook Hill, Camelot, Columbia, Edsall, Glen Forest No. 1, Glen Forest No. 2, Holmes No. 1, Holmes No. 2, Hummer, Leewood, Lincolnia, Masonville, Parklawn, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill No. 1, Westlawn, Weyanoke, Whittier and Willston.**

**NOTES:** On March 24, 2003, revised and updated descriptions of the precincts were formally adopted to remove antiquated and unnecessary language, to update changes in the names of roads and other features, and to create a uniform format and appearance. No voters were affected by these changes.

**As amended by the Board of Supervisors on July 7, 2003**

**NOTES:** On July 7, 2003, the description of Walnut Hill No. 1 precinct was amended and readopted to change the name of the polling place [facility] to the “Alan Leis Instructional Center at Walnut Hill.”

**As amended by the Board of Supervisors on March 10, 2008**

**NOTES:** On March 10, 2008, the polling place for Lincolnia precinct was moved to the Green Spring Gardens Park.

**As amended by the Board of Supervisors on March 9, 2010**

**NOTES:** On March 9, 2010, the polling place for Masonville precinct was temporarily moved to the Westminster School, and the polling place for Skyline precinct was moved to the National Association of Power Engineers training facility.

**As amended and readopted by the Board of Supervisors on April 26, 2011**

**Section 7-2-8.           Mason District**

**The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot, Columbia, Edsall, Glen Forest No. 1, Glen Forest No. 2, Holmes No. 1, Holmes No. 2, Hummer, Leewood, Lincolnia, Masonville, Parklawn, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill No. 1, Walnut Hill No. 2, Westlawn, Weyanoke, Whittier and Willston.**

**REDISTRICTING NOTES:** On April 26, 2011, the Board adopted their redistricting plan that moved the Bristow precinct from Braddock District to Mason District and moved the Walnut Hill No. 2 precinct from Providence District to Mason District.

**As amended and readopted by the Board of Supervisors on July 26, 2011**

**Section 7-2-8.           Mason District**

**The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot, Columbia, Edsall, Glen Forest, Holmes, Hummer, Lincolnia, Masonville, Parklawn, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill, Westlawn, Weyanoke, and Willston.**

**REDISTRICTING NOTES:** On July 26, 2011, the Board adjusted the boundaries of Glen Forest No. 1 and Skyline precincts and moved the polling place for Skyline precinct to the Goodwin House Bailey's Crossroads, effective for the August 23, 2011, primary elections.

The Board adjusted the boundaries of Barcroft, Edsall, Masonville, Ravenwood, Skyline, Sleepy Hollow, and Weyanoke precincts. Additionally, Holmes No. 1 and Holmes No. 2, Glen Forest #1 and Glen Forest No. 2, and Walnut Hill No. 1, Walnut Hill No. 2, and Whittier precincts were consolidated to form Holmes, Glen Forest and Walnut Hill precincts, respectively. These changes were effective September 1, 2011.

**As amended by the Board of Supervisors on July 10, 2012**

**NOTES:** On July 10, 2012, the polling place for Masonville precinct was moved from the temporary location at Westminster School to the new Mason Crest Elementary School.

**As amended and readopted by the Board of Supervisors on July 9, 2013**

**Section 7-2-8. Mason District**

**The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot, Columbia, Edsall, Glen Forest, Holmes, Hummer, Lincolnia, Masonville, Parklawn, Plaza, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill, Westlawn, Weyanoke, and Willston.**

**NOTES:** On July 9, 2013, Skyline was divided to form "Plaza" precinct. The polling place for Plaza precinct was established at the Skyline Plaza Residential Towers.

**As amended and readopted by the Board of Supervisors on November 18, 2014**

**Section 7-2-8. Mason District**

**The Mason District shall consist of these election precincts: Baileys, Barcroft, Belvedere, Bren Mar, Bristow, Brook Hill, Camelot, Columbia, Crossroads, Edsall, Glen Forest, Holmes No. 1, Holmes No. 2, Hummer, Lincolnia, Masonville, Parklawn, Plaza, Poe, Ravenwood, Ridgelea, Saint Albans, Skyline, Sleepy Hollow, Walnut Hill, Westlawn, Weyanoke, and Willston.**

**NOTES:** On November 18, 2014, Skyline was divided to form Crossroads precinct and Holmes was divided to form Holmes No. 1 and Holmes No. 2. The polling place for Skyline was moved to Three Skyline Place and the polling place for Crossroads was established at Goodwin House Bailey's Crossroads.

**As amended by the Board of Supervisors on December 8, 2015**

**NOTES:** On December 8, 2015, the Board moved the polling place for Holmes No. 1 to the Woodrow Wilson Library.

**As amended and readopted by the Board of Supervisors on December 4, 2018**

**NOTES:** On December 4, 2018, the description of Ravenwood precinct was amended and readopted to change the name of the polling place [facility] from Stuart High School to "Justice" High School.

**Commonwealth of Virginia**  
**COUNTY OF FAIRFAX**  
**Mason District**

**PRECINCT 511:        RAVENWOOD**

**CONGRESSIONAL DISTRICT:        ELEVENTH**  
**VIRGINIA SENATORIAL DISTRICT:    THIRTY-FIFTH**  
**HOUSE OF DELEGATES DISTRICT:   THIRTY-EIGHTH**

**DESCRIPTION:**

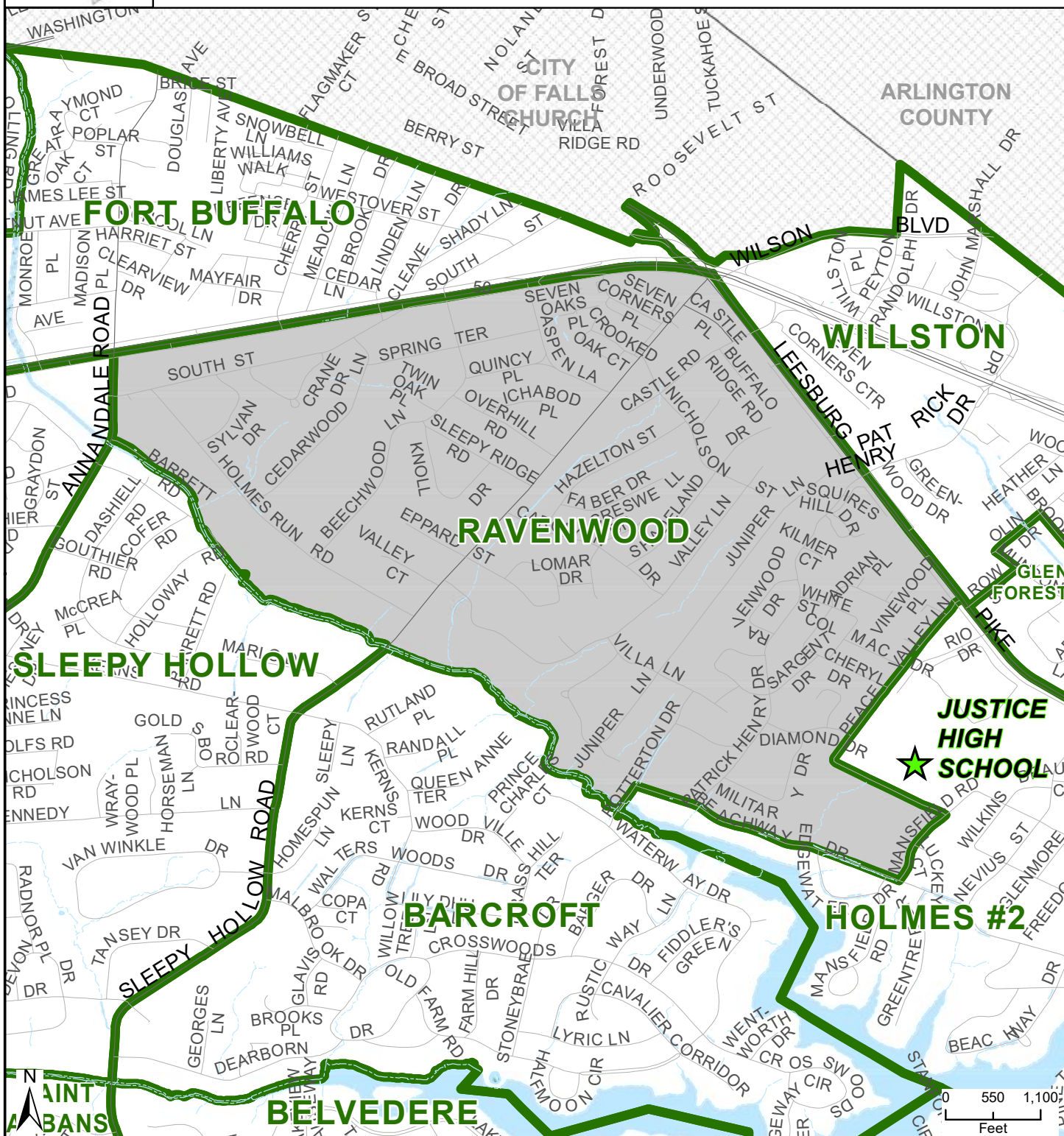
Beginning at the intersection of Annandale Road and Arlington Boulevard (Route 50), thence with Arlington Boulevard in a northeasterly direction to its intersection with Leesburg Pike (Route 7), thence with Leesburg Pike in a southeasterly direction to its intersection with Peace Valley Lane, thence with Peace Valley Lane, a projection of Peace Valley Lane and Peace Valley Lane in a southwesterly, then southeasterly direction to its intersection with Mansfield Road, thence with Mansfield Road in a southwesterly direction to its intersection with Beachway Drive, thence with Beachway Drive in a northwesterly direction to its intersection with Potterton Drive, thence with Potterton Drive in a southwesterly direction to its intersection with Tripp's Run (stream), thence with the meanders of Tripp's Run in a northwesterly direction to its intersection with Annandale Road, thence with Annandale Road in a northerly direction to its intersection with Arlington Boulevard, point of beginning.

**POLLING PLACE:**                    ~~Stuart Justice~~ High School  
   3301 Peace Valley Lane, Falls Church

**MAP GRIDS:**    50-4, 51-3, 61-1

**NOTES:**            Established December 1976  
                         Precinct description revised and readopted – March 2003  
                         Precinct boundary adjusted – July 2011  
                         Senate District changed from 31<sup>st</sup> to 35<sup>th</sup> – July 2011  
                         Polling location name changed – December 2018

Commonwealth of Virginia  
**County of Fairfax**  
Mason District



**Proposed Polling Place Change for: 511 RAVENWOOD**

September 2018

- ★ **Current name & address:** *Stuart High School, 3301 Peace Valley Ln*
- ★ **Proposed name & address:** *Justice High School, 3301 Peace Valley Ln*

**Commonwealth of Virginia**  
**COUNTY OF FAIRFAX**  
  
**MOUNT VERNON DISTRICT**

**DESCRIPTION:**

Beginning at the intersection of Telegraph Road and the south corporate boundary of the City of Alexandria, thence with the corporate boundary of the City of Alexandria in a southeasterly direction to its intersection with the Maryland/Virginia State Line (Potomac River), thence with the Maryland/Virginia State Line in a southerly, then generally southwesterly direction to its intersection with the Prince William County/Fairfax County Line (Occoquan River), thence with the Prince William County/Fairfax County Line in a generally northwesterly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power Easement in a northeasterly direction to its intersection with Hooes Road, thence with Hooes Road in a northerly direction to its intersection with Pohick Road, thence with Pohick Road in a generally southeasterly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power Easement in an easterly direction to its intersection with Pohick Creek, thence with the meanders of Pohick Creek in a generally northerly direction to its intersection with the Fairfax County Parkway (Route 7100), thence with the Fairfax County Parkway in an easterly direction to its intersection with Rolling Road, thence with Rolling Road in a southeasterly direction to its intersection with the north boundary of the Ft. Belvoir Military Reservation-North Area (old Proving Grounds), thence with the boundary of the Ft. Belvoir Military Reservation in a generally easterly direction to its intersection with Accotink Creek, thence with the meanders of Accotink Creek in a generally southeasterly direction to its intersection with Fullerton Road, thence with the Fullerton in a generally easterly direction to its intersection with Boudinot Drive, thence with Boudinot Drive in a southeasterly direction to its intersection with Alban Road, thence with Alban Road in a northeasterly direction to its intersection with Backlick Road, thence with Backlick Road in a southeasterly direction to its intersection with the Shirley Memorial Highway (I-95), thence with the Shirley Memorial Highway in a southwesterly direction to its intersection with Newington Road, thence with Newington Road in an easterly direction to its intersection with the Richmond, Fredericksburg and Potomac Railroad, thence with the Richmond, Fredericksburg and Potomac Railroad in a northerly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power Easement in an easterly direction to its intersection with Beulah Road, thence with Beulah Road in a southeasterly, then easterly direction to its intersection with Telegraph Road, thence with Telegraph Road in a northeasterly direction to its intersection with the northeast boundary of the Fort Belvoir Military Reservation, thence with the boundary of the Fort Belvoir Military Reservation in a southeasterly direction to its intersection with the south boundary of Huntley Meadows Park, thence with the boundary of Huntley Meadows Park in a southeasterly, then northeasterly

direction to its intersection with Frye Road, thence with Frye Road in a southerly direction to its intersection with Richmond Highway (Route 1), thence with Richmond Highway in a northeasterly, then northerly direction to its intersection North Kings Highway, thence with North Kings Highway in a northerly direction to its intersection with Telegraph Road, thence with Telegraph Road in a northeasterly direction to its intersection with the south corporate boundary of the City of Alexandria, point of beginning.

**As adopted by the Board of Supervisors on June 11, 2001**

**Section 7-2-9. Mount Vernon District**

**The Mount Vernon District shall consist of these election precincts: Belle Haven, Belleview, Belvoir, Bucknell, DeLong, Fort Hunt, the southwestern portion of Garfield, Grosvenor, Gunston, Hollin Hall, Hunt, Huntington, Kirkside, Lorton, Marlan, Newington, Pohick Run East, Pohick Run West, Saratoga, Sherwood, Stratford, Waynewood, Westgate, Whitman, the southern portion of Woodlawn, and Woodley.**

**As amended and readopted by the Board of Supervisors on August 6, 2001**

**Section 7-2-9. Mount Vernon District**

**The Mount Vernon District shall consist of these election precincts: Alban, Belle Haven, Belleview, Belvoir, Bucknell, Fort Hunt, Grosvenor, Gunston, Hollin Hall, Hunt, Huntington, Kirkside, Lorton, Marlan, Newington, Pohick Church, Pohick Run, Saratoga, Sherwood, Stratford, Waynewood, Westgate, Whitman, Woodlawn, and Woodley.**

**NOTES:** On August 6, 2001, Pohick Run East and Pohick Run West precincts were renamed Pohick Church and Pohick Run, respectively. The “southwestern portion of Garfield” was named Alban and the “southern portion of Woodlawn” was named Woodlawn. DeLong precinct was combined with Saratoga precinct and abolished.

**As recodified and readopted by the Board of Supervisors on March 24, 2003**

**Section 7-2-9. Mount Vernon District**

**The Mount Vernon District shall consist of these election precincts: Alban, Belle Haven, Belleview, Belvoir, Bucknell, Fort Hunt, Grosvenor, Gunston, Hollin Hall, Hunt, Huntington, Kirkside, Lorton, Marlan, Newington, Pohick Church, Pohick Run, Saratoga, Sherwood, Stratford, Waynewood, Westgate, Whitman, Woodlawn, and Woodley.**

**NOTES:** On March 24, 2003, the boundary between Hollin Hall and Waynewood precincts was adjusted to conform to the boundary between the Eighth and Eleventh Congressional Districts.

The boundary between the Mount Vernon and Lee Districts and their respective Belvoir and Pioneer precincts was adjusted to conform to the realignment of Newington Road between Backlick Road and the RF&P Railroad tracks. No voters were affected by the adjustment.

Revised and updated descriptions of the precincts were formally adopted to remove antiquated and unnecessary language, to update changes in the names of roads and other features, and to create a uniform format and appearance.

**As amended and readopted by the Board of Supervisors on March 8, 2004**

**Section 7-2-9. Mount Vernon District**

**The Mount Vernon District shall consist of these election precincts: Alban, Belle Haven, Belleview, Belvoir, Bucknell, Fort Hunt, Grosvenor, Gunston, Hollin Hall, Hunt, Huntington, Kirkside, Lorton, Lorton Center, Lorton Station, Marlan, Newington, Saratoga, Sherwood, Stratford, Waynewood, Westgate, Whitman, Woodlawn, and Woodley.**

**NOTES:** On March 8, 2004, Pohick Church precinct was renamed “Lorton Center” and its polling place was moved to the Lorton Station Recreation Center. The Pohick Run precinct was renamed “Lorton Station” and its polling place was moved to the new Lorton Station Elementary School.

**As amended by the Board of Supervisors on June 21, 2004**

**NOTES:** On June 21, 2004, the polling place for the Lorton Center precinct was moved to the Lorton Station Elementary School.

**As amended and readopted by the Board of Supervisors on March 27, 2006**

**Section 7-2-9. Mount Vernon District**

**The Mount Vernon District shall consist of these election precincts: Alban, Belle Haven, Belleview, Belvoir, Bucknell, Fort Hunt, Grosvenor, Gunston, Hollin Hall, Hunt, Huntington, Kirkside, Laurel Hill, Lorton, Lorton Center, Lorton Station, Marlan, Newington, Saratoga, Sherwood, Stratford, Waynewood, Westgate, Whitman, Woodlawn, and Woodley.**

Attachment 3: Descriptions and Maps of Proposed Changes

**NOTES:** On March 27, 2006, Lorton precinct was divided to form “Laurel Hill” precinct. The polling place for Laurel Hill precinct was established at the South County Secondary School and the polling place for Lorton precinct was moved to the Lorton Library.

Also, on March 27, 2006, the polling place for the Lorton Center precinct was moved to the Grace Bible Church.

**As amended by the Board of Supervisors on March 26, 2007**

**NOTES:** On March 26, 2007, the polling place for the Grosvenor precinct was moved to the Huntington Community Center.

**As amended by the Board of Supervisors on March 10, 2008**

**NOTES:** On March 10, 2008, the polling place for the Marlan precinct was temporarily moved to the Paul Spring Retirement Community.

The United States Postal Service address for the Lorton Station polling place was updated.

**As amended and readopted by the Board of Supervisors on January 12, 2009**

**Section 7-2-9. Mount Vernon District**

**The Mount Vernon District shall consist of these election precincts: Alban, Belle Haven, Belleview, Belvoir, Bucknell, Fort Hunt, Grosvenor, Gunston, Hollin Hall, Hunt, Huntington, Kirkside, Laurel Hill, Lorton, Lorton Center, Lorton Station, Marlan, Newington, Saratoga, Sherwood, South County, Stratford, Waynewood, Westgate, Whitman, Woodlawn, and Woodley.**

**NOTES:** On January 12, 2009, Laurel Hill precinct was divided to form South County precinct. The polling place for both precincts is the South County Secondary School.

**As amended by the Board of Supervisors on July 27, 2010**

**NOTES:** On July 27, 2010, the polling place for the Marlan precinct was permanently moved to the Paul Spring Retirement Community.

**As amended and readopted by the Board of Supervisors on April 26, 2011**

**Section 7-2-9. Mount Vernon District**

**The Mount Vernon District shall consist of these election precincts: Alban, Belle Haven, Belleview, Belvoir, Bucknell, Fort Hunt, Grosvenor, Gunston, Hollin Hall, Huntington, Kirkside, Laurel Hill, Lorton, Lorton Center, Lorton Station, Marlan, Newington, Saratoga, Sherwood, South County, Stratford, Waynewood, Westgate, Whitman, Woodlawn, and Woodley.**

**REDISTRICTING NOTES:** On April 26, 2011, the Board adopted their redistricting plan that divided the Woodlawn precinct along Frye Road to create a new precinct named “Pinewood Lake” and moved the Pinewood Lake precinct into Lee District.

**As amended and readopted by the Board of Supervisors on July 26, 2011**

**Section 7-2-9. Mount Vernon District**

**The Mount Vernon District shall consist of these election precincts: Alban, Belle Haven, Belleview, Belvoir, Bucknell, Fort Hunt, Grosvenor, Gunston, Hollin Hall, Huntington, Kirkside, Laurel Hill, Lorton, Lorton Center, Lorton Station, Marlan, Newington, Riverside, Saratoga, Sherwood, South County, Stratford, Waynewood, Westgate, Woodlawn, and Woodley.**

**NOTES:** On July 26, 2011, the Board renamed Whitman precinct “Riverside” and adjusted the boundaries of Belle Haven, Belleview, Fort Hunt, Grosvenor, Gunston, Hollin Hall, Huntington, Sherwood, Stratford, and Westgate precincts.

**As amended by the Board of Supervisors on July 10, 2012**

**NOTES:** On July 10, 2012, the Board moved the polling place for South County precinct to the South County Middle School and renamed the polling place for Laurel Hill precinct from “South County Secondary School” to “South County High School.”

**As amended by the Board of Supervisors on July 9, 2013**

**NOTES:** On July 9, 2013, the Board adjusted the boundaries between Alban and Saratoga precincts; moved the polling place for Laurel Hill precinct to the Laurel Hill Elementary School; moved the polling place for South County precinct to the South County High School; and moved the polling place for Woodlawn precinct to the Knights of Columbus #5998.

**As amended by the Board of Supervisors on November 18, 2014**

**NOTES:** On November 18, 2014, the Board adjusted the boundaries between Belvoir and Woodlawn precincts.

**As amended and readopted by the Board of Supervisors on July 11, 2017**

**Section 7-2-9. Mount Vernon District**

The Mount Vernon District shall consist of these election precincts: Alban, Army, Belle Haven, Belleview, Belvoir, Bucknell, Fort Hunt, Grosvenor, Gunston, Hollin Hall, Huntington, Kirkside, Laurel Hill, Lorton, Lorton Station, Marlan, Newington, Riverside, Saratoga, Sherwood, South County, Stratford, Waynewood, Westgate, Woodlawn, and Woodley.

**NOTES:** On July 11, 2017, the Board consolidated Lorton Center precinct into the southern portion of Belvoir precinct, and established its polling location at the Newington DVS Facility.

The Board also created a new precinct, "Army", from the northern portion of Belvoir precinct with its polling location at the Kingstowne Library.

**As amended by the Board of Supervisors on December 4, 2018**

**Section 7-2-9. Mount Vernon District**

**NOTES:** On December 4, 2018, the description of Belvoir precinct was amended and readopted to change the address of the polling place [facility] from 6900 Newington Road to 8201 Cinder Bed Road.

**Commonwealth of Virginia**  
**COUNTY OF FAIRFAX**  
**Mount Vernon District**

**PRECINCT 619: BELVOIR**

**CONGRESSIONAL DISTRICT: EIGHTH**  
**VIRGINIA SENATORIAL DISTRICT: THIRTY-SIXTH**  
**HOUSE OF DELEGATES DISTRICT: FORTY-THIRD**

**DESCRIPTION:**

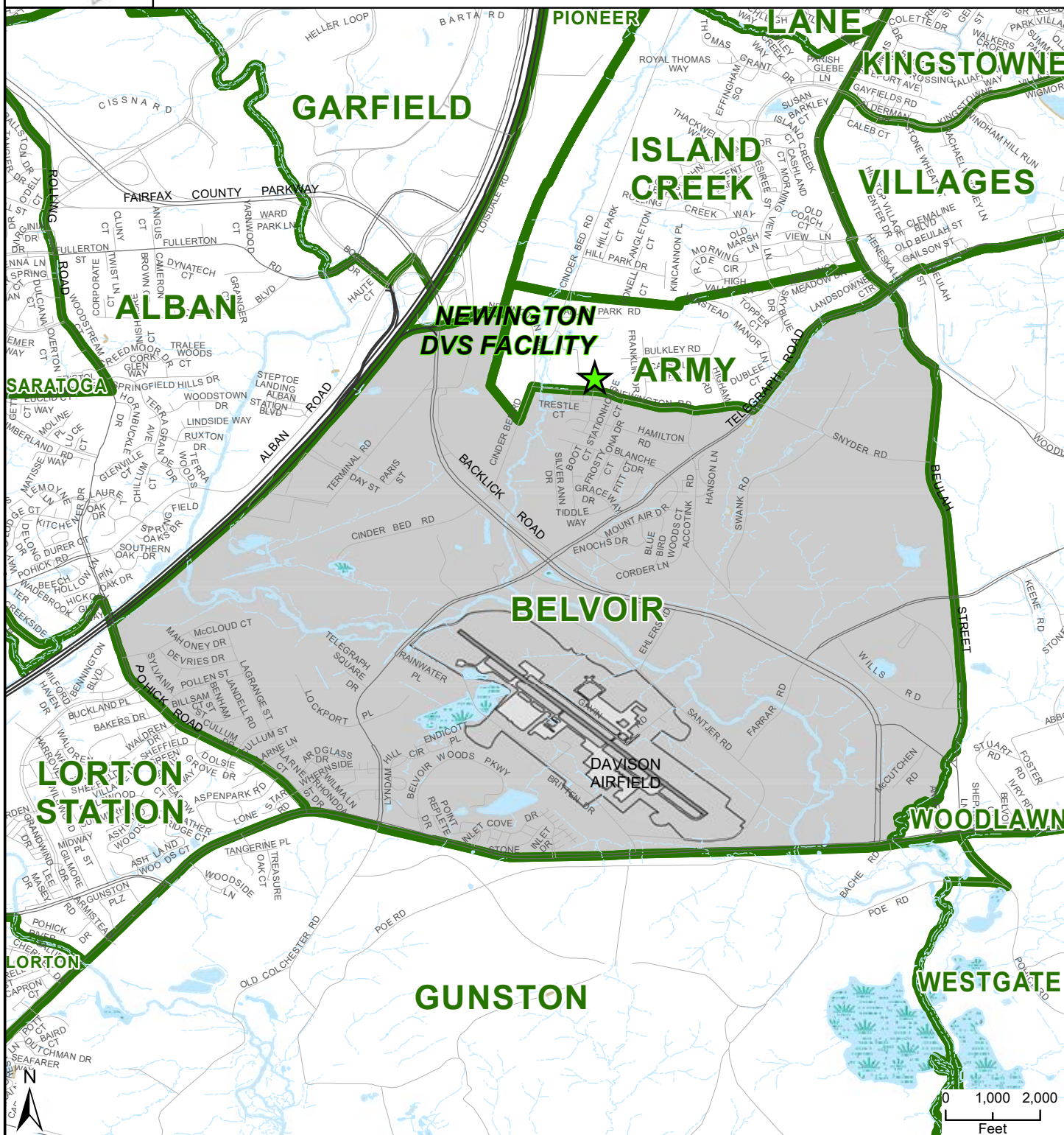
Beginning at the intersection of the Shirley Memorial Highway (Interstate 95) and Newington Road, thence with Newington Road in an easterly direction to its intersection the Richmond, Fredericksburg and Potomac Railroad, thence with the Richmond, Fredericksburg and Potomac Railroad in a southerly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power easement in an easterly direction to its intersection Cinder Bed Road, thence with Cinder Bed Road in a northerly direction to its intersection with Newington Road, thence with Newington Road in an easterly direction to its intersection with Telegraph Road, thence with Telegraph Road in a northeasterly direction to its intersection with [the old alignment of] Beulah Street, thence with [the old alignment of] Beulah Street and a projection of [the old alignment] of Beulah Street in an southerly direction to its intersection with Beulah Street at Woodlawn Road, thence with Beulah Street in a southerly direction to its intersection with Backlick Road, thence with Backlick Road in a northwesterly direction to its intersection with Mason Run (stream), thence with the meanders of Mason Run in a southwesterly direction to its intersection with Richmond Highway (Route 1), thence with Richmond Highway in a westerly direction to its intersection with Pohick Road, thence with Pohick Road in a northwesterly direction to its intersection with the Shirley Memorial Highway, thence with the Shirley Memorial Highway in a northeasterly direction to its intersection with Newington Road, point of beginning.

**POLLING PLACE:** Newington DVS Facility  
~~6900 Newington Road~~ 8201 Cinder Bed Road, Lorton

**MAP GRIDS:** 99-1, 99-2, 99-3, 99-4, 100-1, 100-3, 101-3, 101-2, 107-4, 108-1, 108-2, 108-3, 108-4, 109-1, 109-3

**NOTES:** Established July 1998  
Precinct description revised and readopted – March 2003  
Senate and Delegate boundaries changed – July 2011  
Boundary adjusted with Woodlawn– November 2014  
Boundary adjusted with Lorton Center – July 2017  
Polling place address changed – December 2018

Commonwealth of Virginia  
**County of Fairfax**  
 Mount Vernon District



**Proposed Polling Place Change for: 619 BELVOIR**

September 2018

- ★ **Current name & address:** Newington DVS Facility, 6900 Newington Rd
- ★ **Proposed name & address:** Newington DVS Facility, 8201 Cinder Bed Rd

**Commonwealth of Virginia**  
**COUNTY OF FAIRFAX**  
  
**SPRINGFIELD DISTRICT**

**DESCRIPTION:**

Beginning at the intersection of Stringfellow Road and the Lee-Jackson Memorial Highway (Route 50), thence with Lee-Jackson Memorial Highway in a southeasterly direction to its intersection with Interstate 66, thence with Interstate 66 in a southwesterly direction to its intersection with Monument Drive, thence with Monument Drive in a southeasterly direction to its intersection with Random Hills Road, thence with Random Hills Road in a southwesterly direction to its intersection with Legato Road at Post Forest Drive, thence with Legato Road in a southwesterly direction to its intersection with Lee Highway (Route 29), thence with Lee Highway in a southwesterly direction to its intersection with the Fairfax County Parkway (Route 286), thence with the Fairfax County Parkway in a southeasterly direction to its intersection with Braddock Road, thence with Braddock Road in a generally easterly direction to its intersection with Ox Road (Route 123), thence with Ox Road in a southerly direction to its intersection with the Fairfax County Parkway, thence with the Fairfax County Parkway in a southeasterly direction to its intersection with Burke Lake Road, thence with Burke Lake Road in a northeasterly direction to its intersection with Pohick Creek, thence with the meanders of Pohick Creek in a northerly direction to its intersection with an unnamed stream on the northwest side of the Burke Village Center, thence with the meanders of the unnamed stream in a northerly direction to its intersection with the Norfolk Southern Railroad, thence with the Norfolk Southern Railroad in an easterly direction to its intersection with Rolling Road, thence with Rolling Road in a southeasterly direction to its intersection with Old Keene Mill Road, thence with Old Keene Mill Road in an easterly direction to its intersection with Carrleigh Parkway, thence with Carrleigh Parkway in a northerly direction to its intersection with Winslow Avenue, thence with Winslow Avenue in a westerly direction to its intersection with Roxbury Avenue, thence with Roxbury Avenue in a northwesterly direction to its intersection with Oakford Drive, thence with Oakford Drive in a northwesterly direction to its intersection with Forrester Boulevard, thence with Forrester Boulevard in an easterly direction to its intersection with Carrleigh Parkway, thence with Carrleigh Parkway in an easterly direction to its intersection with Greeley Boulevard, thence with Greeley Boulevard in a generally southeasterly direction to its second intersection with Bardu Avenue, thence with Bardu Avenue in a southwesterly direction to its intersection with Old Keene Mill Road, thence with Old Keene Mill Road in a southeasterly direction to its intersection with Accotink Creek, thence with the meanders of Accotink Creek in a generally southerly direction to its intersection with the north boundary of the Ft. Belvoir Military Reservation, thence with the boundary of the Ft. Belvoir Military Reservation in a westerly, then northwesterly, then southwesterly direction to its intersection with Rolling Road, thence with Rolling Road in a

northwesterly direction to its intersection with the Fairfax County Parkway, thence with the Fairfax County Parkway in a westerly direction to its intersection with Pohick Creek, thence with the meanders of Pohick Creek in a southerly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power easement in a westerly direction to its intersection with Pohick Road, thence with Pohick Road in a northwesterly direction to its intersection with the Fairfax County Parkway, thence with the Fairfax County Parkway in a southwesterly direction to its intersection with Hooes Road, thence with Hooes Road in a southerly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power Easement in a westerly, then southwesterly direction to its intersection with the Prince William County/Fairfax County Line, thence with the Prince William County/Fairfax County Line in a generally northwesterly direction to its intersection with Centreville Road (Route 28), thence with Centreville Road in a northerly direction to its intersection with Compton Road, thence with Compton Road in a southeasterly direction to its intersection with Little Rocky Run (stream), thence with the meanders of Little Rocky Run in a northeasterly direction to its intersection with New Braddock Road, thence with New Braddock Road in an easterly direction to its intersection with Braddock Road, thence with Braddock Road in an easterly direction to its intersection with a projection of Old Clifton Road, thence with this projection and Old Clifton Road in a northeasterly direction to its intersection with Clifton Road, thence with Clifton Road in a northerly direction to its intersection with Stringfellow Road at Lee Highway (Route 29), thence with Stringfellow Road in a northerly direction to its intersection with Lee-Jackson Memorial Highway, point of beginning.

**As adopted by the Board of Supervisors on June 11, 2001**

**Section 7-2-11. Springfield District**

**The Springfield District shall consist of these election precincts: Burke, Cherry Run, Clifton, Fairfax Station, Greenbriar East, Greenbriar West, Irving, Leehigh, Newgate, Orange, Parkway, Pohick, Popes Head, Sangster North, Sangster South, Silverbrook, Valley, West Springfield, White Oaks, Willow Springs, Woodyard North, and Woodyard South.**

**As amended and readopted by the Board of Supervisors on August 6, 2001**

**Section 7-2-11. Springfield District**

**The Springfield District shall consist of these election precincts: Burke, Cherry Run, Clifton, Fairfax Station, Fair Lakes, Fair Ridge, Fountainhead, Greenbriar East, Greenbriar West, Irving, Leehigh, Newgate, Orange, Parkway, Pohick, Popes Head, Sangster, Silverbrook, South Run, Valley, West Springfield, White Oaks, Willow Springs and Woodyard.**

**NOTES:** On August 6, 2001, the Board divided Greenbriar East and Greenbriar West precincts to form Fair Ridge and Fair Lakes precincts, respectively, in response to population growth in the area.

Sangster North, Sangster South, Woodyard North and Woodyard South were renamed Sangster, South Run, Woodyard and Fountainhead, respectively.

The boundary of Silverbrook was adjusted with Fountainhead (Woodyard South) to reduce the size of Silverbrook and to allow for growth in the area.

**As amended, recodified and readopted by the Board of Supervisors on March 24, 2003**

**Section 7-2-11. Springfield District**

**The Springfield District shall consist of these election precincts: Burke, Cherry Run, Clifton, Fairfax Station, Fair Lakes, Fair Ridge, Fountainhead, Greenbriar East, Greenbriar West, Irving, Leehigh, Monument, Newgate, Orange, Parkway, Pohick, Popes Head, Sangster, Silverbrook, South Run, Valley, West Springfield, White Oaks, Willow Springs, and Woodyard.**

**NOTES:** On March 24, 2003, the Board divided Leehigh precinct to form Monument precinct in response to population growth in the area.

Revised and updated descriptions of the precincts were also formally adopted to remove antiquated and unnecessary language, to update changes in the names of roads and other features, and to create a uniform format and appearance.

**As amended by the Board of Supervisors on May 5, 2003**

**NOTES:** On May 5, 2003, the Board amended and readopted the description of Leehigh precinct to change the name of the polling place [facility] to "Fair Oaks Academy Gym."

**As amended by the Board of Supervisors on March 27, 2006**

**NOTES:** On March 27, 2006, the Board amended and readopted the description of Leehigh precinct to update the polling place address to include the street number.

**As amended by the Board of Supervisors on March 26, 2007**

**NOTES:** On March 26, 2007, the Board moved the polling place for Fair Ridge precinct to the Centerpointe Church, and the precinct was renamed “Centerpointe.”

**As amended and readopted by the Board of Supervisors on September 10, 2007**

**Section 7-2-11. Springfield District**

**The Springfield District shall consist of these election precincts: Burke, Centerpointe, Cherry Run, Clifton, Eagle View, Fair Lakes, Fair Oaks, Fairfax Station, Fountainhead, Greenbriar East, Greenbriar West, Irving, Monument, Newgate, Orange, Parkway, Pohick, Popes Head, Sangster, Silverbrook, South Run, Valley, West Springfield, White Oaks, Willow Springs, and Woodyard.**

**NOTES:** On September 10, 2007, the Board divided Monument and Leehigh precincts to form Eagle View precinct in response to population growth in the area. Leehigh was renamed “Fair Oaks.”

**As amended and readopted by the Board of Supervisors on January 12, 2009**

**Section 7-2-11. Springfield District**

**The Springfield District shall consist of these election precincts: Burke, Centerpointe, Cherry Run, Clifton, Eagle View, Fair Lakes, Fair Oaks, Fairfax Station, Fountainhead, Greenbriar East, Greenbriar West, Irving, Monument, Newgate North, Newgate South, Orange, Parkway, Pohick, Popes Head, Sangster, Silverbrook, South Run, Valley, West Springfield, White Oaks, Willow Springs, and Woodyard.**

**NOTES:** On January 12, 2009, the Board divided Newgate precinct to form Newgate North and Newgate South precincts. The polling place for both precincts is the Centreville High School.

**As amended and readopted by the Board of Supervisors on April 26, 2011**

**Section 7-2-11. Springfield District**

**The Springfield District shall consist of these election precincts: Burke, Centerpointe, Cherry Run, Clifton, Fair Lakes, Fair Oaks, Fairfax Station, Fountainhead, Greenbriar East, Greenbriar West, Hunt, Irving, Newgate North, Newgate South, Orange, Parkway, Pohick, Popes Head, Sangster, Silverbrook, South Run, Valley, West Springfield, White Oaks, Willow Springs, and Woodyard.**

**REDISTRICTING NOTES:** On April 26, 2011, the Board adopted their redistricting plan that divided the Willow Springs precinct along Stringfellow Road. The portion of the precinct west of Stringfellow Road was moved into the Powell precinct in Sully District. The Board also moved Eagle View and Monument precincts from Springfield to Braddock District and moved Hunt precinct from Mount Vernon to Springfield District.

**As amended and readopted by the Board of Supervisors on July 26, 2011**

**Section 7-2-11. Springfield District**

**The Springfield District shall consist of these election precincts: Burke, Cedar Lake, Centerpointe, Cherry Run, Clifton, Colchester, Fair Lakes, Fair Oaks, Fairfax Station, Fountainhead, Greenbriar East, Greenbriar West, Hunt, Hunt Valley, Irving, Newgate North, Newgate South, Orange, Parkway, Pohick, Popes Head, Sangster, Silverbrook, South Run, Valley, West Springfield, White Oaks, Willow Springs, and Woodyard.**

**NOTES:** On July 26, 2011, the Board divided Popes Head precinct to create Colchester, divided Centerpointe precinct to create Cedar Lake, created Hunt Valley from portions of Pohick and Hunt, adjusted boundaries of Fair Oaks, Willow Springs, Fairfax Station, Woodyard, South Run, and Silverbrook, and moved the polling place for Clifton precinct.

**As amended and readopted by the Board of Supervisors on July 10, 2012**

**Section 7-2-11. Springfield District**

**The Springfield District shall consist of these election precincts: Burke, Cedar Lake, Centerpointe, Cherry Run, Clifton, Colchester, Fair Lakes, Fair Oaks, Fairfax Station, Fountainhead, Greenbriar East, Greenbriar West, Hunt Valley, Irving, Newgate North, Newgate South, Orange, Parkway, Pohick, Popes Head, Sangster, Silverbrook, South Run, Sydenstricker, Valley, West Springfield, White Oaks, Willow Springs, and Woodyard.**

**NOTES:** On July 10, 2012, the Board moved the polling place for Cedar Lake precinct, moved the polling place for Hunt precinct, and renamed the precinct "Sydenstricker," and corrected the description of Burke precinct.

**As amended by the Board of Supervisors on December 8, 2015**

**NOTES:** On December 8, 2015, the Board moved the polling place for Fountainhead precinct to Christ Church.

**As amended by the Board of Supervisors on July 12, 2016**

**NOTES:** On July 12, 2016, the Board changed the name of the polling place of Fair Oaks precinct to the "Expectation Church Rec Center."

**As amended and readopted by the Board of Supervisors on July 11, 2017**

**Section 7-2-11. Springfield District**

**The Springfield District shall consist of these election precincts: Burke, Cedar Lake, Centerpointe, Cherry Run, Clifton, Colchester, Fair Lakes, Fair Oaks, Fairfax Station, Fountainhead, Greenbriar East, Greenbriar West, Hunt Valley, Irving, Newgate, Orange, Parkway, Pohick, Popes Head, Sangster, Silverbrook, South Run, Sydenstricker, Valley, West Springfield, White Oaks, Willow Springs, and Woodyard.**

**NOTES:** On July 11, 2017, the Board combined Newgate North and Newgate South precincts and renamed the precinct "Newgate." The polling location will remain at Centreville High School. The Board also moved the polling place for Fair Oaks precinct to the Virginia Department of Transportation Building.

**As amended and readopted by the Board of Supervisors on December 4, 2018**

**NOTES:** On December 4, 2018, the Board moved the polling location for Centerpointe precinct to the Waterford at Fair Oaks. The Board also moved the polling location for Cedar Lake precinct to the Michael R. Frey Animal Shelter.

Commonwealth of Virginia  
**COUNTY OF FAIRFAX**  
**Springfield District**

**PRECINCT 802: CEDAR LAKE**

**CONGRESSIONAL DISTRICT: ELEVENTH**  
**VIRGINIA SENATORIAL DISTRICT: THIRTY-SEVENTH**  
**HOUSE OF DELEGATES DISTRICT: THIRTY-FIFTH**

**DESCRIPTION:**

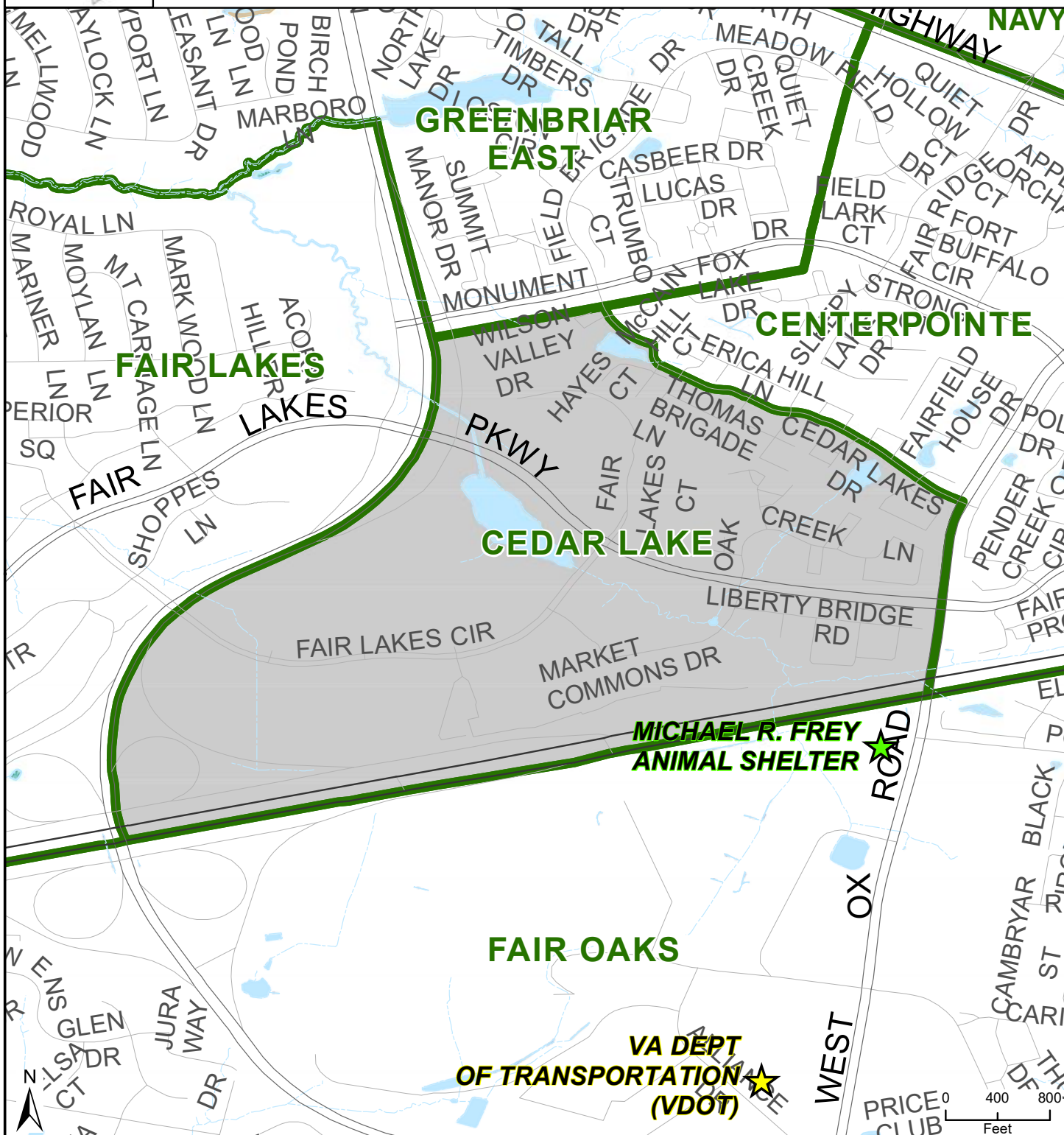
Beginning at the intersection of the Fairfax County Parkway (Route 286) and the Virginia Power Easement (adjacent to Monument Drive,) thence with the Virginia Power Easement in a northeasterly direction to its intersection with Fields Brigade Road, thence with Fields Brigade Road in a southeasterly direction to its intersection with Cedar Lakes Drive, thence with Cedar Lakes Drive in a south easterly direction to its intersection with West Ox Road, thence with West Ox Road in a southerly direction to its intersection with Interstate 66, thence with Interstate 66 in a southwesterly direction to its intersection with the Fairfax County Parkway (Route 286), thence with the Fairfax County Parkway in a generally northeasterly direction to its intersection with the Virginia Power Easement, point of beginning.

**POLLING PLACE:** ~~Virginia Department of Transportation (VDOT)~~  
Michael R. Frey Animal Shelter  
~~4975 Alliance Drive, 4500 West Ox Road, Fairfax~~

**MAP GRIDS:** 45-4, 46-3, 55-2, 56-1

**NOTES:** Established July 2011  
Polling place relocated – July 2012  
Polling place relocated – December 2018

Commonwealth of Virginia  
**County of Fairfax**  
Springfield District



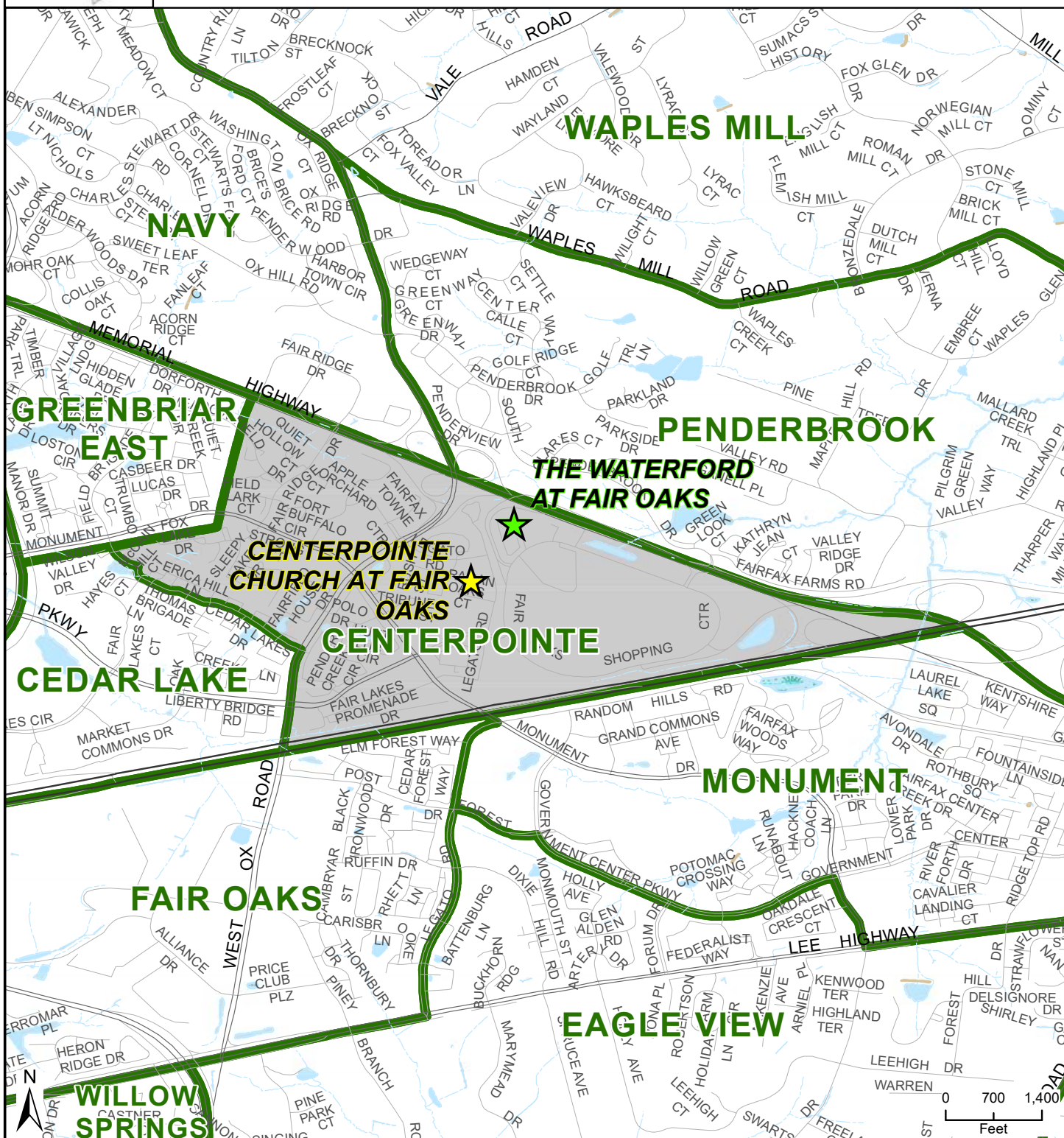
**Proposed Polling Place Change for: 802 CEDAR LAKE**

September 2018

- ★ **Current name & address:** VA Department of Transportation (VDOT), 4975 Alliance Dr.
- ★ **Proposed name & address:** Michael R. Frey Animal Shelter, 4500 West Ox Rd



Commonwealth of Virginia  
**County of Fairfax**  
 Springfield District



**Proposed Polling Place Change for: 844 CENTERPOINTE**

September 2018

- ★ **Current name & address:** Centerpointe Church at Fair Oaks, 4104 Legato Rd
- ★ **Proposed name & address:** The Waterford at Fair Oaks, 12025 Lee Jackson Memorial Hwy

**PROPOSED ORDINANCE TO AMEND AND READOPT FAIRFAX COUNTY CODE  
SECTION 7-2-13 AND RENAME THE RAVENWOOD PRECINCT POLLING  
LOCATION IN THE MASON DISTRICT, CHANGE THE STREET ADDRESS FOR THE  
BELVOIR PRECINCT POLLING LOCATION IN THE MOUNT VERNON DISTRICT,  
AND RELOCATE THE POLLING LOCATIONS FOR THE CENTERPOINTE AND  
CEDAR LAKE PRECINCTS IN THE SPRINGFIELD DISTRICT.**

**Draft of September 19, 2018**

AN ORDINANCE to amend and readopt Fairfax County Code Section 7-2-13 and rename the Ravenwood precinct polling location in the Mason District, change the street address for the Belvoir precinct polling location in the Mount Vernon District, and relocate the polling locations for the Centerpointe and Cedar Lake precincts in the Springfield District.

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

- 1. That Section 7-2-13 of the Fairfax County Code is amended and readopted:**

**Section 7-2-13. - General provisions.**

All references to election precincts shall refer to those precincts, together with the descriptions and maps of the boundaries and polling places for each of those precincts, which were adopted by the Board of Supervisors on March 24, 2003, as amended on March 8, 2004, March 21, 2005, March 27, 2006, March 26, 2007, September 10, 2007, March 10, 2008, January 12, 2009, March 9, 2010, July 27, 2010, April 26, 2011, July 26, 2011, January 10, 2012, July 10, 2012, March 19, 2013, July 9, 2013, November 18, 2014, June 23, 2015, December 8, 2015, July 12, 2016, July 11, 2017, ~~and March 20, 2018, and December 4, 2018,~~ and kept on file with the clerk to the Board of Supervisors. Whenever a road, a stream, or other physical feature describes the boundary of a precinct, the center of such road, stream, or physical feature shall be the dividing line between that precinct and any adjoining precinct.

- 2. That the election polling place for the following existing precincts are established at:**

<u>Supervisor District</u>	<u>Precinct</u>	<u>Polling Place</u>
Mason District	Ravenwood (polling place renamed)	From: Stuart High School 3301 Peace Valley Lane Falls Church, VA 22044

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51 Mount Vernon District Belvoir  
52 (street address change)  
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61 Springfield District Cedar Lake  
62 (polling place relocated)  
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71 Springfield District Centerpointe  
72 (polling place relocated)  
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82 3. That this ordinance shall become effective upon adoption.  
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To:  
Justice High School  
3301 Peace Valley Lane  
Falls Church, VA 22044

From:  
Newington DVS Facility  
6900 Newington Road  
Lorton, VA 22079

To:  
Newington DVS Facility  
8201 Cinder Bed Road  
Lorton, VA 22079

From:  
Virginia Dep't of Transportation  
4975 Alliance Drive  
Fairfax, VA 22033

To:  
Michael R. Frey Animal Shelter  
4500 West Ox Road  
Fairfax, VA 22030

From:  
Centerpointe Church  
at Fair Oaks  
4104 Legato Road  
Fairfax, VA 22033

To:  
The Waterford at Fair Oaks  
12025 Lee Jackson Mem. Hwy.  
Fairfax, VA 22033

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- 4. That the Clerk for the Board of Supervisors shall send a certified copy of this ordinance, with maps and boundary descriptions, to the Fairfax County Electoral Board, the State Board of Elections, and the Division of Legislative Services, as required under Va. Code § 24.2-306(C).**

GIVEN under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Catherine A. Chianese  
Clerk to the Board of Supervisors

4:00 p.m. -

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Continuing Care Facilities, Adult Day Care Centers, and Related Provisions (Older Adult Accommodations and Services)

ISSUE:

The proposed Zoning Ordinance amendment includes changes that will (1) create a new planned development zoning district along with all ancillary regulations specifically for continuing care facilities; (2) create a new use for a continuing care facility in the PDC, PRM, PRC and PTC Districts; (3) create a new adult day care center use to be located in multiple zoning districts by special exception or when approved as part of a development plan in a P-District; and (4) modify existing provisions related to independent living, assisted living, congregate living, medical care, and nursing facilities to clarify, update and codify the intent of the provisions and to further clarify the distinctions between these uses and the new continuing care facility use.

PLANNING COMMISSION RECOMMENDATION:

On November 8, 2018, the Planning Commission voted unanimously to recommend to the Board of Supervisors the following:

Adoption of the staff recommendation for the Zoning Ordinance Amendment titled "Continuing Care Facilities, Adult Day Care Centers, and Related Provisions," as set forth in the staff report dated September 25, 2018 and the Zoning Administrator's October 15, 2018 memorandum to the Planning Commission, with the following changes:

- Modify Par. 4B of Sect. 6-608 to clarify that a commercial kitchen, laundry facilities and other similar accessory uses are exempt from the floor area ratio calculations for cellar space in the PCC District.
- Modify the proposed Comprehensive Plan Density/Intensity Recommendation in the table presented in Par. 3 of Sect. 6-608 to provide for a 0.40 FAR maximum for recommendations of greater than or equal to 1 dwelling unit/acre but less than 2 dwelling units/acre and to provide for a 0.65 FAR maximum for recommendations of greater than or equal to 2 dwelling units/acre but less than or equal to 5 dwelling units/acre. The amended table would provide for the following:

<b>Comprehensive Plan Land Use Recommendation</b>	<b>Comprehensive Plan Density/Intensity Recommendation (dwelling units/acre or FAR)</b>	<b>Maximum FAR for PCC District</b>
Residential Use when specified in terms of Dwelling Units Per Acre (du/ac)	$\geq 1$ du/ac to $\leq 2$ du/ac	0.40 FAR
	$> 2$ du/ac to $\leq 5$ du/ac	0.65 FAR
	$> 5$ du/ac to $\leq 12$ du/ac	0.80 FAR
	$> 16$ du/ac to $\leq 30$ du/ac	1.00 FAR
	$> 30$ du/ac	1.25 FAR
Institutional, Office, Retail, Mixed Use, Residential, or any other use, excluding Industrial, when specified in terms of Floor Area Ratio (FAR)	All intensity recommendations specified in FAR	Plan maximum plus 25%

**RECOMMENDATION:**

The County Executive concurs with the Planning Commission recommendation.

**TIMING:**

Board of Supervisors' authorization to advertise – September 25, 2018; Planning Commission public hearing – October 25, 2018 at 7:30 p.m.; Planning Commission deferral for decision – November 1, 2018 and November 8, 2018; and Board of Supervisors' public hearing – December 4, 2018 at 4:00 p.m.

**BACKGROUND:**

As part of the 2016 Zoning Ordinance Amendment Work Program (ZOAWP), the Board included an item to evaluate "Older Adult Housing" to further the goals of the *50+ Plan* recommendations that were adopted by the Board in September 2014. That amendment was carried over to the 2017 ZOAWP as "Older Adult Accommodations and Services" and is now a Priority 1, Tier 1 item on the adopted 2018 ZOAWP under the heading "Older Adult Accommodations and Services and Other Congregate Care Uses." This amendment is a subset of that Work Program item, dealing specifically with Continuing Care Facilities and Adult Day Care Centers.

The primary purpose of the amendment is to establish a new zoning district and use for continuing care facilities that offer the opportunity of a continuum of accommodation

styles and care/service options that will better facilitate aging in place. These facilities are considered community service facilities under Virginia Code 15.2-2223(C). This amendment does not replace the existing independent living facility, assisted living facility, nursing facility or other medical care facility uses, but rather establishes a new use that combines some or all of these uses into a single, unified development. The amendment will also create a new use of adult day care center that is intended to serve the needs of adults by providing day and supportive care services during times when the family member or other primary care provider is not available to provide such care. And, lastly, the amendment modifies the existing regulations to accommodate the new district and uses so that there is clear distinction between this district and these uses and the existing districts and uses in the Zoning Ordinance.

Specifically, the proposed amendment:

1. Adds the following new definitions in the Zoning Ordinance:

**ADULT DAY CARE CENTER:** A facility licensed by the State of Virginia where four or more adults who are aged, infirm or who have a disability (handicap) receive supportive services, health monitoring, protection, and supervision on a regular basis during part of a 24-hour day. This use does not include any licensed facility that provides for the primary diagnosis or treatment of a medical or mental health condition or any facility licensed by the Virginia Departments of Health Professions or Behavioral Health and Developmental Services. This use also does not include ASSISTED LIVING FACILITY or NURSING FACILITY OR HOME.

**CONTINUING CARE FACILITY:** A development under unified operation that provides a variety of accommodation options offering a continuum of care and services. A continuing care facility must be developed as an integrated continuum of accommodation types and service features that allows for the ability to move between levels of support as an individual's care needs evolve. At a minimum, a continuing care facility must offer or provide care and services to include the on-site provision of meals, general housekeeping, facilitation of transportation, recreation, health- or hygiene-related care, assistance with activities of daily living, and other services integral to the personal, health, and therapeutic care of persons.

2. Modifies existing definitions of Nursing Facility, Independent Living Facility, Medical Care Facility, Dwelling Unit, Dwelling, Congregate Living Facility, and Assisted Living Facility to clarify, limit, and further comport with the new use of CCF.
3. Creates a new Planned Continuing Care Facility District (PCC) to provide for the development of a continuing care facility as a community service facility, as

referenced in Section 15.2-2223(C) of the Code of Virginia. This district must provide for a mix of accommodation styles and services that facilitates the opportunity to age-in-place within the development, including, at a minimum, the provision of meals, recreational opportunities, health care services, and personal services. The district may be established in an area that is planned for institutional, residential, mixed use, or commercial development; or where the comprehensive plan guidance would otherwise permit the establishment of an independent living facility, assisted living facility, or other medical care facility. For new CCF developments and, potentially, for additions to existing developments that offer both Independent Living Facilities and Medical Care Facility (inclusive of assisted living and nursing facility uses) under unified operation with a continuum of care and services, staff anticipates that a rezoning to the new PCC District will be utilized.

4. Establishes lot size and bulk regulations for the new PCC District to include:
  - A minimum district size requirement of 5 acres (*Advertised to allow the Board to consider any minimum from no limit to 10 acres*)
  - A maximum building height of 75 feet for a CCF that abuts property zoned R-A through R-8 or properties planned for residential densities of not more than 8 du/ac or 100 feet for all other developments. (*Advertised to allow the Board to consider any maximum building height up to 90 or 120 feet, respectively*)
  - Minimum yard requirements controlled by the standards of Part 1 of Article 16, except at peripheral boundaries where the CCF abuts or is across the street from an area planned for residential densities of not more than 8 du/ac, a minimum yard of 50 feet is required, and where the CCF abuts or is across the street from an area planned for residential densities greater than 8 du/ac or any commercial, office or industrial use, a minimum yard of 30 feet is required. (*Advertised to allow the Board to consider any minimum yard requirement up to 60 feet*)
  - A maximum FAR based on the adopted comprehensive plan density/intensity recommendations for the property ranging from 0.40 FAR to 1.25 FAR where the land use recommendations are based on dwelling units/acre and where the comprehensive plan designates the property for institutional, office, retail, mixed use, residential or any other use, excluding industrial with a specified FAR, the maximum FAR would be the plan maximum plus 25%. Any gross floor area attributable to Affordable or Workforce Dwelling Units constructed on the PCC zoned property would be excluded from the maximum FAR. (*Advertised to allow the Board to adopt any FAR between (0 and 6.5)*)
  - Counting cellar space as gross floor area similar to other P Districts
  - A minimum open space requirement of 20% except as may be modified by the Board when the modification would further the intent of the Ordinance, comprehensive plan or other design guidelines endorsed by the Board; result in

a development that is harmonious with adjacent development;  
and satisfy the provisions of Article 13, Landscaping and Screening.  
*(Advertised to allow the Board to adopt any minimum open space amount  
from 10 up to 30 percent)*

5. Adds a new use of continuing care facility to the Planned Development Commercial District (PDC), Planned Residential Community District (PRC), Planned Residential Mixed Use District (PRM), or Planned Tysons Corner Urban District (PTC), so that a new CCF in these districts can be accommodated under the existing planned development district designation without having to rezone to the new PCC District.
6. Establishes limitations applicable to a CCF development in the PCC, PDC, PRC, PRM or PTC Districts including:
  - Requiring that the proposed development be in substantial conformance with the applicable comprehensive plan guidelines for the application property and that the design of the facility, including location, size and height of buildings, and the nature and extent of screening, buffering and landscaping should be compatible with the surrounding neighborhood.
  - Specifying that a continuing care facility must satisfy the comprehensive plan's guidelines for affordable accommodations associated with the continuing care facility use.
  - A referral of the CCF application to the Health Care Advisory Board (HCAB) for its review and to allow, but not require, the HCAB to submit a recommendation to the Planning Commission and Board at the public hearings. CCF applications would be subject to the existing HCAB review standards for medical care facilities under Sect. 9-308. *(Advertised to allow the Board to adopt a requirement for HCAB referral or not.)*
7. Adds Adult Day Care Center (ADCC) as a special exception use in the R-E through the R-MHP Districts, C-1 through C-8 Commercial Districts and the I-1 through I-6 Industrial Districts and allows an ADCC as a secondary use in the PDH, PDC and PRM Districts and as a permitted use in the PRC and PTC Districts when shown on an approved development plan. Establishes additional standards for an ADCC to include, among others that: 1) direct access to an existing or programmed public street of sufficient right-of-way and width as determined by the Director of LDS be provided; 2) applications must include an estimate of the maximum expected trip generation, distribution of trips and expected service area; 3) the facility is located to facilitate safe and convenient access for drop off and pick up, to include step-free access; 4) must provide an appropriately sized and conveniently located area outdoor area for use by individuals attending the facility; 5) the application be referred to the Health Care

Advisory Board for review and to allow, but not require that the HCAB submit a recommendation to the Planning Commission and Board at the public hearings. ADCC applications would be subject to the existing HCAB review standards for medical care facilities under Sect. 9-308. *(Advertised to allow the Board to adopt a requirement for HCAB referral or not.)* The amendment also proposes a special exception fee of between \$1,100 for ADCCs with an enrollment of less than 100 and \$11,025 for ADCCs with an enrollment of 100 or more. *(Advertised to allow the Board to adopt a fee of \$1,100 to a maximum of \$16,375, which may be further differentiated based on enrollment.)*

8. Modifies the existing provisions regarding Independent Living Facilities (ILF) to:  
1) clarify who may occupy an ILF to comport with the Federal Fair Housing Act;  
2) require on-site staff and services; 3) reformat the provisions regarding maximum density into a table; 4) require ILF's to provide a minimum 15% affordable dwelling units (ADUs) administered in accordance with Part 8 of Article 2 of the Zoning Ordinance whenever the density table multiplier or parking rate is utilized; and 5) limit the number of accessory assisted living beds or nursing facility beds to not more than 15% of the total number of units in the ILF and specify that no HCAB review is required.
9. Makes other miscellaneous changes which: 1) clarify the applicability of the ADU provisions for ILF uses when approved as part of a rezoning (Sect. 2-802); 2) delete ILF as a secondary use and add as a principal use in the PDH District; 3) establish a parking rate for a CCF of 0.75 spaces per separate unit or bed approved on the development plan *(Advertised to allow the Board to adopt a parking rate of 0.50 to 1.0 space per separate unit or bed and/or to apply an employee parking rate of up to 0.50 spaces per employee)*; 4) establish a parking rate for an ADCC of 1 space per 4 adults based on the maximum number of persons licensed to attend the center; *(Advertised to allow the Board to adopt a parking rate of between 1 space per 2 adults and 1 space per 10 adults and/or to require a parking rate for employees up to 0.50 spaces per employee)*; 5) establish a loading space requirement for a CCF of 1 space for the first 25,000 square feet of gross floor area plus 1 space for each additional building of more than 100,000 square feet, except as may be modified by the Director; 6) add the CCF and ADCC to the transitional screening and barrier matrix in Article 13; 7) add a reference to the PCC District to the design standards, conceptual development plan approval and submission requirements set forth in Article 16 and add the PCC District to the fee schedule for Rezoning and to Classification 3 for purposes of limitation on rehearing (Sect. 18-211).

The proposed amendment was discussed before the Board's Development Process Committee (DPC) on April 3, 2018, and on July 24, 2018. In early June 2018, staff circulated draft text to interested stakeholders and requested that comments be

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submitted by July 9, 2018. At the July 24, 2018, DPC meeting, staff presented draft text for the Board's consideration and discussed the comments received from stakeholders. As part of that discussion the Board asked whether a continuing care facility would be subject to the Commercial & Industrial tax (C & I tax). Discussions with the Department of Tax Administration revealed that senior care facilities are not subject to the C & I tax.

In developing this proposed amendment, staff has conducted extensive outreach to the area providers of CCF facilities, including those who have existing independent living or assisted living facilities in the County, as well as those with proposed facilities. Additionally, the Department of Planning and Zoning (DPZ) staff has worked with staff members from the Health Department, Long Term Care Coordinating Council, Area Agency on Aging, Health Care Advisory Board, Housing and Community Development, Fairfax Area Commission on Aging, and other groups related to care and accommodations for aging adults. Staff presented the amendment and received input from the Zoning Ordinance Modernization (zMOD) Citizen Advisory Group and Land Use Attorney Advisory Group. The topic has been represented at four DPZ Open Houses in 2017 and 2018, where citizens received information about the potential changes and were advised as to how to provide input. The proposed changes were also presented to two citizen associations/district councils and is identified on the Zoning Ordinance Amendment website.

A more detailed discussion of the proposed amendment is set forth in the Staff Report and October 15, 2018 memorandum to the Planning Commission, enclosed as Attachment 1 and Attachment 2, respectively.

REGULATORY IMPACT:

The proposed Zoning Ordinance amendment will establish a new planned development district and uses that will provide for a more effective mechanism to develop facilities that will meet the accommodation, care and service needs of the increasing population of adults wanting to age in place.

FISCAL IMPACT:

None. The new zoning district and new uses will utilize the existing fee structure for rezoning and special exception applications. There is no anticipation of an increase in applications related to these new uses, as they are currently being accommodated under the existing provisions of the Zoning Ordinance.

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ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report available at: <https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning%20ordinance/proposed%20amendments/continuingcarefacilities.pdf>

Attachment 2 – October 15, 2018 Addendum to the Staff Report available at: <https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning%20ordinance/proposed%20amendments/continuingcarefacilitiesaddendum.pdf>

Attachment 3 – November 8, 2018 Planning Commission Verbatim Excerpt available online at: <https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2018%20verbatims/verbatim110818zoaolderadultaccommodationsdeconly.pdf>

STAFF:

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

ASSIGNED COUNSEL:

T. David Stoner, Deputy County Attorney, Office of the County Attorney (OCA)  
Laura S. Gori, Senior Assistant County Attorney, OCA

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4:00 p.m.

Public Hearing on Proposed Amendments to *The Code of the County of Fairfax* (Code) and the Public Facilities Manual (PFM) Regarding the “PFM Flex Project,” a Fairfax First Initiative to Improve the Speed, Consistency and Predictability of the County’s Land Development Review Process

ISSUE:

Board of Supervisors’ adoption of proposed amendments to the PFM to make technical and non-technical updates, clarifications, and editorial changes, and to align the Code with the updated PFM.

PLANNING COMMISSION RECOMMENDATION:

On October 25, 2018, the Planning Commission voted 10-0-0 (Commissioner Carter and Commissioner Tanner were absent from the vote) to recommend to the Board of Supervisors adoption of the proposed amendments to *The Code of the County of Fairfax, Virginia* and the Public Facilities Manual regarding the “PFM Flex Project”, as set forth in the staff report dated September 25, 2018. Additionally, on October 25, 2018, the Planning Commission voted 10-0-0 (Commissioner Carter and Commissioner Tanner were absent from the vote) to recommend the Board of Supervisors adopt the proposed motion to allow the Director of Land Development Services (LDS) to maintain the PFM and make administrative changes as set forth in the staff report dated September 25, 2018. The Planning Commission further recommended that this amendment should become effective at 12:01 a.m. on December 5, 2018.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the proposed amendments as set forth in the Staff Report dated September 25, 2018. The County Executive further recommends that the Board authorize the Director of Land Development Services to maintain the PFM and make administrative changes with respect to procedures, process improvements, submission requirements, County policies and references to adopted codes.

The proposed amendments have been prepared by LDS and coordinated with the Department of Public Works and Environmental Services (DPWES), Fairfax County Department of Transportation (FCDOT), the Office of the Fire Marshal (FMO), the Department of Planning and Zoning (DPZ), Fairfax County Parks Authority (FCPA), Fairfax Water, the Office of Commercial Revitalization (OCR), and the Office of the

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County Attorney (OCA). The PFM amendments have been recommended for approval by the Engineering Standards Review Committee (ESRC).

**TIMING:**

Board action is requested on December 4, 2018 at 4:00 p.m. On September 25, 2018, the Board authorized the advertising of public hearings. The Planning Commission held a public hearing on October 18, 2018 at 7:30 p.m., with the decision deferred to October 25, 2018. If adopted, the proposed amendments will become effective on December 5, 2018, at 12:01 a.m.

**BACKGROUND:**

The proposed amendments are necessary to make technical and non-technical updates, clarifications, and editorial changes to the PFM, and to align the Code with the updated PFM. This effort is a result of goal three of the *Strategic Plan for Economic Success in Fairfax County*: to improve the speed, consistency, and predictability of the land development review process. This effort has been dubbed the “PFM Flexibility Project.”

On May 1, 2018, the Board of Supervisors adopted an amendment to the PFM to re-establish the PFM as a guidelines document. This adopted amendment has been implemented through County and industry training and is reflected throughout the revisions of the PFM Flexibility Project.

Aside from the May 1<sup>st</sup> amendment, the PFM Flexibility Project will be implemented in two phases of amendments. The first phase of amendments, included in this Board package, incorporates technical edits that have been thoroughly researched and vetted by industry as well as non-technical edits to improve the clarity and interactivity of the PFM. The second phase of amendments is underway and focuses on complicated technical issues where stakeholder consensus around new language has not yet been reached.

**PROPOSED AMENDMENTS:**

The specific changes to the Code and the PFM include:

**Technical PFM Chapter-Specific Amendments**

**1. Chapter 2: General Subdivision and Site Plan Information**

The proposed amendments to Chapter 2 (General Subdivision and Site Plan Information) simplify the data collection process for as-built drawings; remove the

outdated cut sheets section; revise the rating tools used to determine the viability of financial institutions; and remove the code reference table to be relocated on the PFM website for ease of access and updating purposes.

**2. Chapter 4: Geotechnical Guidelines**

The proposed amendments to Chapter 4 (Geotechnical Guidelines) provide a streamlined certification process for in-ground pools, in lieu of a soils report; update the exploration requirements for buildings smaller than 5,000 square feet; and clarify the factor of safety for slope stability in problem soil areas.

**3. Chapter 6: Storm Drainage**

The proposed amendments to Chapter 6 (Storm Drainage) eliminate curvilinear pipe design, both text and tables, due to maintenance concerns; clarify outfall requirements in floodplains to limit disturbance; and update requirements for stabilizing ground cover.

**4. Chapter 7: Streets, Street Lights, Parking and Driveways**

The proposed amendments to Chapter 7 (Streets, Street Lights, Parking and Driveways) remove the "Street Functional Classification" section, to be consistent with the Virginia Department of Transportation's Road Design Manual, and clarify clear zone requirements throughout the street lights section.

**5. Chapter 8: Sidewalks, Trails, and Recreation**

The proposed amendments to Chapter 8 (Sidewalks, Trails and Recreation) update the relocated tot lot requirements (relocated from Chapter 2).

**6. Chapter 9: Fire and Water**

The proposed amendments to Chapter 9 (Fire and Water) define aerial access requirements for high-rise buildings; clarify hydrant requirements for fee simple townhouses; and accommodate emergency access for rooftop, indoor, and courtyard pools.

**7. Chapter 12: Tree Conservation**

The proposed amendments to Chapter 12 (Tree Conservation) introduce soil volume guidelines; add guidance on tree condition assessments; and increase flexibility for counting tree canopy.

## **Non-technical PFM and County Code Amendments**

### **8. “Shall” Revisions**

The proposed amendments eliminate the term “shall” throughout the PFM in favor of clearer, more current language, except in a handful of instances where “shall” was more readable or directly quoted from an external document. After careful review of each PFM chapter, the appropriate revisions to “shall” have been made based on the terms in the updated Interpretation section of Chapter 1.

### **9. Interactivity**

The proposed amendments to the PFM formatting will help to improve the interactivity of the PFM overall. The format of the PFM has been updated with an indented alphanumeric outline, leveling, and hyperlinks to internal and external references. All hyperlinks will be maintained regularly by LDS staff.

### **10. Adaptability**

With the inclusion of the term “should” in the Interpretation section of Chapter 1 and the recommendation to allow the LDS Director to maintain the PFM and make administrative changes to avoid inconsistencies and conflicts with county policies, the proposed amendments will help to make the PFM more adaptable and less restrictive. An example would be the recent policy change to no longer require developers to submit both a paper and a Mylar copy of the record plat. County policy no longer requires a Mylar record plat; however, the Director has no authority to update the provision on Mylar record plats absent Board approval. It is recommended that the Director be able to maintain the PFM so that users are well informed and up-to-date with the evolving changes and process improvements taking place countywide and in LDS related to the land development process.

### **11. Clarity**

The proposed amendments to the PFM remove outdated and extraneous text, update administrative items in the plates and tables (numbering, section references), and update acronyms to improve the clarity of the PFM.

### **12. Chapter 13 incorporated into Chapter 1**

The proposed amendment to Chapter 13 relocates the entire chapter into Chapter 1. Chapter 13 includes the following sections: PFM Structure; Interpretations; Definitions and Abbreviations; Metric Conversion Table; and English Conversion Table. After comparing the PFM formatting to the PFM equivalent in 15 comparable

municipalities, it was determined that the contents of Chapter 13 would be more accessible if they were relocated into Chapter 1. Although the PFM is not intended to be read from front to back, it is better to explain the PFM structure and interpretations pertinent to the comprehension of the PFM content at the beginning of the PFM rather than at the end.

### **13. Chapters 101 and 122 of the Code**

The proposed amendments to the Code will align with the PFM amendments above. Code Chapters 101 and 122 reference specific sections in the PFM which have been renumbered through the PFM Flexibility Project. These proposed amendments update the Code to reflect this renumbering of PFM sections.

#### **REGULATORY IMPACT:**

The proposed amendments help to improve the speed, consistency and predictability of the county's land development review process. Subject-matter experts collaborated to carefully annotate and revise the PFM to meet these goals. County, Industry, and Citizen Stakeholder groups—including but not limited to the Engineers and Surveyors Institute and the Engineering Standards Review Committee—reviewed these proposed amendments and vetted them to ensure that these goals are at the forefront of the PFM Flexibility Project.

As a result of this revision and vetting effort, the PFM has been updated and reorganized to help avoid inconsistencies that can cause delays in the land development review process. The proposed amendments' consistent format, definitions, interpretations, and internal and external references help to improve the predictability of the land development review process.

Overall, these amendments will make the land development review process more efficient.

#### **FISCAL IMPACT:**

There is no fiscal impact to the county. The proposed amendments will not require any additional staff to implement. Staff review time will generally be reduced. All stakeholders, including the public who may reference the PFM, will find that the PFM is easier to use and understand due to the added clarity and the links directing users to the related regulations at both the local and state level. Overall, the proposed amendments promote a faster and more predictable outcome and time to market.

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ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report dated September 25, 2018 available via the [PFM Flex Website](#)

Attachment 2 – Planning Commission Verbatim Excerpt available at:  
<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2018%20verbatims/verbatim102518pfmamendmentflexproject-deonly.pdf>

Also, attached to the Staff Report available via the [PFM Flex Website](#)

Attachment A – Amendments to the PFM Chapters

Attachment B – Amendments to the PFM Plates

Attachment C – Amendments to the County Code Chapters 101 and 122

STAFF:

Robert A. Stalzer, Deputy County Executive

William D. Hicks, P.E., Director, LDS

Eleanor K. Coddington, Division Director, LDS

ASSIGNED COUNSEL:

David Stoner, Deputy County Attorney, OCA

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4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Small-Scale  
Production Establishments

ISSUE:

In order to facilitate building repurposing and accommodate emerging land use trends, the proposed amendment defines a new use: Small-Scale Production Establishments. The amendment extends the ability to have an establishment for production, processing, or manufacturing to most commercial and planned development districts and the light industrial district, but only in accordance with the proposed use limitations.

PLANNING COMMISSION RECOMMENDATION:

On October 25, 2018, the Planning Commission unanimously voted to recommend to the Board of Supervisors adoption of the proposed Zoning Ordinance Amendment regarding Small-Scale Production Establishments, as set forth in the Staff Report dated September 25, 2018. The Planning Commission recommended: a) a maximum size of 6,000 square feet in the C-3 through C-6 Districts; b) a maximum size of 10,000 square feet in the C-7, I-3, PDH, PDC, PRC, and PRM Districts; and c) Option 3 for the C-8 District, which limits the size to 6,000 square feet and allows an increase up to 10,000 square feet with special exception approval. A link to the verbatim copy of the Planning Commission's discussion is included as Attachment 2.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment related to small-scale production establishments. The amendment has been advertised to permit the Board to consider three options pertaining to the maximum size in the C-8 District (Highway Commercial). Option 1 would allow a maximum size in the C-8 District of 10,000 square feet; Option 2 would limit the size in the C-8 District with the Highway Corridor Overlay to 6,000 square feet; and Option 3, as noted above, would limit the size to 6,000 square feet and allow an increase up to 10,000 square feet with special exception approval.

Staff continues to recommend Option 1 for the C-8 District. This district provides for a wide variety of uses, including contractor's offices and shops, craft beverage production establishments, and restaurants, all along heavily travelled collector and arterial highways. The small-scale production use would be compatible with the other permitted uses and a maximum size of 10,000 square feet would allow the businesses room to grow and better accommodate shared production spaces such as a makerspace or

shared kitchen. In some areas, the C-8 District is configured as a strip along the major roadways with abutting residential zoning to the rear. Staff believes that the proposed use limitations and other Zoning Ordinance requirements, including the maximum floor area ratio of 0.50, transitional screening, and the requirement for production to take place in an enclosed building should mitigate potential impacts on nearby residential uses.

TIMING:

Board of Supervisors authorization to advertise – September 25, 2018  
Planning Commission public hearing – October 25, 2018  
Board of Supervisors public hearing – December 4, 2018 at 4:00 p.m.

BACKGROUND:

The proposed amendment is identified on the 2018 Priority 1 Zoning Ordinance Amendment Work Program as part of the Zoning Ordinance Modernization (zMOD) Project. Small-scale production or manufacturing refers to a broad range of businesses that produce tangible goods, such as textiles, woodworking, metalworking, food, beverages, and indoor farming. Tools, machinery, or 3D printers may be used, and various business models may be incorporated, including makerspaces, shared kitchens or other production facilities, or individual enterprises. The use often includes accessory retail and educational components. Most small-scale production businesses occupy less than 5,000 square feet and have one to 30 employees.

The amendment proposes a new definition for a small-scale production establishment, specifies the zoning districts where the use can be located (C-3 through C-8, I-3, PDH, PDC, PRC, and PRM), and proposes use limitations so that small-scale production establishments do not negatively impact their neighbors in office, retail, and mixed-use settings.

The amendment is part of an overall Small-Scale Production, or Made in Fairfax, initiative by the Office of Community Revitalization (OCR) to research and identify opportunities for small-scale production establishments as a tool for revitalization and to strengthen economic activity in the County's commercial areas. The amendment and OCR initiative build on efforts to address vacancies in office and commercial buildings, including the Comprehensive Plan amendments adopted on December 5, 2017, and May 1, 2018, for office building repurposing, and on October 30, 2018, for the repurposing of non-office commercial buildings.

A more detailed discussion is set forth in the Staff Report, enclosed as Attachment 1.

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REGULATORY IMPACT:

The proposed amendment broadly defines a new land use to be permitted by right, subject to use limitations. It will permit a wider array of compatible uses in commercial and planned development districts, thereby offering alternatives for vacant and underutilized spaces.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report available at:

<https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning%20ordinance/proposed%20amendments/smallscaleproductionestablishments.pdf>

Attachment 2 – Planning Commission Verbatim Excerpt available at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2018%20verbatims/verbatim102518zoamendmentsmallscaleproductionsfacilities.pdf>

STAFF:

Robert A. Stalzer, Deputy County Executive  
Fred Selden, Director, Department of Planning and Zoning (DPZ)  
Barbara Byron, Director, Office of Community Revitalization  
Leslie B. Johnson, Zoning Administrator, DPZ  
Carmen Bishop, Senior Assistant to the Zoning Administrator, DPZ

ASSIGNED COUNSEL:

Laura S. Gori, Senior Assistant County Attorney, OCA

Board Agenda Item  
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4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Editorial and Minor Revisions

ISSUE:

The proposed amendment addresses the 2017 Priority 1 Zoning Ordinance Amendment Work Program, corrects an error that resulted from the adoption of a previous Zoning Ordinance amendment, updates terminology and practices, and makes other clarifying and minor revisions.

PLANNING COMMISSION RECOMMENDATION:

On October 25, 2018, the Planning Commission voted to recommend to the Board of Supervisors adoption of the proposed Zoning Ordinance Amendment to be effective at 12:01 a.m. on the day following adoption.

RECOMMENDATION:

The County Executive concurs with the Planning Commission recommendation of October 25, 2018.

TIMING:

Board authorization to advertise September 25, 2018; Planning Commission public hearing October 25, 2018, at 7:30 p.m., Board public hearing December 4, 2018, at 4:00 p.m.

BACKGROUND:

The proposed amendment is on the 2017 Priority 1 Zoning Ordinance Amendment Work Program and makes clarifying and minor revisions as well as correcting an error that resulted from a previous Zoning Ordinance amendment. Specifically, the amendment:

- 1) Revises Par. 1D of Sect. 2-412 to delete the reference to “oriel” as the term is outdated and the structure is covered under “bay window” provisions
- 2) Deletes Par. 2B of Sect. 2-512 regarding dogs kept on a property prior to October 11, 1977 and February 25, 1985, as this provision is no longer relevant.
- 3) Revises Par. 3 of Sect. 2-512 to exclude roosters from being kept as an accessory use on a residential property of 2+ acres to address noise issues.

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- 4) Deletes Temporary Mobile and Land Based Telecommunications Testing Facilities as a special permit use in all residential districts in Article 3 and revises the Group 8 Special Permit Uses (Temporary Uses) to delete this use and all of the applicable additional standards.
- 5) Revises Par. 2 of Sections 4-505 and 4-605; Par. 3 of Sections 4-705 and 4-805; and Par. 24 of Sect. 10-102 to change the amount of outdoor storage and display permitted without site plan approval from 250 to 500 square feet, in accordance with a prior amendment regarding minor modifications.
- 6) Deletes references contained in the additional standards and use limitations for Home Child Care Facilities, Child Care Centers, Private Schools of General Education and Nursery Schools that states these uses shall be subject to the provisions of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia, as the Zoning Administrator has no enforcement authority over these provisions which regulate licensing and facility standards.
- 7) Revises Par. 8 of Sect. 8-804 to delete the provision requiring a \$100 cash escrow for certain Temporary Special Permit uses, as practices have changed.
- 8) Revises Par. 15 of Sect. 11-106 to clarify the parking requirement of “private, civic, fraternal club or lodge” to reflect that parking is based on the number of people anticipated to be in attendance at any one time rather than the total club/lodge membership.
- 9) Revises Par. 2A of Sect. 18-101 to add the Department of Code Compliance as a specific agency to assist in the administration of the Zoning Ordinance.
- 10) Amends the Criminal Violations and Penalties provisions of Sect. 18-902 to delete minimum fines and establish a higher penalty for violations extending beyond the first 10-day period after the Court-ordered timeframe for corrective action has passed.
- 11) Revises Par. 1 of Sect. 19-103 to replace the reference to “freeholder” with the term “Fairfax County landowner” in the eligibility for Planning Commission membership.
- 12) Amends Sect. 20-300 to revise the definition of gross floor area to restore the portion of the definition that was inadvertently deleted with a previous Zoning Ordinance amendment.

REGULATORY IMPACT:

The proposed amendment enhances existing regulations by providing clarification, resolving inconsistencies and updating terminology and practices in the Zoning Ordinance.

FISCAL IMPACT:

None.

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ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report available at <https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning%20ordinance/proposed%20amendments/editorialandminorrevisions.pdf>

Attachment 2 – Planning Commission Verbatim Excerpt available at <https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2018%20verbatims/verbatim102518zoamendmenteditorialandminorrevisions.pdf>

STAFF:

Robert A. Stalzer, Deputy County Executive  
Fred Selden, Director, Department of Planning and Zoning (DPZ)  
Leslie B. Johnson, Zoning Administrator, DPZ  
Donna Pesto, Deputy Zoning Administrator, DPZ  
Sara Morgan, Senior Assistant to the Zoning Administrator, DPZ

ASSIGNED COUNSEL:

Cherie Halyard, Assistant County Attorney

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4:30 p.m.

Public Hearing on Proposed Plan Amendment 2018-CW-1CP, Continuing Care Facilities

ISSUE:

Plan Amendment (PA) 2018-CW-1CP proposes to amend the Comprehensive Plan guidance to create new policy to guide the evaluation of Continuing Care Facilities (CCF), which provide a continuum of accommodation and service options to facilitate the opportunity to age in place or move within levels of support as care needs change.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission decision is scheduled for November 8, 2018. The Planning Commission Verbatim and Recommendation will be forwarded under separate cover.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

PLANNING COMMISSION RECOMMENDATION:

On November 8, 2018, the Planning Commission voted 11-0 (Commissioner Clarke was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Adoption of the staff recommendation for plan amendment 2018-CW-1CP, found on pages 6 through 9 of the staff report dated October 11, 2018, with the modifications identified in the handout dated November 8, 2018.
- Amend line 62 through 64:  
“This amount should be adjusted annually based on the consumer price index and contributed to the housing trust fund for the provision of affordable accommodations prioritized for older adults and/or persons with disabilities.”; and
- Amend line 70 after the word accommodations to insert “prioritized for older adults and/or persons with disabilities.”

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Also, on November 8, 2018, the Planning Commission voted 10-1 (Commissioner Hurley voted in opposition and Commissioner Clarke was absent from the meeting) to recommend that the Board of Supervisors convene a task force to investigate developing continuing care retirement facilities to accommodate low to moderate income older adults and/or disabled persons.

TIMING:

Planning Commission public hearing – November 1, 2018

Planning Commission decision – November 8, 2018

Board of Supervisors' public hearing – December 4, 2018

BACKGROUND:

On September 25, 2017, the Board of Supervisors authorized Plan Amendment 2018-CW-1CP to consider adding guidance to facilitate the development of CCFs as a community care service facility under Virginia Code § 15.2-2223(C) offering a full spectrum of care/accommodations under a unified operation. CCFs provide services such as transportation, wellness and recreational programs, and community engagement opportunities.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

The Planning Commission Verbatim Excerpt is available online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2018%20verbatim/verbatim110818pa2018-cw-1cpcompplancontinuingcare.pdf>

The Staff Report for PA 2018-CW-1CP has been previously furnished and is available online at: <https://www.fairfaxcounty.gov/planning-zoning/plan-amendments/ccf-policy>

STAFF:

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

Marianne R. Gardner, Director, Planning Division (PD), DPZ

Pamela Sweeney, Planner II, PD, DPZ

Abdirazak Hamud, Affordable and Workforce Housing Administrator, Department of Housing and Community Development

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4:30 p.m.

Public Hearing on Proposed Plan Amendment 2017-III-DS1, Located North of the Dulles Toll Road and Airport Access Highway, East of the Loudoun County Border and Generally West of Dulles Greene Drive and Innovation Avenue/Rock Hill Road (Dranesville District)

ISSUE:

Plan Amendment (PA) 2017-III-DS1 proposes to amend the Comprehensive Plan guidance for Tax Map Parcels 15-2((1)) 4, 5, 15, 16 and 17 (2152, 2200, 2205, 2210, and 2214 Rock Hill Road), an approximately 28.3-acre area located in a portion of the Innovation Center Transit Station Area, in Land Units L-1 and L-2 of the Dulles Suburban Center. The Comprehensive Plan Map identifies Land Unit L-1 as planned for Public Facilities, Government and Institutional uses and Land Unit L-2 as planned for mixed use. The adopted Plan provides an option for a mix of uses, including multifamily residential, office, hotel, and support retail uses at an intensity ranging from .50 to 2.8 FAR, based on distance from the Metrorail station. The amendment considers an additional option for a mix of uses, comprised of predominantly office use with hotel and support retail uses, at an intensity up to 4.0 FAR.

PLANNING COMMISSION RECOMMENDATION:

On November 15, 2018, the Planning Commission voted 11-0 (Commissioner Hurley was absent from the public hearing) to recommend to the Board of Supervisors adoption of the staff recommendation for Plan Amendment 2017-III-DS1, as shown in the Staff Report dated November 1, 2018.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – November 15, 2018  
Board of Supervisors' public hearing – December 4, 2018

BACKGROUND:

On October 24, 2017, the Board of Supervisors authorized Plan Amendment 2017-III-DS1 for Tax Map Parcel 15-2((1)) 4, 5, 15, 16 and 17 in Land Units L-1 and L-2 of the

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Dulles Suburban Center to consider the following: an increase in the current recommended FAR limits in the "Core Area" (shown in the staff report), consistent with other Silver Line Metrorail stations in the Reston-Dulles corridor; to evaluate a land use mix option that includes office as the predominant use; and identify needed improvements to public facilities in the area, including fire, police, schools and transportation.

FISCAL IMPACT:  
None

ENCLOSED DOCUMENTS:

The Planning Commission verbatim excerpt, dated November 15, 2018, is available online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2018%20verbatim/verbatim111518pa%202017-iii-ds1comprehensiveplanamendmentinnovationcenter.pdf>

The Staff Report for PA 2017-III-DS1 has been previously furnished and is available online at: <https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/compplanamend/innovationctrnorth/2017-iii-ds1-staff-report.pdf>

STAFF:

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)  
Marianne R. Gardner, Director, Planning Division (PD), DPZ  
Leanna H. O'Donnell, Branch Chief, Policy and Plan Development Branch, PD, DPZ  
Katrina Newton, Planner III, Policy and Plan Development Branch, PD, DPZ

Board Agenda Item  
December 4, 2018

4:30 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern