

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
June 25, 2019**

**AGENDA**

8:30	<b>Held</b>	Fairfax Business Emergency Operations Council (BEOC) Proclamation Reception, J. Lambert Conference Center, Forum
9:30	<b>Done</b>	Presentations
10:00	<b>Done</b>	History Commission Annual Report
10:10	<b>Done</b>	Board Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups
10:20	<b>Done</b>	Items Presented by the County Executive

**ADMINISTRATIVE  
ITEMS**

1	<b>Approved</b>	Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Seminary Road Walkway – Magnolia Lane to Colfax Ave (Mason District)
2	<b>Approved</b>	Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Quander Road Sidewalk – West Potomac High School to Emmett Drive (Mount Vernon District)
3	<b>Approved</b>	Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Silverbrook Road/Southrun Road EB Left Turn Lane (Mount Vernon District)
4	<b>Approved</b>	Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Expanding the Oakton Residential Permit Parking District, District 19 (Providence District)
5	<b>Approved</b>	Authorization to Advertise a Public Hearing on the Sale of 0.5 Million Gallons-Per-Day of Fairfax County's Unused Capacity at the Upper Occoquan Sewage Authority's Treatment Plant to the City of Manassas
6	<b>Approved</b>	Extension of Review Period for 2232 Applications (Braddock and Mount Vernon Districts)

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
June 25, 2019**

**ADMINISTRATIVE  
ITEMS  
(Continued)**

- |    |                 |   |
|----|-----------------|---|
| 7  | <b>Approved</b> | Authorization to Advertise Public Hearings on Proposed Changes to Chapter 61 (Building Provisions); Chapter 101 (Subdivision Provisions); Chapter 108.1 (Noise Ordinance); Chapter 109.1 (Solid Waste Management) Chapter 114 (Agricultural and Forestal Districts of Statewide Significance); and Chapter 115 (Local Agricultural and Forestal Districts) of The Code of the County of Fairfax |
| 8  | <b>Approved</b> | Authorization to Advertise Proposed Amendments to Chapter 101 (Subdivision Ordinance) and Chapter 112 (Zoning Ordinance) of The Code of the County of Fairfax, Virginia (County Code) and the Public Facilities Manual (PFM) Re: Development in Dam Break Inundation Zones, Construction of State-Regulated Impounding Structures, Plan Submissions, and Minor Editorial Changes                |
| 9  | <b>Approved</b> | Authorization to Advertise Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance) and Chapter 124 (Stormwater Management Ordinance) of The Code of the County of Fairfax, Virginia (County Code) Re: Long-Term Maintenance of Stormwater Management Facilities, Illicit Discharges, and Enforcement   |
| 10 | <b>Approved</b> | Authorization to Advertise a Public Hearing to Lease County-Owned Property at 7584 Leesburg Pike to the Friends of Tysons-Pimmit Library (Dranesville District)   |

**ACTION ITEMS**

- |   |                                |   |
|---|--------------------------------|---|
| 1 | <b>Approved with amendment</b> | Authorization for the County Executive to Execute Contracts for Purchase of Whole Parcels for Transportation Projects on Behalf of the Board of Supervisors         |
| 2 | <b>Approved</b>                | Approval of a Memorandum of Understanding Between the Board of Supervisors and the Southeast Fairfax Development Corporation, Inc. (Lee and Mount Vernon Districts) |
| 3 | <b>Approved</b>                | Approval of a Lease Agreement to Continue Commuter Parking at Springfield Plaza (Lee District)  |

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
June 25, 2019**

**ACTION ITEMS  
(Continued)**

- |    |                                       |   |
|----|---------------------------------------|---|
| 4  | <b>Approved with amendment</b>        | Authorization of Fall 2019 School Bond Referendum   |
| 5  | <b>Approved</b>                       | Approval of the Consolidated Community Funding Advisory Committee Recommendations for the FY 2021 and FY 2022 Funding Categories for the Consolidated Community Funding Pool  |
| 6  | <b>Approved</b>                       | Approval of Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report  |
| 7  | <b>Approved</b>                       | Approval of a Memorandum of Agreement with Dominion Energy Technologies, Inc. for the Fairfax County Connected Autonomous Vehicle Demonstration Project   |
| 8  | <b>Approved</b>                       | Approval of and Authorization to Execute a Project Administration Agreement with the Virginia Department of Transportation, for the Implementation of the I-66 Median Widening at Route 29 (Sully District)   |
| 9  | <b>Approved</b>                       | Approval of the Consumer Protection Commission Recommendation on the Application of King Cab Company, Inc. Regarding a Transfer of Control  |
| 10 | <b>Approved with follow on motion</b> | Approval of the Consumer Protection Commission Recommendation on the Number of Taxicab Certificates to be Authorized in 2019  |
| 11 | <b>Approved</b>                       | Approval of and Authorization to Execute a Project Administration Agreement with the Virginia Department of Transportation for the Implementation of I-66 Outside the Beltway Trails (Sully District)   |
| 12 | <b>Approved</b>                       | Approval of Project Agreements Between the Virginia Department of Rail and Public Transportation (DRPT) and Fairfax County for Fiscal Year (FY) 2019 Transit Assistance Grant Funds   |
| 13 | <b>Approved</b>                       | Authorization for the Department of Transportation to Apply for Funding and Endorsement for the United States Department of Transportation's FY2019 Better Utilizing Investments to Leverage Development Discretionary Grant Program (Lee and Mount Vernon Districts) |

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
June 25, 2019**

**ACTION ITEMS  
(Continued)**

- |                        |                 |  |
|------------------------|-----------------|--|
| 14                     | <b>Approved</b> | Approval of and Authorization to Execute Standard Project Agreements with the Northern Virginia Transportation Authority, for the Implementation of Multiple Fairfax County Transportation Projects (Braddock, Lee, Mount Vernon, and Springfield Districts) |
| 15                     | <b>Approved</b> | Board Approval of Authorization Process for non-Public Safety Agencies to Participate in the Public Safety Unmanned Aircraft Systems (UAS) Program   |
| 10:30                  | <b>Done</b>     | Matters Presented by Board Members   |
| 11:20                  | <b>Done</b>     | Closed Session   |
| 3:00 p.m.<br>Action 16 | <b>Approved</b> | Board Approval of a Minor Variation to PCA 95-Y-016-05, Lidl US Operations, LLC, to Allow a Setback of 64 Feet from Chantilly Crossing Lane (Sully District)   |

**PUBLIC  
HEARINGS**

- |      |   |   |
|------|---|---|
| 3:00 | <b>Held</b>   | Joint Public Hearing on the Proposed Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2020 through 2025 and FY 2020 Budget |
| 3:00 | <b>Approved</b>   | Public Hearing on PCA 2006-SU-025-04 (Regency Centers Acquisition, LLC) (Sully District)  |
| 3:00 | <b>Approved</b>   | Public Hearing on PCA/CDPA 2016-HM-007 (One Reston Co. LLC and Two Reston Co. LLC) (Hunter Mill District)   |
| 3:00 | <b>Deferred Decision<br/>Only to 7/16/2019 at<br/>4:30 p.m.</b> | Public Hearing to Convey Board-Owned Property on Autumn Willow Drive to the Fairfax County Redevelopment and Housing Authority (Springfield District)                           |

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
June 25, 2019**

**PUBLIC  
HEARINGS  
(Continued)**

3:00	<b>Approved</b>	Public Hearing on PRCA-B-846-02 (Reston Heights Residential I, LLC) (Hunter Mill District)
3:00	<b>Public hearing deferred to 7/16/19 at 3:30 p.m.</b>	Public Hearing on SEA 88-D-008 (VA Electric & Power Co., D/B/A Dominion Energy Virginia) (Providence District)
3:30	<b>Approved</b>	Public Hearing on RZ 2018-HM-002 (Reston Crossing, L.P.) (Hunter Mill District)
3:30	<b>Approved</b>	Public Hearing on PCA 2005-PR-039-02 (Washington Metropolitan Area Transit Authority "WMATA") (Providence District)
3:30	<b>Approved</b>	Public Hearing on PCA 88-P-030-03 (Washington Metropolitan Area Transit Authority "WMATA") (Providence District)
3:30	<b>Approved</b>	Public Hearing on RZ 2016-DR-027 (Pomeroy/Clark I, LLC) (Dranesville District)
3:30	<b>Approved</b>	Public Hearing on PCA-C-637-4 (Pomeroy/Clark I, LLC) (Dranesville District)
3:30	<b>Approved</b>	Public Hearing on RZ 2017-DR-012 (Pomeroy Companies, Inc/Pomeroy Investments, Inc., TR) (Dranesville District)
3:30	<b>Approved</b>	Public Hearing on PCA-C-637-05 (Pomeroy Investments Inc., TR) (Dranesville District)
3:30	<b>Approved</b>	Public Hearing on PCA 2011-PR-023-02/CDPA 2011-PR-023-02 (Cityline Partners LLC) (Providence District)
3:30	<b>Approved</b>	Public Hearing on PCA 2011-PR-023-03 (Cityline Partners LLC) (Providence District)
4:00	<b>Approved</b>	Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 2, 3, 6, 8, 10, 18 and 20 – Community Gardens, Farmers Markets, Gardening as an Accessory Use and Related Changes

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
June 25, 2019**

**PUBLIC  
HEARINGS  
(Continued)**

4:00	<b>Approved</b>	Public Hearing on a Proposed Amendment to the Code of the County of Fairfax, Chapter 122 (Tree Conservation Ordinance) Regarding Adding Civil Penalties and Other Changes
4:00	<b>Approved</b>	Public Hearing on a Proposed Zoning Ordinance Amendment Re: Editorial and Minor Revisions to Articles 2, 7,10, 16, 17, 18 and 19
4:00	<b>Approved</b>	Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic
4:30	<b>Approved</b>	Public Hearing to Expand the Cardinal Forest Community Parking District (Braddock District)
4:30	<b>Approved</b>	Public Hearing to Expand the Burke Centre Community Parking District (Braddock District)
4:30	<b>Approved</b>	Public Hearing to Consider Proposed Amendments to the Police Officers Retirement System Ordinance
5:00	<b>Approved</b>	Public Hearing to Lease County-Owned Property at 2610 Reston Parkway to Cellco Partnership d/b/a Verizon Wireless (Hunter Mill District)
5:00	<b>Approved</b>	Public Hearing to Lease County-Owned Property at 6140 Rolling Road to Cellco Partnership d/b/a Verizon Wireless (Springfield District)
5:30	<b>Public hearing deferred to 7/16/19 at 4:30 p.m.</b>	Public Hearing for the Proposed Alterations to the Following Small and Local Sanitary District for the De-create/Re-Create of Small and Local Sanitary Districts of Vacuum Leaf Collection Service (Mount Vernon District)
5:30	<b>Approved</b>	Public Hearing for the Proposed Alterations to the Following Small and Local Sanitary District for the De-creation/Re-creation of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Service (Dransville District)

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
June 25, 2019**

**PUBLIC  
HEARINGS  
(Continued)**

5:30	<b>Public hearing deferred to 7/16/19 at 4:30 p.m.</b>	Public Hearing for the Proposed Alterations to the Following Small and Local Sanitary District Public Hearing for the De-Creation/Re-creation of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Service (Providence District)
5:30	<b>Approved</b>	Public Hearing for the Proposed Alterations to the Following Small and Local Sanitary District for the Enlargement of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Service (Dranesville District)
6:00	<b>Done</b>	Public Comment

**REVISED**



*Fairfax County, Virginia*  
**BOARD OF SUPERVISORS**  
**AGENDA**

**Tuesday**  
**June 25, 2019**

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9:30 a.m.

**PRESENTATIONS**

- PROCLAMATION – To designate June 22-29, 2019, as Army Week in Fairfax County. Requested by Chairman Bulova.
- RESOLUTION — To recognize Northern Virginia Electric Cooperative for its accomplishment, innovation and service to the residents of Fairfax County. Requested by Chairman Bulova and Supervisors Herrity and Smith.
- RESOLUTION — To recognize Charles Murray for his years of service to Fairfax Water. Requested by Chairman Bulova
- RESOLUTION — To recognize the Office of Emergency Management and members of the Business Emergency Operations Council for their initiative to build awareness, resiliency and responsiveness in the community. Requested by Chairman Bulova.
- PROCLAMATION — To designate July 2019, as Park and Recreation Month in Fairfax County. Requested by Chairman Bulova.

— more —



Board Agenda Item  
June 25, 2019

- RESOLUTION — To recognize the History Commission for its 50th anniversary.  
Requested by Chairman Bulova.

STAFF:

Tony Castrilli, Director, Office of Public Affairs

Bill Miller, Office of Public Affairs

Austin Hendrick, Office of Public Affairs

Board Agenda Item  
June 25, 2019

10:00 a.m.

Presentation of the History Commission Annual Report

ENCLOSED DOCUMENTS:

Attachment 1 - Report to be presented at the Board meeting.

PRESENTED BY:

Anne Stuntz, Chairman, Fairfax County History Commission

**Fairfax County  
History Commission  
Annual Report  
2018**



*The Armorial Bearings and Supporters of  
**THOMAS 6<sup>TH</sup> LORD FAIRFAX**  
as recorded at the College of Arms, London*

*Windsor Herald and Registrar*

**Fairfax County History Commission**

Mailing Address:

Fairfax County History Commission  
10360 North Street  
Fairfax, Virginia 22030

**[www.fairfaxcounty.gov/history-commission](http://www.fairfaxcounty.gov/history-commission)**

June 25, 2019



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## CHAIRMAN’S REMARKS

The mission of the Fairfax History Commission is to advise the County Government, to promote and encourage public interest in all matters bearing on the history of Fairfax County, and to help identify, document, record and preserve our County's historic past here in Northern Virginia. In support of this mission, the History Commission is pleased to present its 2018 annual report that documents the wide array of projects undertaken by the Commission. These include presenting the annual History Conference in November, updating the County Inventory of Historic Sites, approving and celebrating historic markers, commemorating the 100th anniversary of Armistice Day, participating in Section 106 reviews, and collaborating with county staff on various matters.

The Commission would like to recognize the Debbie Robison’s service. After 10 years during which she served as Chairman, Treasurer, website manager, and Marker Committee Chairman, and did historical and architectural research, she stepped down at the end of the year.

The Commission is proud of its contributions and looks forward to continuing its efforts to work with and educate the public about the County’s diverse and rich historical interests. On behalf of the Fairfax County History Commission, thank you for your generous support in the work we do and your dedication to preserving and promoting the history of Fairfax County.

Anne Stuntz, Chair

2108 Fairfax County History Commission

Anne Stuntz, Chair  
Jordan Tannenbaum, Vice-Chair  
Glenn Fatzinger, Secretary  
Phyllis Walker Ford, Treasurer

Anne Barnes	Esther W. McCullough
Robert E. Beach	Elise Ruff Murray
Gretchen Bulova	Barbara Naef
Carole L. Herrick	Barbara Peters
Lynne Garvey-Hodge	Debbie Robison
Michael Irwin	Stephanie Witt Sedgewick
Mary Lipsey	Steve Sherman
Sallie Lyons	

## OVERVIEW

The Fairfax County Board of Supervisors officially created the Commission in 1969. It grew out of the Landmarks Preservation Committee established in 1965. There are 20 members. The Commission meets on the first Wednesday of each month. All meetings are open to the public. An independent contractor prepares minutes. In addition to the regular meetings, members put in many volunteer hours each month on the Commission's committees.

The Commission carries out the Board of Supervisors' mandate in various ways:

- The Commission maintains the Fairfax County Inventory of Historic Sites, which included 353 sites at the end of 2018.
- The Commission advises the Board of Supervisors and appropriate agencies on matters involving the history of the county in the following ways:
  - Works closely with the Department of Planning and Zoning; the Architectural Review Board; the Park Authority, especially the Cultural Resource Management and Protection programs; and the Fairfax County Public Library system, especially the Virginia Room.
  - Proposes and monitors Historic Overlay Districts. A member of the Commission, Elise Ruff Murray, serves in an *ex officio* capacity on the Architectural Review Board.
  - The Commission is consulted on development or demolition of old or historic structures, whether on the Fairfax County Inventory of Historic Sites or not.
  - Advises the State Review Board and Historic Resources Board about historic and cultural sites recommended for inclusion on the National Register.
  - Participates in matters under Section 106 of the National Historic Preservation Act, which requires federal agencies to take into account the effects of their undertakings on historic properties, including cell phone tower applications. Sallie Lyons is representing the Commission in the Section 106 review process for the Route One improvements. The History Commission is a consulting party on the review of the proposed Floris Conservatory for Fine Arts in the Floris Historic District and of the Soapstone Connector project with Association Drive of particular concern. Jordan Tannenbaum is the lead on both projects with Barbara Naef as the alternate
- In order to generally promote the public interest in all matters bearing on the history of Fairfax County, the Commission:
  - Cooperates with the Fairfax County Public Schools, Northern Virginia Community College and George Mason University in local history activities.
  - Provides advice and assistance to local historical societies, churches and citizens' groups on matters of historic preservation.
  - Assists in negotiations for preservation easements.
  - Pays special attention to the possibilities for tax incentives for preserving historic properties.
  - Promotes the establishment of volunteer citizen special interest groups.
  - Attends meetings, conferences and seminars for continuing education.
  - Participates with other state, national and local organizations in joint programs. Gretchen Bulova chaired the county's 275th anniversary steering committee. In addition, Mary Lipsey served on the steering committee.
  - Acts as a liaison with public and private historical agencies in the county and on the state and national levels.
  - Supports and encourages activities at all educational levels that will stimulate interest in the archeological and historical background of Fairfax County.
  - Supports oral history programs in Fairfax County.

History Commission		2		2018
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- Supports the collections of the Virginia Room of the City of Fairfax Regional Library and the preservation of materials held therein. The Commission makes an annual grant to the Virginia Room for preservation and research materials.
- Supports the Park Authority Cultural Resources Management and Protection programs that include the county archaeology program. The Commission makes grants to the Archaeology and Collections Branch for interns and consultants.
- Specific programs to promote the public interest in all matters bearing on history in Fairfax County include:
  - Fairfax County’s Historical Marker Program that marks appropriate historical sites throughout the county.
  - Awards programs to honor achievements in Fairfax County history and historic preservation.
  - Annual History Conference to educate county citizens about Fairfax county history.
  - Compiles and makes available to the public a list of local historians willing to speak on a variety of topics related to the history of Fairfax County.
- Since 1969 the Commission has contributed the following to the county:
  - Completed a program to index, abstract and microfiche early Circuit Court Records.
  - Prompted the creation of the Fairfax County Records Management Program.
  - Initiated the establishment of the County Archaeology program.
  - Published three books on Fairfax County history.
  - Prepared property identification maps and a census of Fairfax County in 1860.

### **WORLD WAR I ARMISTICE COMMEMORATION**

On Sunday November 11, 2018, the History Commission held a special 100th Anniversary Commemoration event at the Historic Fairfax County Courthouse to honor the county men who died during World War I. Braddock District Supervisor John Cook served as the Master of Ceremonies. The program opened with the Presentation of Colors by the Fairfax County Sheriff’s Office Honor Guard. Other dignitaries who participated in the program included Congressman Gerry Connolly, Delegate David Bulova, Dranesville District Supervisor John Foust, and Springfield District Supervisor Pat Herrity. Chapter members of the Fairfax County NSDAR were recognized for their chapter’s installation of the war memorial with the WWI plaque in the 1920s. Scouts from Cub Scout Pack 41 and BSA Troop 1865 greeted the guests and participated in the recognition of the names of the county men who died and the laying of wreaths at the war memorial. Mary Lipsey delivered a brief talk about how World War I impacted Fairfax County and the barbershop quartet Mint Condition performed patriotic songs throughout the program. After the laying of wreaths at the WWI memorial and the playing of taps, the guests were invited to a reception and exhibits inside the historic courthouse. Members of the committee who planned the program included Heather Bollinger of the Circuit Court Archives, History Commission members Gretchen Bulova and Mary Lipsey, and Virginia Room Librarian Laura Wickstead.

## FOURTEENTH ANNUAL HISTORY CONFERENCE

### YEARS THAT SHOOK OUR NATION AND FAIRFAX COUNTY: 1868, 1918 AND 1968

The 14th Annual History Conference was held on Saturday, November 10, 2018 at the Stacy C. Sherwood Community Center in the City of Fairfax. The well-attended conference included exhibits, authors, a "Drop & Swap" book table for donating and trading historical books and a trivia contest with prizes. Jason's Deli provided a continental breakfast and delicious lunch. The day was filled with visiting dignitaries, local county leaders and presentations by local and nationally known historians.

A PowerPoint presentation of "Quilts of Our Nation's Past: Gold Star Soldiers and Their Families" and music of World War I played as guests arrived. The program consisted of:

- Welcome and Opening Remarks: Sharon Bulova, Chairman, Fairfax County Board of Supervisors and Congressman Gerry Connolly, 11th District, Virginia
- Honoring Our World War I Veterans: William Page Johnson, II, City of Fairfax Historian, *Where Honor Is Due – Fairfax County Casualties of WWI: A Requiem*
- Fairfax County – 1868:
  - Susan Hellman, Director, Carlyle House, Alexandria, *A Friend in Need is a Friend Indeed*
  - Wes Boutchard, Local Historian, *Experiments of Freedom: Three Fairfax Families*
  - Ron Chase, Director, Gum Springs Museum & Cultural Center, *Reconstruction in Fairfax County*
- Fairfax County – 1918:
  - Patrick O'Neil, Local Historian/Archaeologist, *Camp Humphreys*
  - Mary Lipsey, History Commission, *American Woman's Role during World War I*
- Fairfax County – 1968: Dwane Starlin, Historic Re-enactor, *A Visit With Walter Cronkite*

Committee members who coordinated the year-long planning efforts for the conference included Lynne Garvey-Hodge, chair, Anne Barnes, Barbara Naef, Sallie Lyons, Phyllis Walker Ford, Esther McCullough, Mary Lipsey, Glenn Fatzinger, Jordan Tannenbaum and Mike Irwin, along with Liz Crowell, Fairfax County Park Authority and Susan Gray, City of Fairfax

The 2019 conference is scheduled for Saturday, November 9, 2019, once again at the Stacy C. Sherwood Community Center with a program on 50 Golden Years of Historic Preservation in Fairfax County: 1969-2019 and 400 Years of African American History in Fairfax County.

## AWARDS PROGRAMS

The Fairfax County History Commission maintains awards programs to honor research and achievements in Fairfax County history and historic preservation:

- Heritage Awareness Awards: Established in 1995, this program is designed to stimulate and reward original research in Fairfax County history using standard social, political and economic sources in written narrative form, a nomination to the National Register of Historic Places or a video documentary.
- Recognition Awards: To recognize contributions of individuals and groups to the preservation of history in Fairfax County.

These programs are open to the public. A full description of the programs, along with rules and requirements can be found on the Commission's website. ([www.fairfaxcounty.gov/history-commission/awards-programs](http://www.fairfaxcounty.gov/history-commission/awards-programs))

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At the annual History Conference on November 10, 2018, Congressman Gerry Connolly and Fairfax County Board of the Board of Supervisors Chairman Sharon Bulova presented the following awards.

- Ross Netherton Prize (\$1,000) to Patricia Farrell Donahue, PhD. for her exemplary work in researching, documenting, analyzing and presenting a complete and thorough review of the history of Pimmit Hills, entitled “Participation, Community, and Public Policy in a Virginia Suburb.”
- Lifetime Achievement to Carolyn Cornwell Miller for her efforts in collecting, preserving, researching and maintaining the history of the rural schools of Great Falls, Virginia.
- Lifetime Achievement to Chuck Mauro for his prolific body of work documenting the history of Fairfax County, including numerous books, plays, lectures and an award-winning movie, “The Battle of Chantilly (Ox Hill).
- Distinguished Service Award to Gregory P. Wilson for his efforts in serving our country and Fairfax County by preserving, researching and maintaining the history of this area, specifically the contributions of his Quaker ancestors and the larger-than-life Civil War leaders they encountered.
- Distinguished Service Award to Eloise Lorenze for her efforts in preserving, researching and maintaining the history of the Greenway area of McLean, Virginia through commentaries, photographs and neighbor contributions.

The Awards Committee included Glenn Fatzinger, Steve Sherman, Elise Ruff Murray, Jordan Tannenbaum and Lynne Garvey-Hodge, chair.

### **COMMEMORATION OF THE FOUNDING OF FAIRFAX COUNTY**

After a year of successful programs throughout the County, the 275th anniversary of the founding of Fairfax County concluded with a special thank you reception hosted by Chairman of the Board of Supervisors, Sharon Bulova on January 10, 2018. Two members of the History Commission (Gretchen Bulova and Mary Lipsey) served on this steering committee, from 2014 until 2018, along with representatives from Visit Fairfax, the Park Authority, the City of Fairfax, the Sheriff’s Department (also celebrating their 275th anniversary), and local history organizations. Together, this committee planned a series of history-related events throughout the County in 2017. The signature event for the 275th Commemoration, the Historically Fairfax Fair, was held on June 17, 2017 on the grounds of the historic Fairfax County Courthouse. Archival materials documenting this County-wide Commemoration were given to the Virginia Room.

### **PARK AUTHORITY ARCHAEOLOGY AND COLLECTIONS BRANCH GRANTS**

In 2018, the Archaeology and Collections Branch staff used History Commission funding to upgrade archaeological collections to American Alliance of Museums, federal and state standards, and best practices.

History Commission		5		2018
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## FAIRFAX COUNTY RESIDENT CURATOR PROGRAM

The Resident Curator Program has made significant progress with its pilot properties, welcoming its first resident curator for the Stempson House in Lorton in 2017 and its second resident curator for the Turner Farmhouse in Great Falls in November 2018. Two competitive applications for the Ellmore Farmhouse in Herndon have advanced to the final Evaluation Team review to occur this summer.

The three applications received for the Lahey Lost Valley property in Vienna were not viable and the property will be re-advertised again on June 12, 2019. The Hannah P Clark Enyedi property in Lorton is accepting applications for curatorship through July 5 2019. The three applications received for the Ash Grove property were not viable and the property will be re-advertised.

Staff continues to work on additional properties preparing historic site reports and treatment plans, evaluating utilities and improving infrastructure.

Staff is working to install electricity, design septic, and install septic at the Barrett House in Lorton. A Treatment Plan was completed for this property in June 2019. The Margaret White Gardens property in Annandale is undergoing mold remediation. Staff is proceeding with obtaining a Treatment Plan for the Sears House in Centerville and a Historic Structure Report and Treatment Plan for Dranesville Tavern in Herndon.

The History Commission receives regular briefings, and serves a role in the Resident Curator process as a potential member of the five-person application evaluation team as “a representative from a relevant county board such as the Architectural Review Board, Fairfax County History Commission, etc.”

Robert Beach (chair), Gretchen Bulova, Michael Irwin and Barbara Naef have served on the Commission’s Resident Curator Program Committee since 2011.

## WEBSITE

In addition to providing History Commission members’ contact information, the History Commission’s web page describes the various programs the Commission offers to promote interest in local history extending from pre-history to the recent past. The History Commission’s Publication Grant encourages the sharing of local history research. The Awards Programs recognize individuals and groups for their efforts in researching or promoting history. Procedures and application forms for the Publication Grant and the Awards Programs are available online. Promotional information on the annual Fairfax County History Conference is placed on the website as it becomes available each year. Guidelines and nomination procedures for Fairfax County historical roadside markers can also be accessed online.

In addition, a historical resources page provides information on property owners in 1860, lists of Board of Supervisors members, and links to the Fairfax County Inventory of Historic Sites and a database of Fairfax County historical markers.

In 2018, two Fairfax County publications were scanned and added to the resources page: *Registration of Free Negroes Commencing September Court 1822*, edited and indexed by Donald Sweig, and *Fairfax County, Virginia in 1760: An interpretive Historical Map*, prepared by Beth Mitchell and edited by Donald Sweig.

The website serves as an easy, up-to-date and readily available tool for anyone interested in our County’s history. Debbie Robison managed the website. The webmasters were Greg Chase and Thomas Lee with the Department of Planning and Zoning. ([www.fairfaxcounty.gov/history-commission](http://www.fairfaxcounty.gov/history-commission))

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**BUDGET**  
**Fairfax County History Commission**  
**Income and Expenses**  
**FY 2018, Estimated FY 2019 and Actual First Half FY 2019**

	<u>FY 2018</u>	<u>Estimated FY 2019</u>	<u>First Half FY 2019</u>
Beginning Balance July 1	\$48,225	\$51,483	\$51,483
Income:			
Fairfax County	\$21,013	\$21,013	\$21,013
Interest Earned	319	—	284
Balance Adjustment	1,188	—	—
Total, Income	<u>\$22,520</u>	<u>\$21,013</u>	<u>\$21,297</u>
Total Available	\$70,745	\$72,496	\$72,780
Operating Expenses	\$19,261	\$25,000	\$9,225
Accruals for Ongoing Programs	—	\$47,496	—
Ending Balance June 30	<u>\$51,483</u>		

The funds of the Fairfax County History Commission are maintained through FOCUS and administered by staff of the Department of Planning and Zoning and the Fairfax County Park Authority.

Major expenditures in FY 2018 were minutes recording and transcription, the history conference, historical roadside markers, marker maintenance and a grant to the Park Authority Archaeology and Collections Branch. Unspent funds from previous years have been committed to historical roadside markers and their maintenance, publications, and preservation and oral history programs.

**PUBLICATIONS**

The History Commission has three projects remaining: reprinting *Beginning at a White Oak*; an update and reprint of *Mount Air*; and publishing *Fairfax County in 1860: A Collective Biography*.

## HISTORICAL MARKERS

Fairfax County's Historical Marker Program began in January 1998 when the History Commission approved a design and agreed to fund a distinctive historical roadside marker for Fairfax County. While this marker is generally modeled after Virginia's roadside markers, by state code it must have a distinctive appearance. With colors derived from George Washington's Fairfax Militia uniform, these buff and blue roadside markers emblazoned with the Fairfax County seal stand ten feet from ground level.

In the twenty years the program has existed, the History Commission has approved the installation of 60 historical roadside markers (including six state markers). Many requests for historical markers are initiated by the public, which provides for approximately one half of the funding. Some markers, including those requested by developers, are funded entirely by the requesting party. All requests are reviewed by a committee for historical accuracy, historical significance, and editorial continuity before being submitted to the entire Commission for approval.

During the 2012 calendar year, the Commission agreed to limit the funding of historical markers to the equivalent cost of two markers due to budget restraints. The current cost of fabricating a marker is \$2,220.

In 2018, the Marker Committee began assisting an applicant with research for a marker nomination on the James Lee Elementary School. In addition, the committee held review meetings for a marker on the McLean Volunteer Fire Department. Serving on the Marker Committee are Debbie Robison (Chair in 2018), Anne Barnes, Michael Irwin, Mary Lipsey (present Chair), Esther McCullough, Elise Ruff Murray, and Barbara Peters.

## ADVOCACY

The Advocacy Committee met several times during the year to plan for the 50<sup>th</sup> anniversary of the founding of the Fairfax County History Commission and to discuss ways to advocate and make the public more aware of the commission and the county's rich history. The committee consists of Carole Herrick (chair), Glenn Fatzinger, Barbara Peters, Lynne Garvey-Hodge, and Anne Stuntz.

## ETHNIC

The Ethnic Committee was formed in the fall of 1997 in response to the increasing demographic diversity of Fairfax County's population. The one hundred languages spoken within schools show the diversity of the population. It has been estimated that in less than fifty years the county's white population will drop below 50 percent. The committee set as a goal to explore the ways in which more ethnic segments might be encouraged to record their experiences and community history since their arrival in Northern Virginia.

In 2004, at the suggestion of then-Chairman Connolly, the Commission formed a subcommittee of the Ethnic Committee to create a program for recording and presenting oral history in Fairfax County. The Oral History subcommittee offers support to groups in Fairfax County seeking to record and collect oral histories. In cooperation with the staff of the Virginia Room, a project is being developed to encourage community groups to collect oral history in their districts. The Virginia Room will serve as a repository for the oral history offerings.

The members of this committee are Esther McCullough (chair), Anne Barnes, Sallie Lyons, Lynne Garvey Hodge, Anne Stuntz, Glenn Fatzinger and Phyllis Walker Ford.

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## INVENTORY OF HISTORIC SITES

The Fairfax County Inventory of Historic Sites is one of the History Commission’s longest standing responsibilities. It serves as both a planning tool and an honorific. The Comprehensive Plan includes the Inventory sites in the Heritage Resources section of each Planning District.

The regular Comprehensive Plan Amendment to update the Inventory tables, references to Inventory sites in the text and other technical corrections came before the Planning Commission on June 14, 2018 and the Board of Supervisors on July 31, 2018. In addition to the usual additions and revisions, 17 sites were removed from the active Inventory because after a great deal of consideration they were found to no longer have either architectural or archaeological integrity. The records for these sites will be archived.

As of December 2018, the Inventory stood at 353 listings, including the addition below:

### Addition to the Inventory of Historic Sites 2018

Site Name	Location/Vicinity	District	Date Added
John C. and Margaret K. White Gardens	3301 Hawthorne Lane, Falls Church	Mason	6/6/2018
Woodlawn Cultural Landscape National Register Historic District	Bounded by Old Mill Rd, Mt Vernon Memorial Hwy, Fort Belvoir, and Dogue Creek	Mount Vernon	9/20/2018

The current Inventory list along with its background, nomination forms and research guidelines are accessible to staff and the general public on the county website. An Inventory nomination form, instruction guide and example are also available. (<https://www.fairfaxcounty.gov/planning-zoning/historic/inventory-historic-sites>)

Elise Ruff Murray (chair), Sallie Lyons, Barbara Naef, Debbie Robison, Anne Stuntz and Jordan Tannenbaum serve on the Inventory Committee, in cooperation with Denice Dressel of DPZ and Elizabeth Crowell of the Park Authority.

## SPEAKERS BUREAU

At the Board of Supervisors request, the Commission compiled a list of people willing to speak on topics related to Fairfax County history. The resulting Speakers Bureau List includes a variety of countywide history topics with related speakers and contact information, including name, email address and phone number.

Members of the Fairfax County History Commission continue to be active in speaking before various civic, community and historic groups.

**Anne Barnes** presents talks on Fairfax County’s historic Shiloh Baptist Church, Mason Neck, Virginia, to interested audiences.

**Gretchen Bulova** lectured to numerous community and history organizations about the history of Alexandria and the original Fairfax County weights and measures. She also participated in several Channel 16 and Fairfax Cable Access shows to promote the history of Fairfax County and the 275th Commemoration activities.

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**Carol Herrick** gives lectures throughout the Greater Washington area pertaining to the history of Northern Virginia and for many years has been part of the "Lifetime Learning Program" sponsored by the McLean Community Center.

**Lynne Garvey-Hodge** re-enacts a number of key historical American women. Her signature character is Progressive Era Suffragist Mrs. Robert Walker. She performs for numerous community events, educational groups, Cox Cable Channel 10, Fairfax County Channel 16 and women’s associations, traveling throughout Virginia to do so. Ms. Garvey-Hodge also performs two additional characters: Angelina Grimké an early 19th century abolitionist and Quaker women’s rights activist from South Carolina; and from the Gilded Age and early days of America’s railroad industry, Mrs. John Henry Devereux, wife of railroad magnate and Civil War general, John Henry Devereux. Lynne also speaks on the history and background of the historic Town of Clifton. Further, she speaks to local educational forums and civic organizations on “Women of the Progressive Era in Fairfax County,” “The Lorton Reformatory and Progressive Era in Fairfax County,” “Victorian Mourning Customs,” “Stories in Stone – Understanding Cemetery Iconography” and “The Story of Ivakota, National Florence Crittendon Mission.”

**Mary Lipsey** continues to provide presentations on a variety of topics related to the “Braddock’s True Gold” project, local history, women's history and firsts in American history.

**Sallie Lyons** promotes preservation and archeological and historical research in the old town of Colchester, Old Colchester Park and Preserve, and Mason Neck, speaking frequently to groups and at the History Conference.

**Debbie Robison** gives talks on researching county history, discovering mills in Fairfax County, construction of the Little River Turnpike, early Fairfax County settlement and the establishment of post-Civil War schools for African Americans. In 2017, she made a presentation to the Cub Run Stream Valley Park Volunteer Team on the history of three mills along Cub Run and to the Historic Centreville Society on early settlement of the southwestern portion of Fairfax County.

**Anne Stuntz** speaks on the history of Vienna and its environs.

**Phyllis Walker Ford** speaks on the history of Franconia and Laurel Grove School.

**Jordan Tannenbaum** gives lectures on federal Historic Preservation Laws and Regulations at military installations around the country.

## OUTREACH ACTIVITIES

Fairfax County History Commission members continue to be active in a variety of ways in the community. The following summary, though not a comprehensive list, highlights the wide variety of outreach activities performed by Commission members.

Architect member, **Robert E. Beach**, AIA, LEED, AP, BD+C, designed the Turning Point Suffragist Memorial, which will be located in Occoquan Regional Park in Lorton and will pay tribute to the women who endured harsh imprisonment to secure voting rights for women and is continuing his activities in the development of the memorial plans. **Lynne Garvey-Hodge** serves on the National Board of Directors for the project.

**Gretchen Bulova** serves as the President of the Virginia Association of Museum’s (VAM) Board, and organizes VAM's Advocacy Day for Virginia Museums in Richmond. She is a Governor's appointee to the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

**Glenn Fatzinger and Sallie Lyons** are cofounders of the Mount Vernon Regional Historical Society.

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**Phyllis Walker Ford** serves as President of the board of directors for Laurel Grove School Association, the governing body of Laurel Grove School Museum. She also serves as Vice President-Education on the board of directors of Franconia Museum.

**Carole Herrick** served as chair of “An Afternoon with the Madisons,” a War of 1812 bicentennial event held at the McLean Community Center exactly 200 years to the day after the British invaded and burned the City of Washington. She portrayed Dolley Madison, Montpelier’s John Douglas Hall represented James Madison. She was chair of “McLean Remembers the Civil War,” an all-day event commemorating 150 years of the beginning of the Civil War, held at the McLean Community Center on October 22, 2011. She is a past and current president of the McLean Historical Society. Besides authoring nine books, Carole researches history and writes articles about historical sites and events for *Viva Tysons* magazine and other publications.

**Lynne Garvey-Hodge** has served on the Town of Clifton Historic Preservation Committee, which she initiated; she has served as chair of the Clifton Betterment Association’s Clifton Oral History Project; and chaired the Clifton Community Woman’s Club Spring Homes Tour in 2011 and her historic 1880s home on Blue Dan Lane was on their 2012 tour. She currently lives in a house bordering historic Johnny Moore Creek.

**Lynne Garvey-Hodge** and **Mary Lipsey** co-founded the non-profit Fairfax County Cemetery Preservation Association, Inc. in 2008, whose goal is to preserve and protect family cemeteries in Fairfax County. Both continue as directors and active members.

**Sallie Lyons** formed and incorporated the Friends of Fairfax County Archaeology and Cultural Resources, FOFA, supporting the Cultural Resource Management and Protection Branch of the Park Authority. **Barbara Naef** was among the charter members.

**Sallie Lyons** continues to promote preservation and archaeology in Colchester. She is an active member of the Lorton Heritage Society, Preservation Virginia and the Northern Virginia Chapter of the Archaeological Society of Virginia, and interfaces with Gunston Hall in many activities.

**Barbara Naef** continued to participate in the Park Authority American Alliance of Museums (AAM) reaccreditation project, working as a volunteer consultant with staff of the Resource Management Division (RMD) through achievement of the AAM honor in August. . She also serves as liaison with the Reston Museum & Historic Trust as opportunities arise for joint projects. On behalf of the Commission, she maintains close contact with Dr. Elizabeth Crowell, who heads the County Archaeology functions through the Park Authority.

**Debbie Robison** continues to research local history and write articles about historical sites and events in Fairfax County. In addition, she regularly assists the public by answering research questions. She is a member of the Historic Centreville Society Board.

**Anne Stuntz** serves as the president of Historic Vienna, Inc. She is on the Sully Foundation, Historical Society of Fairfax County, Flint Hill Cemetery Association and Friends of the Virginia Room boards.

**Jordan Tannenbaum** is a General Public Member on the U.S. Advisory Council on Historic Preservation, where he chairs the Federal Agency Programs Committee.

## BIOGRAPHICAL SKETCHES

A brief examination of the background of the Fairfax County History Commission reveals a wide and diverse variety of backgrounds that members bring to their work.

**Anne M. Barnes**—is a longtime Fairfax County resident who lives with her husband, Edward, on Mason Neck, Virginia. She received a BS in Criminal Law from Savannah State College and a MA in Government from Johns Hopkins University. She worked on an archeological project in South Carolina in the mid-1980s. She is a former Marine Corps Officer, U.S. Congressional staffer, American History teacher and is currently the Resource Director for a federal and strategic training center. She served as Vice Chairman of the History Commission in 2006-2008 and as Treasurer in 2010-2012. She is currently the chairman of the Bylaws and Budget Committees.

**Robert E. Beach**—after receiving his Bachelor of Architecture from Pratt Institute in New York in 1982, he practiced architecture in several notable New York City and Washington area architecture firms. In 1989, he started his own practice in Falls Church, which provides design services for historic architectural restorations at the local, state and national levels. Mr. Beach has served as the Architect member of the Commission since 2000, as Vice Chairman in 2004–2005, and as Chairman in 2006–2008, as the Chairman of the Fairfax County Resident Curator Program Committee and multiple times on behalf of the Commission as a juror for the Fairfax County Exceptional Design Awards. Professionally, Mr. Beach is a member of the American Institute of Architects (AIA), has served as a local Chapter Board member and represented the AIA Northern Virginia Chapter Board and at the State level as an AIA Virginia Director. He is also a Leadership in Energy and Environmental Design Accredited Professional (LEED, AP, BD+C) specializing in building design and construction and is a member of the United States Green Building Council (USGBC). Mr. Beach is a Georgetown University Architectural Thesis Advisor in the Real Estate and Urban Design Studies Graduate Program. In addition, he is a Boy Scouts of America Architecture and Aviation Merit Badge Counselor and is a licensed instrument rated private pilot who volunteers flight time for Angel Flights several times a year. On November 7, 2014, Mr. Beach was presented with the Distinguished Achievement Award from the Virginia Society of the American Institute of Architects (AIA Virginia). On March 27, 2015, Mr. Beach was presented with the 2015 Pratt Institute Alumni Achievement Award. These two awards recognized Mr. Beach for the full body of his design work including the Turning Point Suffragist Memorial, which will honor the lives of the suffragists who worked for the passage of the 19th Amendment giving women the right to vote. Mr. Beach also served as a board advisor to the Science Museum of Virginia from the spring of 2011 until December 2015 for restoration of the National Register listed historic mid-century modern Rice House designed by Richard Neutra in Richmond, Virginia. Bob lives in Fairfax, Virginia.

**Gretchen M. Bulova**— from the Braddock District, brings a wealth of museum experience to the Commission. She holds a BA in Anthropology and a BA in Classical Studies from the College of William and Mary and an MA in Museum Studies from The George Washington University. Ms. Bulova is the Director for the Office of Historic Alexandria, Virginia and the Director of the Stabler-Leadbeater Apothecary Museum in Alexandria, Virginia. She specializes in the interpretation of late 18th-century material culture and lectures widely on a variety of topics related to Alexandria and Gadsby’s Tavern and is active in the local museum community. Ms. Bulova is the President of the Virginia Association of Museums Board, and is President of the Historic House Museums Consortium of Washington, DC. Ms. Bulova is committed to the preservation of local history and inspiring the next generation to love museums and our nation’s rich heritage. Elected the Commission’s Chairman in 2012, she served through 2014. She served as the Chair of the Fairfax County 275th Commemoration.

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**Glenn Fatzinger**—graduated from Lafayette College with a BA degree in History, and after serving as a US Army Officer, completed an MA degree in History from Penn State University where he held a graduate teaching assistantship in the Department of History. He later completed an Ed.D. degree from George Washington University and AAS degrees in Business Management and Legal Assisting from Northern Virginia Community College (NOVA). Dr. Fatzinger’s federal government employment career included serving as a civilian historian for the US Air Force; a technical assistance specialist for the Economic Development Administration in the Department of Commerce; an education specialist with the Army Engineer School at Ft. Belvoir; and a writer-editor for the US Army Intelligence and Threat Analysis Center where he was awarded the Army Achievement Medal for Civilian Service. After retiring from the federal government, Dr. Fatzinger has taught business courses for more than 20 years at Marymount and Strayer Universities and is currently Adjunct Assistant Professor of History at the NOVA Alexandria Campus where he teaches Western Civilization and early American History. Dr. Fatzinger has had a wide range of civic experience. He represented the Mount Vernon District on the Fairfax County Park Authority for four years that included acquiring Civil War Fort Willard and the Grist Mill Park and building the indoor ice rink-swimming pool at the Mount Vernon Recreation Center. Dr. Fatzinger also served eight years on the NOVA College Board, including five as Board Chairman, and while on the Board, he co-founded the NOVA Educational Foundation that built the Ernst Center on the Annandale Campus and the Schlesinger Performing Arts Center on the Alexandria Campus. He was recently inducted into the NOVA Alumni Federation’s Hall of Fame for Outstanding Service to the College. In addition, Dr. Fatzinger is an accomplished musician who played 12 years in the Washington Redskins Marching Band and currently plays in the 80-piece NOVA Alexandria Campus Band and the Mount Vernon Community Band.

**Phyllis Walker Ford**—appointed in February 2009, earned a BA in Business Administration from Bluefield State College, Bluefield, West Virginia and a MBA from Trinity University, Washington, D.C., leading to sixteen years in the telecommunications industry. She served as the commission’s Secretary in 2010 and is currently Treasurer. Phyllis, a direct descendent of the family who donated land in 1881 for the Laurel Grove Colored School, a school to serve the African American children in the Franconia area, was instrumental in restoring the school, establishing a museum and searching out its history. She is President of the Laurel Grove School Association, the governing body of Laurel Grove School Museum. She serves as Vice President on the Franconia Museum Board of Directors. She is researching the history of African American families who were enslaved on properties in the Franconia Area and owned land in 1860. She is participating in “Cast the Net,” a \$150,000 grant project award from the Institute of Museum and Library Services. This multi-state museum project benefits African American museums and cultural organizations in Florida, Georgia, North Carolina and Virginia and aids in the development of sustainable statewide networks. Throughout the year, Phyllis presents talks on Historic Laurel Grove Colored School and Franconia local history to scouting groups, civic associations, chamber of commerce members and other community groups or museums. In December of 2015, Hanna Freece, Curator at Mount Vernon notified Ms. Ford that she has ancestors who were enslaved on Dogue Run Farm. She has worked with Mount Vernon researchers to learn about Dick and Charity Jasper whose marriage at Dogue Run Farm was recognized by George Washington. The family remained on Dogue until freed by Mrs. Washington in 1801, two years after her husband’s death. It is documented that Dick and his son Morris returned to Mount Vernon in 1835 to work on Washington’s Tomb. Her research is continuing and connecting to others who were part of the enslaved community at Mount Vernon. The Mount Vernon Estate opened a new exhibit October 2016, “Lives Bound Together-Slavery at George Washington’s Mount Vernon.” At the end of the exhibit is a video of descendants of some of the Mount Vernon enslaved where Phyllis shares her thoughts on Dick and Charity Jasper.

**Carole Herrick**—as a nationally ranked tennis player, Carole attended Los Angeles State College, where she received her BA in history. In 2012 she was inducted into the National Women’s Intercollegiate Tennis Hall of Fame. She served nine years on the Governing Board of the McLean Community Center, followed by four years as Chair of Friends of the McLean Community Center. In the spring of 2018 Carole was again elected to serve a three-year term on the board of the MCC and continues as a board member of Friends of the MCC. Carole chaired the Fairfax County History Commission 2015-2017 and is currently president of the McLean Historical Society, two organizations which help to identify, document, record, and preserve the county’s historic past. For several years, she chaired McLean & Great Falls Celebrate Virginia, an organization that sponsored large-scale signature events in connection with the history of the McLean area. Carole served on the Fairfax County 2007 Community Citizens Planning Committee and the Salona Task Force Committee. She has received numerous accolades that include The Heartbeat of Rotary and the Friend in Deed awards. She was honored in 2016 to be the honorary chair for the 50<sup>th</sup> anniversary of the Women’s Club of McLean. In 2017 she received the Mary Kingman – Pillar of McLean award from the McLean Chamber of Commerce and in 2018 was the recipient of the Jean Tibbetts History Award presented by the Great Falls Historical Society. Also, in 2018 Carole was honored with the title for the Dranesville District of Lady Fairfax. Carole is a highly regarded speaker and has written numerous articles for publication about the Northern Virginia area, along with authoring nine books.

**Lynne Garvey-Hodge**—has been a resident of Fairfax County for 34 years and has been a resident of Clifton, Virginia for 19 years, where she is active in preserving the historicity of Clifton. She has a Bachelor of Fine Arts from the University of Colorado, majoring in art history, an MPA (Masters in Public Administration) with a major in Human Resources also from the University of Colorado and a MTS (Masters in Theological Studies) from Wesley Theological Seminary (where she completed her thesis on “Corporate Ethics”). She re-enacts Progressive Era Suffragist Mrs. Robert Walker; Angelina Grimké, an early 19th century, abolitionist and Quaker women’s rights activist from South Carolina; and from the Gilded Age and early days of America’s railroad industry, Mrs. John Henry Devereux (wife of railroad magnate and Civil War General John Henry Devereux). Ms. Garvey-Hodge has published a book for Arcadia Publishers' Images of America Series, *Clifton* in 2009. She is in her sixth consecutive term on the Commission. She served as chair in 2004 and 2005 and represented the Commission on the Exceptional Design Awards jury in 2005, 2006 and 2008. She spearheaded efforts to launch the First Annual Fairfax County History Conference in 2005 and has chaired the History Conference Committee since 2006. She is, also, the chair of the Awards Committee and sits on the Ethnic/Oral History, Advocacy and Bylaws Committees. She is the co-founder and an officer of the Fairfax County Cemetery Preservation Association, Inc. Lynne is a member of the Bull Run Civil War Round Table, Historic Centreville Society, Clifton Community Woman’s Club, the Burke Historical Society and the Fairfax Station Railroad Museum.

**Michael R. Irwin**—has been a resident of Fairfax County for over 20 years. Born in Pennsylvania, he grew up with a deep interest in American History. In high school he was a volunteer with the Pennsylvania State Museum and Historical Commission working in the registrar’s office at the William Penn Memorial Museum in Harrisburg, and in college served an internship in the same office. He graduated from Dickinson College in Carlisle, Pa., with a BA in History (concentration in American History) and a minor in Fine Arts History. Since moving to Virginia, he can often be found at the Smithsonian Institution or one of the other historic venues in the greater Washington area. His main interests are the World War II period, especially the war's impact on social structures on the home front and early American industrial history.

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**Mary Lipsey**—was born in Atlanta and raised in Fairfax County. She received a BA in History and Sociology from Mary Washington College (1972) and a Masters in Middle School Education from Virginia Tech (1989). In June 2003, she retired after 30 years of teaching seventh grade American History in the Fairfax County Public Schools. She has been a volunteer docent for the American History Museum of the Smithsonian since 1980 and for the National Archives since 2004. Her interest in local history has found outlets through co-authoring *Braddock's True Gold* and speaking to senior citizens groups. As a member of the Commission, she serves on the Markers and History Conference Committees. She is a founder and former president of the non-profit Fairfax County Cemetery Preservation Association, Inc., whose goal is to preserve and protect family cemeteries in Fairfax County. Mary is also an active volunteer with her community and a local park. She has published *A Christmas Flight: Aviation Pioneer Dr. Christmas* and *Aviation: From Curiosity to Reality*.

**Sallie Lyons**—a native North Carolinian, she grew up in University Park, Maryland. She received an AB in Art History from Duke University, worked at the Library of Congress and held a teaching assistantship in anthropology as a graduate student at the University of Maryland. She did urban archaeological excavation in Winchester, the capital of Saxon England. She moved to Mount Vernon District in 1970, living on Brick Yard Point in Wellington Villa until moving to the old town of Colchester on Mason Neck in 1984. Living on two potential archeological sites made her keenly aware of history and preservation in the Mount Vernon area. She has spent over 25 years supporting preservation and research in Colchester, Mason Neck and Lorton. Partnered with her late husband, Gerald Lyons, she founded Lyonshare Studios, LLC, a technical computer graphics company that provides illustrative and word support for planning, preservation, publication and other technical fields. She was founder and president through 2015 of FOFA, the Friends of Fairfax County Archaeology and Cultural Resources, supporting the Cultural Resource Management and Protection Branch of the Fairfax County Park Authority. With fellow Commission member Glen Fatzinger, she is now co-chairing creation of the Mount Vernon Regional Historical Society. She is an active member of the Northern Virginia Chapter of the Archaeological Society of Virginia, the Lorton Heritage Society, the Seeds of Independence Committee of Gunston Hall, and several other local and state archaeology and history organizations.

**Esther W. McCullough**—grew up in Longview, Texas and received her Bachelor of Science in Clothing and Textiles from North Texas State University (now The University of North Texas). After moving to Fairfax County in 1996, she could not find information on the history of African-Americans in the area, so she created a brochure, “African-American Sites in Fairfax County before 1900.” She is the chair of the Ethnic Committee and sits on the Marker Committee and the History Conference Committee. She served as the Secretary of the Commission from 2004–2007. She has led sessions on oral history at more than one History Conference. Scrapbooking memories and preserving history are two things that she treasures. She has led workshops for senior citizens in nursing homes using scrapbooking techniques. Esther volunteers throughout Fairfax County. She works tirelessly with history and seniors at her church, the First Baptist Church of Vienna.

**Elise Ruff Murray**—was born in Key West, Florida, grew up in Vienna, Virginia and resides in Vienna again. She earned a BA in History from the University of Virginia and is interested in archaeology, history and preservation. After working for a year and a half on an archaeology project in Northeastern Mississippi, she worked as an economic consultant advising on anti-trust and commercial litigation matters for over 20 years. A member of the Fairfax County History Commission since 1983, Ms. Murray has served as the Commission’s ex officio member of the Architectural Review Board since 1992. On the Commission, she served as chairman, treasurer and vice chairman. She is the chair of the Inventory of Historic Sites Committee and serves on the Awards, Bylaws, Markers and Publications Committees. Ms. Murray serves on the boards of the Historical Society of Fairfax County and the Friends of the Virginia Room. In addition, she coordinates the Fairfax History area at Celebrate Fairfax.

**Barbara M. Naef**—has been a resident of Reston since 1968. She earned a BA in History from Duke University and a MA in American History from the University of Delaware. She retired in 2002 after 23 years working to preserve and interpret our county history at the Fairfax County Park Authority. She continues to work as a volunteer for the Park Authority, support various local history groups, and has been a docent at the Smithsonian Museum of American History for over 25 years. The Archaeologist Representative on the Commission, as Stewardship Manager in the Park Authority Resource Management Division, she became supervisor of the county archaeology program when it was transferred to the Park Authority in 1996. She serves on the Inventory of Historic Sites Committee, Budget Committee, the annual History Conference Planning and Implementation Committee and the Resident Curator Program Committee.

**Barbara Peters**—from Mason District, who joined the Commission in 2017, has been a Fairfax County resident for 36 years. She received her BA from Oakland University in Rochester, Michigan and MA in Library Science from the University of Michigan in Ann Arbor, MI. Before settling in Fairfax, she resided in Paraguay, Venezuela and Thailand. She has been active in local civic activities for 30 years including service as an Election Officer. She retired in 2016 as the branch manager of the Thomas Jefferson Library in Fairfax County.

**Cheryl-Ann Repetti**—who joined the Commission in 2019, has lived in Fairfax County since 1982 and in Centreville since 1990. She holds a PhD in Sociology from George Washington University and a Bachelor of Fine Art from The Cooper Union in New York City. Cheryl is the Historical Interpreter and Site Coordinator for Historic Huntley in Huntley Meadows Park, and she is a member of the board of directors of the Historic Centreville Society and the Friends of Historic Centreville. The latter group organizes Centreville Day each year, a community festival celebrating the area’s rich and diverse heritage. The event is held in Historic Centreville Park in the Centreville Historic Overlay District.

**Debbie Robison**—who stepped down in December 2018 lives in Centreville and is a long-time resident of Fairfax County. She manages the historic preservation/restoration program for a local architectural and engineering firm. Ms. Robison holds a Bachelor of Science degree from VA Tech and a Historic Preservation Certificate from NOVA. She is active in Centreville historical matters. Her interest in researching local history has resulted in her authoring numerous articles about general aspects of northern Virginia’s past and the history of specific sites. To promote preservation and facilitate local history education, Ms. Robison hosts a website, [www.novahistory.org](http://www.novahistory.org). She served as the Commission’s Chairman 2009-2011.

**Stephanie Witt Sedgwick**—joined the History Commission in January of 2018 as the representative from the Dranesville District, stepped down in December 2018. She served on the her local PTA and PTSA, chairing the Hospitality and Special Events Committees, for several years. Stephanie also worked in her local elementary school a volunteer ESOL and Writing Workshop tutor. A James Beard Award winner for food writing, Stephanie worked on staff and as a freelance food writer and editor for the Washington Post for more than 20 years and continues to write food features for [mylittlebird.com](http://mylittlebird.com). Stephanie has also worked in the public arena in press office of former New York governor Mario Cuomo. She currently lives in Vienna with husband and two sons.

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**Steven Sherman**—was born in Washington, D.C. and raised in Arlington, Virginia. He has lived in Northern Virginia for over 60 years, graduated from Wakefield High School in 1964 and attended Morris Harvey College in Charleston, West Virginia and Northern Virginia Community College in Annandale, Virginia, where he majored in Accounting and History. He is President/Broker of Sherman Properties, Inc., located in Franconia and has been in the real estate business for the past 40 years. Since 1984, he has owned the historic “Five Oaks Estates” manor house built in 1910 located off Blake Lane in Fairfax County. Steve is the president of HMS Productions, which made a 90-minute documentary “Mosby’s Combat Operations in Fairfax County.” Steve was a producer of the film along with his partners Don Hakenson and Chuck Mauro. HMS productions also made a book on “Mosby’s Combat Operations in Fairfax County.” He is the former secretary of the Board of Directors of Celebrate Fairfax, served on the Board of Directors of the Franconia Museum for 13 years and is a past president. Mr. Sherman served as the Commission’s secretary in 2011, served as Vice Chairman from 2012 through 2014, and as the Commission’s Secretary 2015-2017.

**Anne Stuntz**—grew up in Vienna, Virginia and comes from a family of historians and genealogists. She has a degree in art history from Princeton University and an MBA from Columbia University. After a career in finance on Wall Street and in the City of London, Anne returned to her historic family home in Vienna with her husband and three sons, and is devoted to preserving the history of the area. She is president of Historic Vienna Inc. She is active with the Historical Society of Fairfax County, the Sully Foundation, Flint Hill Cemetery Association, Friends of the Virginia Room and the Fitzhugh Families of Virginia. She served as Vice Chairman of the History Commission from 2015-2017 and serves as Chairman in 2018.

**Jordan Tannenbaum**—grew up in Morristown, NJ but has lived in Fairfax County for the past 23 years. He earned a BA in History from Brandeis University in Waltham, MA, a JD from American University's Washington College of Law and is a member of the District of Columbia Bar. Following graduation from Brandeis, he began working for the U.S. Advisory Council on Historic Preservation (ACHP). After a decade with the Council, he changed careers and entered the fundraising field. His first job was with his undergraduate alma mater. Since then, Tannenbaum has held senior fundraising positions with Georgetown University, the Wharton School of the University of Pennsylvania and the Hillel Foundation. He is currently the Chief Development Officer for the U.S. Holocaust Memorial Museum. He also spent 27 years in the JAG Corps of the U.S. Army Reserve, retiring as a Lieutenant Colonel. His decorations include the Legion of Merit, the Meritorious Service Medal and four awards of the Army Commendation Medal. Tannenbaum is on the Advisory Board of the Army Historical Foundation and in July of 2016 was appointed by President Obama to the ACHP bringing his preservation career full circle. In 2012, he was asked to serve on the committee to create a National Historic Park honoring Julius Rosenwald and the Rosenwald Schools and in 2018 was appointed to the committee planning the commemoration of the United States 250<sup>th</sup> Anniversary. Jordan is on the History Conference and Awards Committees.

History Commission		17		2018
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Board Agenda Item  
June 25, 2019

10:10 a.m.

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

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard June 25, 2019  
(An updated list will be distributed at the Board meeting.)

STAFF:

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



**FINAL COPY**

**APPOINTMENTS TO BE HEARD JUNE 25, 2019**  
**(ENCOMPASSING VACANCIES PROJECTED THROUGH JULY 2, 2019)**  
 (Unless otherwise noted, members are eligible for reappointment)

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

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

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

**AIRPORTS ADVISORY COMMITTEE (3 years)**

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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Grant J. Nelson (Appointed 10/95-5/01 by Hanley; 6/04-9/07 by Connolly; 6/10-1/17 by Bulova) Term exp. 6/19	At-Large #2 Representative		By Any Supervisor	At-Large
Darren Dickens (Appointed 11/96-5/01 by Hanley; 6/04-10/07 by Connolly; 6/10-11/16 by Bulova) Term exp. 6/19	At-Large #3 Representative		By Any Supervisor	At-Large

**ANIMAL SERVICES ADVISORY COMMISSION (2 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Charlotte Gallagher; appointed 2/18 by McKay) Term exp. 2/20 <i>Resigned</i>	Lee District Representative	<b>Chester J Freedenthal</b>	McKay	Lee

**ARCHITECTURAL REVIEW BOARD (3 years)**

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Marcia Pape Daniels (Appointed 6/09-9/17 by Cook) Term exp. 6/19	Braddock District Principal Representative	<b>Marcia Pape Daniels</b>	Cook	Braddock
Mark H. O'Meara (Appointed 2/19 by Cook) Term exp. 6/19	Braddock District Alternate Representative	<b>Mark H. O'Meara</b>	Cook	Braddock
VACANT (Formerly held by Douglas Phung; appointed 12/17 by Bulova) Term exp. 12/19 <i>Resigned</i>	Diversity-At-Large Principal Representative		By Any Supervisor	At-Large
William C. Horrigan (Appointed 6/15-5/17 by Foust) Term exp. 3/19	Dranesville District Alternate Representative		Foust	Dranesville
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

**Continued on next page**

**ATHLETIC COUNCIL (2 years)**

continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Barbara R. Lowrey (Appointed 7/99-10/17 by Gross) Term exp. 6/19	Mason District Principal Representative	<b>Barbara R. Lowrey</b>	Gross	Mason
VACANT (Formerly held by Terry Adams; appointed 11/11-7/13 by Gross) Term exp. 6/15 <i>Resigned</i>	Mason District Alternate Representative		Gross	Mason
VACANT (Formerly held by Salvatore Colangelo; appointed 3/17 by Storck) Term exp. 3/19	Mount Vernon District Principal Representative	<b>Lester Munson</b>	Storck	Mount Vernon
VACANT (Formerly held by Paul J. Dean; appointed 6/17 by Storck) Term exp. 3/19	Mount Vernon District Alternate Representative		Storck	Mount Vernon
Mark R. Heilbrun (Appointed 12/10-9/17 by Herrity) Term exp. 6/19	Springfield District Alternate Representative	<b>Mark R. Heilbrun</b>	Herrity	Springfield
Jane Dawber (Appointed 3/13-9/16 by Hudgins) Term exp. 6/18	Women's Sports Alternate Representative		By Any Supervisor	At-Large

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Ken Balbuena (Appointed 9/11-6/18 by Bulova) Term exp. 6/19	At-Large Chairman's Representative		Bulova	At-Large Chairman's
Jon S. Aldridge (Appointed 9/18 by Cook) Term exp. 6/19	Braddock District Representative	<b>Jon S. Aldridge</b>	Cook	Braddock
Barbara Glakas (Appointed 1/12-6/18 by Foust) Term exp. 6/19	Dranesville District Representative	<b>Barbara Glakas</b>	Foust	Dranesville
VACANT (Formerly held by Therese Martin: appointed 2/13-6/18 by Hudgins) Term exp. 6/19 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill
Linda J. Waller (Appointed 9/16-6/18 by McKay) Term exp. 6/19	Lee District Representative		McKay	Lee
VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 <i>Resigned</i>	Mason District Representative		Gross	Mason
Roberta Kelley Paul (Appointed 7/17-6/18 by Storck) Term exp. 6/19	Mount Vernon District Representative	<b>Roberta Kelley Paul</b>	Storck	Mount Vernon
Emilie F. Miller (Appointed 7/05-6/18 by L. Smyth) Term exp. 6/19	Providence District Representative		L. Smyth	Providence

Continued on next page

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Kim S. Farington (Appointed 1/19 by Herrity) Term exp. 6/19	Springfield District Representative	<b>Kim S. Farington</b>	Herrity	Springfield
Debbie Kilpatrick (Appointed 6/18 by K. Smith) Term exp. 6/19	Sully District Representative	<b>Debbie Kilpatrick</b>	K. Smith	Sully

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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
David R. Conover (Appointed 1/16 by Foust) Term exp. 2/19	Design Professional #2 Representative	<b>David R. Conover</b> (Foust)	By Any Supervisor	At-Large

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

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

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Courtney Park; appointed 2/10-9/18 by Hudgins) Term exp. 9/20 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Patrick J. Scott (Appointed 10/16 by Hudgins) Term exp. 5/18	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Nicholas Ludlum; appointed 1/17 by L. Smyth) Term exp. 5/18 <i>Resigned</i>	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>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</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	<b>Deborah Woolen</b> (deferred by McKay)	By Any Supervisor	At-Large

**COMMISSION ON AGING (2 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Joseph A. Heastie (Appointed 2/05-5/17 by L. Smyth) Term exp. 5/19	Providence District Representative	<b>Joseph A. Heastie</b>	L. Smyth	Providence

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Eric Clingan; appointed 4/16 by K. Smith) Term exp. 4/19 <i>Resigned</i>	Sully District Representative		K. Smith	Sully

**ECONOMIC ADVISORY COMMISSION (3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Frank McDermott; appointed 6/09-2/18 by Bulova) Term exp. 12/20 <i>Resigned</i>	At-Large #4 Chairman's Land Use Representative	<b>Janice D. Brangman</b>	Bulova	At-Large Chairman's
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



**ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
James Quigley (Appointed 6/16 by Bulova) Term exp. 7/1/2019	At-Large #2 Citizen Representative	<b>James Quigley</b> (Bulova)	By Any Supervisor	At-Large
Thomas Dana Kauffman (Appointed 1/18 by Bulova) Term exp. 7/1/19	At-Large #6 Citizen Representative	<b>Steven Partridge</b> (Bulova)	By Any Supervisor	At-Large

**ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)**

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

**ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) (3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Richard J. Weisman (Appointed 3/08-7/13 by Frey; 9/16 by K. Smith) Term exp. 6/19	Sully District Representative	<b>Richard J. Weisman</b>	K. Smith	Sully

**CONFIRMATION NEEDED:**

- Ms. Anna Clare Sparling as the Student Representative

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Tapan Banerjee (Appointed 2/07-3/16 by Foust) Term exp. 11/18 <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

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

**CONFIRMATION NEEDED:**

- Mr. Kenneth J. Crum as the Long Term Care Providers #17 Representative

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Ken Balbuena (Appointed 9/13-5/16 by Cook) Term exp. 6/19	Braddock District Representative	<b>Cherylyn Harley LeBon</b>	Cook	Braddock
Arvind Manocha (Appointed 6/13-5/16 by Foust) Term exp. 6/19	Dranesville District Representative	<b>Jo LaBrecque- French</b>	Foust	Dranesville
Robert Shenk (Appointed 7/16 by Storck) Term exp. 6/19	Mount Vernon District Representative	<b>Robert Shenk</b>	Storck	Mount Vernon

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Gordon R. Trapnell (Appointed 9/87-6/91 by Davis; 5/95-5/99 by Dix; 7/03-6/15 by Gross) Term exp. 6/19	At-Large #2 Representative	<b>Gordon R. Trapnell</b> (Gross)	By Any Supervisor	At-Large

**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>
Jane Haycock Woods (Appointed 11/08 by Connolly; 6/10-5/16 by Bulova) Term exp. 6/19 <i>(Not eligible for reappointment need 1-year break)</i>	At-Large #2 Representative		By Any Supervisor	At-Large
Sheila Coplan Jonas (Appointed 4/16 by Gross) Term exp. 6/19	Mason District Representative	<b>Sheila Coplan Jonas</b> <i>(Nomination announced on May 21, 2019)</i>	Gross	Mason
VACANT (Formerly held by Adrienne Walters; appointed 10/17 by K. Smith) Term exp. 6/19 <i>Resigned</i>	Sully District Representative	<b>Evelyn Spain</b> <i>(Nomination announced on May 21, 2019)</i>	K. Smith	Sully

**HEALTH CARE ADVISORY BOARD (4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Timothy E. Yarboro (Appointed 7/96-6/03 by Hanley; 6/07 by Connolly; 6/11-6/15 by Bulova) Term exp. 6/19	At-Large Representative		By Any Supervisor	At-Large
Ellyn L. Crawford (Appointed 6/07-6/15 by Hudgins) Term exp. 6/19	Hunter Mill District Representative	<b>Ellyn L. Crawford</b>	Hudgins	Hunter Mill
VACANT (Formerly held by Carol Mizoguchi; appointed 5/18 by McKay) Term exp. 6/20 <i>Resigned</i>	Lee District Representative		McKay	Lee
Marlene W. Blum (Appointed 8/85 by Scott; 6/87-6/91 by Hanley; 5/95-6/03 by Connolly; 6/07-6/15 by L. Smyth) Term exp. 6/19	Providence District Representative	<b>Marlene W. Blum</b>	L. Smyth	Providence

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Douglas Samuelson (Appointed 1/16 by Bulova) Term exp. 6/16	Consumer #4 Representative		By Any Supervisor	At-Large
Sally Singer Horwatt (Appointed 1/14-6/16 by Hudgins) Term exp. 6/19	Provider #4 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 - 3	Sully - 2

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Robert E. Beach (Appointed 11/00 by Hanley; 1/04-12/06 by Connolly; 12/09-1/16 by Bulova) Term exp. 12/18 <i>Braddock District Resident</i>	Architect 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

**HUMAN RIGHTS COMMISSION (3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Daoud Khairallah (Appointed 11/05-9/14 by Gross) Term exp. 9/17	At-Large #8 Representative		By Any Supervisor	At-Large

**HUMAN SERVICES COUNCIL (4 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Emily Donaldson; appointed 6/17 by Storck) Term exp. 7/20 <i>Resigned</i>	Mount Vernon District #1 Representative	<b>Lanita Thweatt</b>	Storck	Mount Vernon
VACANT (Formerly held by Adrienne Walters; appointed 3/14 by L. Smyth) Term exp. 7/17 <i>Resigned</i>	Providence District #2 Representative		L. Smyth	Providence
VACANT (Formerly held by Audrey F. Morton; appointed 2/16 by K. Smith) Term exp. 7/19 <i>Resigned</i>	Sully District #2 Representative		K. Smith	Sully

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Michael Berger; appointed 1/17-1/18 by McKay) Term exp. 1/20 <i>Resigned</i>	Lee District Representative		McKay	Lee
VACANT (Formerly held by Anya Gelernt-Dunkle; appointed 1/17 by L. Smyth) Term exp. 1/20 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence

**NORTHERN VIRGINIA COMMUNITY COLLEGE BOARD**  
**(4 years – limited to 2 full terms)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Bruce H. Neilson (Appointed 1/11-6/15 by Bulova) Term exp. 6/19 <i>Not eligible for reappointment</i>	Fairfax County #1 Representative		By Any Supervisor	At-Large

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Annette Koklauner (Appointed 1/16 by Bulova) Term exp. 6/19	At-Large Chairman's Representative		Bulova	At-Large Chairman's
VACANT (Formerly held by William Uehling; appointed 3/10-7/12 by Bulova) Term exp. 6/15 <i>Resigned</i>	Braddock District Representative		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
Bob Tallman (Appointed 1/17 by McKay) Term exp. 6/19	Lee District Representative		McKay	Lee

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**OVERSIGHT COMMITTEE ON DISTRACTED AND IMPAIRED DRIVING (3 years)**  
continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Nabil S. Barbari (Appointed 1/07-9/16 by Gross) Term exp. 6/19	Mason District Representative		Gross	Mason
VACANT (Formerly held by Jeffrey Levy; appointed 7/02-6/13 by Hyland) Term exp. 6/16 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Tina Montgomery; appointed 9/10-6/11 by L. Smyth) Term exp. 6/14 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence
Leslie A. Dey (Appointed 3/14-7/16 by Herrity) Term exp. 6/19	Springfield District Representative	<b>Leslie A. Dey</b>	Herrity	Springfield

**POLICE CIVILIAN REVIEW PANEL (3 Years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Gregory Gadson (Appointed 11/18) Term exp. 2/19	Seat #6 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>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Alexander Rough; appointed 10/17 by Foust) Term exp. 9/21 <i>Resigned</i>	Dranesville District Representative		Foust	Dranesville
NEW POSITION	Residential Owners and HOA/Civic Association #1 Representative		Foust or Hudgins	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #2 Representative		Foust or Hudgins	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #3 Representative		Foust or Hudgins	At-Large

**ROAD VIEWERS BOARD (1 year)**

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

Continued on next page

**ROAD VIEWERS BOARD (1 year)**

continued

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

**SMALL BUSINESS COMMISSION, FAIRFAX COUNTY (3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Carmen L. Powell; appointed 7/17-12/17 by Hudgins) Term exp. 12/20 <i>Resigned</i>	Hunter Mill District Representative	<b>Gwyn Whittaker</b>	Hudgins	Hunter Mill
VACANT (Formerly held by Elizabeth Novak; appointed 10/05-1/16 by Gross) Term exp. 12/18 <i>Resigned</i>	Mason District Representative		Gross	Mason

**TENANT LANDLORD COMMISSION (3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Michael Congleton; appointed 7/13-2/17 by Herrity) Term exp. 1/20 <i>Resigned</i>	Citizen Member #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Antonio Gomez; appointed 1/99-1/02 by Hanley; 3/05-1/08 by Connolly; 1/11-1/17 by Bulova) Term exp. 1/20 <i>Resigned</i>	Citizen Member #2 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 Deceased	Condo Owner Representative		By Any Supervisor	At-Large
Christopher Lee Kocsis (Appointed 3/99-11/00 by Hanley; 1/04-12/06 by Connolly; 12/09-1/16 by Bulova) Term exp. 12/18	Landlord Member #2 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

**TRAILS, SIDEWALKS AND BIKEWAYS COMMITTEE (2 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
VACANT (Formerly held by Jeffrey A. Anderson; appointed 5/11-1/18 by Hudgins) Term exp. 1/20 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

**TRANSPORTATION ADVISORY COMMISSION (2 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</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>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Karen Campblin (Appointed 2/16-7/16 by K. Smith) Term exp. 6/19	Sully District Representative	<b>Karen Campblin</b>	K. Smith	Sully

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Barry Mark; appointed 3/15-2/17 by Bulova) Term exp. 2/19 <i>Resigned</i>	Commercial or Retail Ownership Representative #3		Bulova	At-Large
VACANT (Formerly held by Jay Klug; appointed 2/13-2/17 by Hudgins) Term exp. 2/19	Hunter Mill District Representative #1		Hudgins	Hunter Mill
VACANT (Formerly held by Molly Peacock; appointed 2/13-1/15 by L. Smyth) Term exp. 2/17 <i>Resigned</i>	Providence District Representative #2		L. Smyth	Providence
VACANT (Formerly held by Pindar Van Arman; appointed 11/16-2/17 by L. Smyth) Term exp. 2/19 <i>Resigned</i>	Residential Owners and HOA/Civic Association Representative #1		L. Smyth	Providence

**UPPER OCCOQUAN SEWAGE AUTHORITY (UOSA) (4 years)**

**CONFIRMATION NEEDED:**

- Mr. Michael McGrath as the Fairfax County Alternate #1 and Alternate #2 Representative

**VOLUNTEER FIRE COMMISSION (2 years)**

**CONFIRMATIONS NEEDED:**

- Mr. John C. Morrison as the At-Large Representative
- Mr. Robert J. Mizer as the Zone III Representative
- Mr. Michael J. Masciola as the Zone IV Representative
- Mr. Shawn P. Stokes as the Volunteer Fire and Rescue Association #2 Representative

**WATER AUTHORITY (3 years)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Armand B. Weiss (Appointed 6/10-6/16 by Foust) Term exp. 6/19	Dranesville District Representative	<b>Armand B. Weiss</b>	Foust	Dranesville
VACANT (Formerly held by Linda Singer; appointed 7/04-6/16 by Hudgins) Term exp. 6/19 <i>Resigned</i>	Hunter Mill District Representative		Hudgins	Hunter Mill
Richard Dotson (Appointed 9/09-7/16 by L. Smyth) Term exp. 6/19	Providence District Representative		L. Smyth	Providence
Philip W. Allin (Appointed 4/92-7/13 by Frey; 6/16 by K. Smith) Term exp. 6/19	Sully District Representative	<b>Philip W. Allin</b>	K. Smith	Sully

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10:20 a.m.

Items Presented by the County Executive



Board Agenda Item  
June 25, 2019

ADMINISTRATIVE – 1

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Seminary Road Walkway – Magnolia Lane to Colfax Ave (Mason District)

ISSUE:

Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Project 5G25-060-038, Seminary Road Walkway – Magnolia Lane to Colfax Ave, Fund 300-50, Transportation Improvements - 2014.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for July 30, 2019, at 4:00 p.m.

TIMING:

Board action is requested on June 25, 2019, 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 the installation of 890 linear feet of sidewalk, including Americans with Disabilities Act (ADA) compliant crosswalks and curb ramps, along the western side of Seminary Road. The Project starts on the north side of Magnolia Lane and goes south to the City of Alexandria limits.

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

Board Agenda Item  
June 25, 2019

such an accelerated manner.

FISCAL IMPACT:

Funding is available in Project 5G25-060-048, Seminary Road Walkway – Magnolia Lane to Colfax Ave, Fund 30050, Transportation Improvements - 2014. This project is included in the Adopted FY2020 - FY2024 Adopted Capital Improvements Program (with future Fiscal Years to FY2029). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

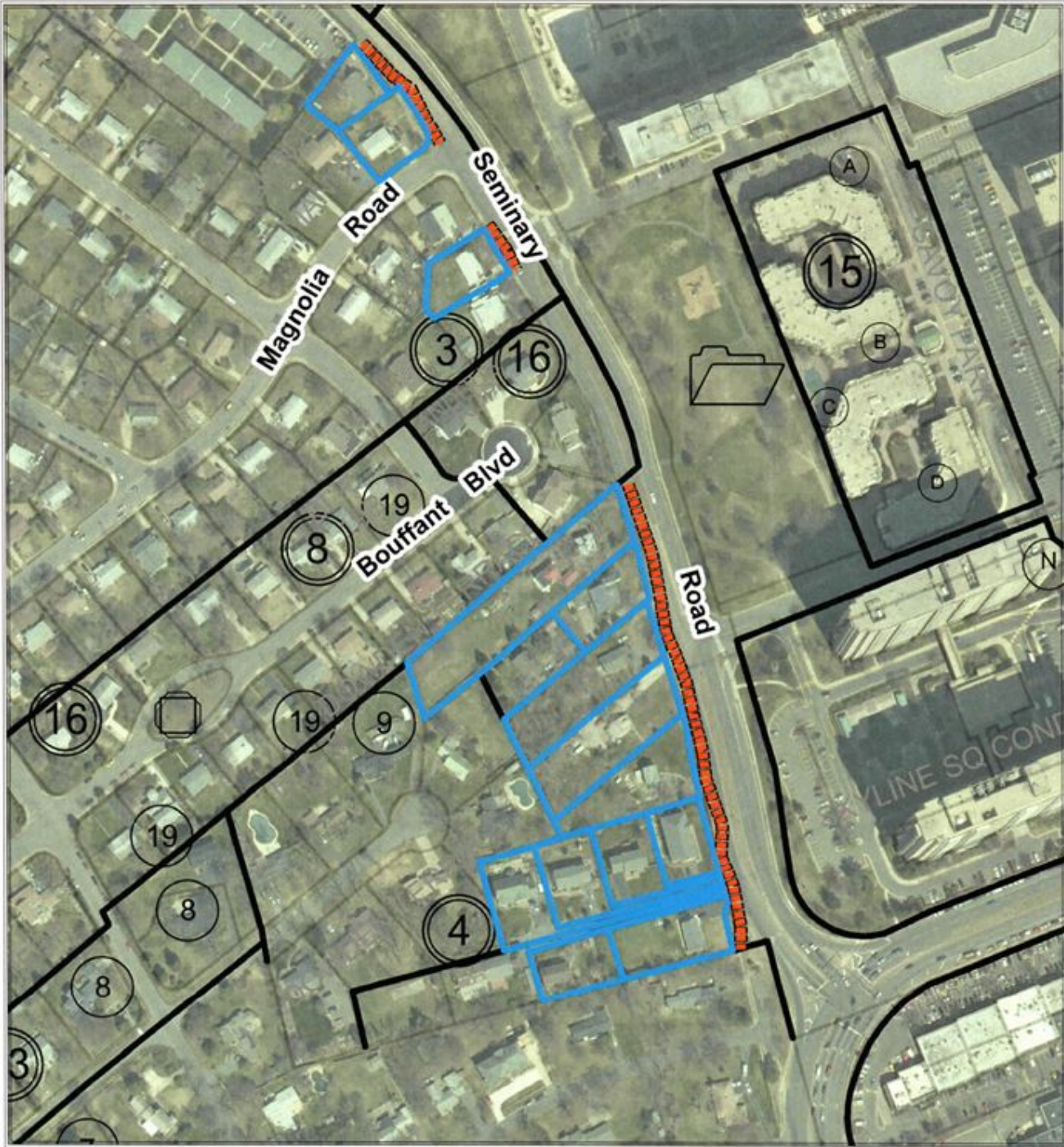
Attachment A - Project Location Map  
Attachment B - Listing of Affected Properties

STAFF:

Rachel Flynn, Deputy County Executive  
Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)  
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:

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

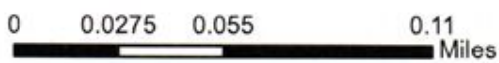


**Seminary Road Walkway - Magnolia Ln-Colfax Ave**

Tax Map: 62-3      Mason District      Project: 5G25-060-038

Affected Properties:

Proposed Improvements:



LISTING OF AFFECTED PROPERTIES  
 Project 5G25-060-038  
 Seminary Road Walkway – Magnolia Lane to Colfax Ave  
 (Mason District)

PROPERTY OWNER(S)

- |   |                |
|---|----------------|
| 1. Deutsche Bank National Trust Company   | 062-3-01-0001  |
| <p>Address:<br/>           5604 Seminary Rd<br/>           Alexandria, VA 22311</p>   |                |
| 2. Okasna Elariny   | 062-3-01-0007B |
| <p>Address:<br/>           5508 Seminary Rd<br/>           Alexandria, VA 22311</p>   |                |
| 3. Jessica Griswold<br>Steven Covell  | 062-3-03-0078  |
| <p>Address:<br/>           5500 Magnolia Lane<br/>           Alexandria, VA 22311</p> |                |
| 4. Abey Kassa<br>Menna Desta  | 062-3-03-0081  |
| <p>Address:<br/>           5618 Seminary Rd<br/>           Alexandria, VA 22311</p>   |                |
| 5. Arestotle Thapa<br>Geeta S. Thapa<br>Nirmal K. Thapa Magar                         | 062-3-01-0007C |
| <p>Address:<br/>           5506 Seminary Rd<br/>           Alexandria, VA 22311</p>   |                |
| 6. Daniel A. Troutman   | 062-3-01-0002B |
| <p>Address:<br/>           5600 Seminary Rd<br/>           Alexandria, VA 22311</p>   |                |

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June 25, 2019

ADMINISTRATIVE – 2

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Quander Road Sidewalk – West Potomac High School to Emmett Drive (Mount Vernon District)

ISSUE:

Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Project 5G25-060-034, Quander Road Sidewalk – West Potomac High School to Emmett Drive, Fund 30050, Transportation Improvements 2014

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for July 30, 2019, 4:00 p.m.

TIMING:

Board action is requested on June 25, 2019, 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 the installation of approximately 1,800 linear feet of sidewalk on the western side of Quander Road, including Americans with Disabilities Act (ADA) compliant crosswalks and curb ramps, upgrades to the storm drainage system and road widening of the southbound roadway.

Land rights for these improvements are required on eleven properties, seven of which have been acquired by the Land Acquisition Division (LAD). The construction of this project requires the acquisition of Dedication, Perpetual Street, Storm Drainage and Grading Agreement & 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

Board Agenda Item  
June 25, 2019

provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

FISCAL IMPACT:

Funding is available in Project 5G25-060-000, Quander Road Sidewalk – 2014, Fund 30050, Transportation Improvements. This project is included in the FY2020 - FY2024 Adopted Capital Improvements Program (with future Fiscal Years to FY2029). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

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

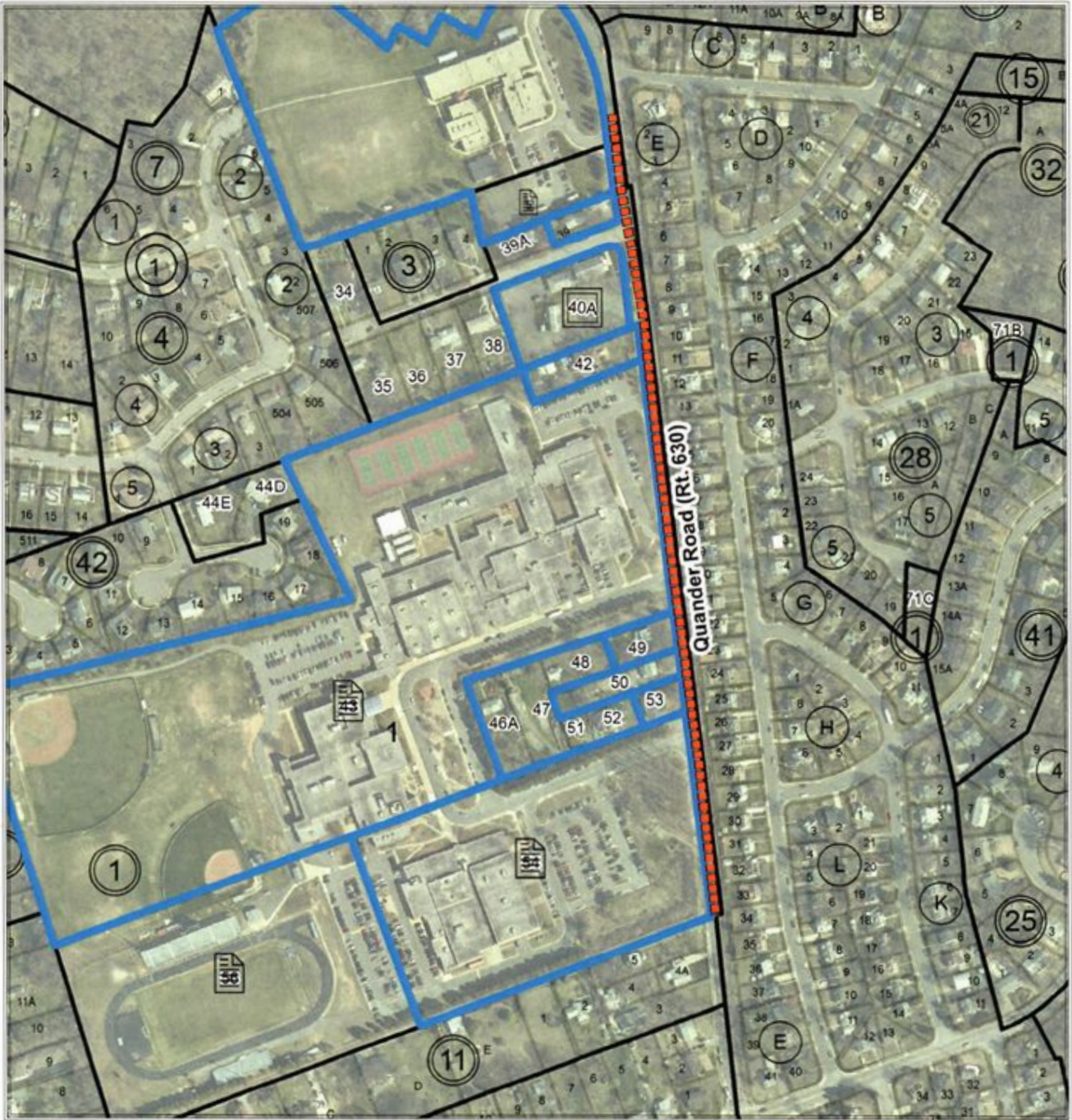
STAFF:

Rachel Flynn, Deputy County Executive  
Randolph W. Bartlett, 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

ATTACHMENT A



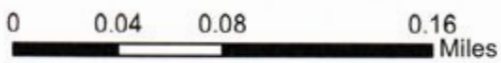
**QUANDER ROAD WALKWAY**

Tax Map: 093-1

Project 5G25-060-034  
Mount Vernon District

Affected Properties: 

Proposed Improvements: 



LISTING OF AFFECTED PROPERTIES  
Project 5G25-060-034  
Quander Road Sidewalk  
(Mount Vernon District)

PROPERTY OWNER(S)

- |   |                          |
|---|--------------------------|
| 1. Rene Cerrato-Gutierrez<br>Angela Noemy Cerrato-Gutierrez                           | 093-1-01-0039            |
| Address:<br>6418 Quander Road<br>Alexandria, VA 22307                                 |                          |
| 2. Rudy A. Villalta   | 093-1-01-0053            |
| Address:<br>6612 Quander Road<br>Alexandria, VA 22307                                 |                          |
| 3. Owners Unknown &/or Heirs and Assigns<br>Of Elizabeth Quander<br>(10' Outlet Road) | N/A<br>Liber S-8, PG 224 |
| Address:<br>Quander Road<br>Alexandria, VA 22307                                      |                          |
| 4. Owners Unknown &/or Heirs and Assigns<br>Of Elizabeth Quander<br>(25' Outlet Road) | N/A<br>Liber S-8, PG 224 |
| Address:<br>Quander Road<br>Alexandria, VA 22307                                      |                          |



Board Agenda Item  
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ADMINISTRATIVE – 3

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Silverbrook Road/Southrun Road EB Left Turn Lane (Mount Vernon District)

ISSUE:

Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Project 5G25-059-000, Spot Improvements - 2014, Silverbrook Rd./Southrun Rd. EB Left Turn Lane, Fund 30050, Transportation Improvements.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for July 30, 2019, at 4:00 p.m.

TIMING:

Board action is requested on June 25, 2019, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:

This project consists of constructing an eastbound left turn lane on Silverbrook Road at Southrun Road and other intersection roadway improvements.

Land rights for these improvements are required on three properties, none of which have been acquired by the Land Acquisition Division (LAD). The construction of this project requires the acquisition of deeds of dedication, storm drainage easements, utility 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.

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FISCAL IMPACT:

Funding is available in Project 5G25-059-000, Spot Improvements - 2014, Fund 30050, Transportation Improvements. This project is included in the FY 2019 – FY 2023 Adopted Capital Improvements Program (with future fiscal years to FY 2028). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

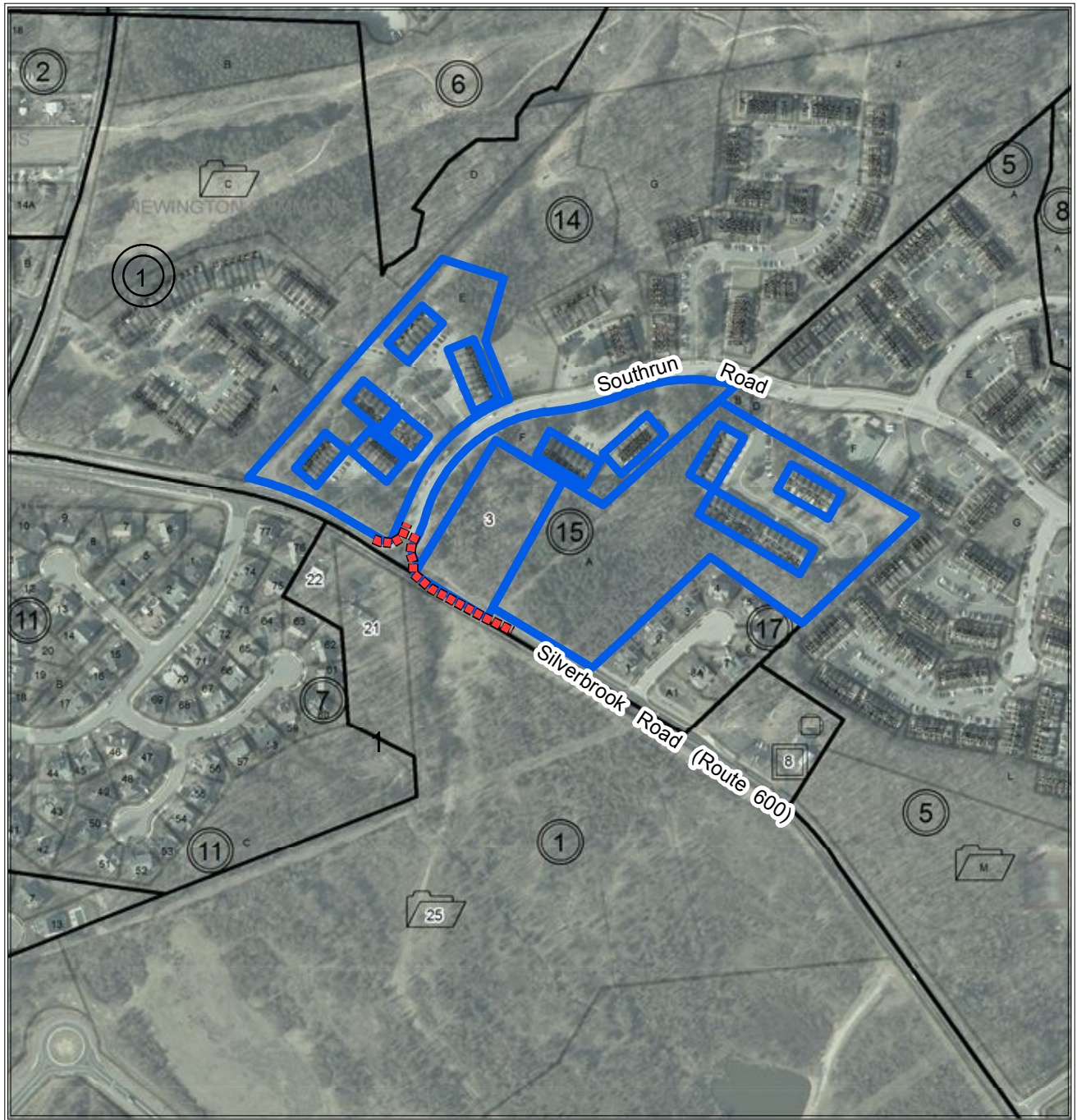
Attachment A - Project Location Map  
Attachment B - Listing of Affected Properties

STAFF:

Rachel O'Dwyer Flynn, Deputy County Executive  
Randolph W. Bartlett, 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



**SILVERBROOK RD. - SOUTHRUN RD.  
EB LEFT TURN LANE**

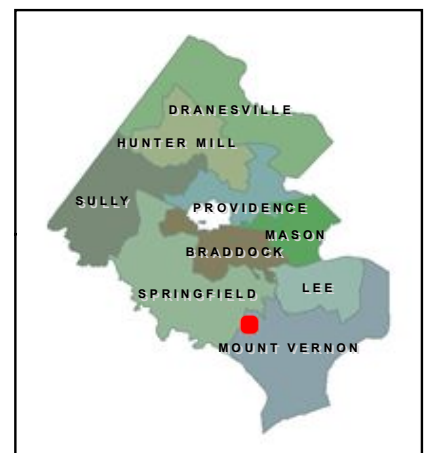
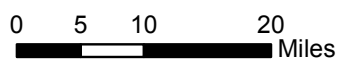
**Project 5G25-059-005**

**Tax Map: 098-3**

**Mount Vernon District**

**Affected Properties:**

**Proposed Improvements:**



LISTING OF AFFECTED PROPERTIES  
Project 5G25-059-005  
Silverbrook Rd./Southrun Rd. EB Left Turn Lane  
(Mount Vernon District)

<u>PROPERTY OWNER(S)</u>	<u>TAX MAP NUMBER</u>
1. Newington Commons Homeowners Association, Inc.  Address: Situated on northwest corner of Southrun Road at Silverbrook Road, Lorton, VA 22079	098-3-14-0000-E
2. Newington Commons Homeowners Association, Inc.  Address: Situated on northeast corner of Southrun Road at Silverbrook Road, Lorton, VA 22079	098-3-14-0000-F
3. Tae Hong Yi and Pil Nam Yi  Address: 8708 Silverbrook Road, Lorton, VA 22079	098-3-01-0003

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ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance  
Expanding the Oakton Residential Permit Parking District, District 19  
(Providence District)

ISSUE:

Board authorization to advertise a public hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Oakton Residential Permit Parking District (RPPD), District 19.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing.

TIMING:

The Board should take action on June 25, 2019, to advertise a public hearing for July 30, 2019, at 4:30 p.m.

BACKGROUND:

Section 82-5A-4(a) of *The Code of the County of Fairfax, Virginia*, authorizes the Board to establish RPPD restrictions encompassing an area within 2,000 feet walking distance from the pedestrian entrances and/or 1,000 feet from the property boundaries of an existing or proposed high school, existing or proposed rail station, or existing Virginia college or university campus if: (1) the Board receives a petition requesting the establishment or expansion of such a District, (2) such petition contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block face of the proposed District, and (3) the Board determines that 75 percent of the land abutting each block within the proposed District is developed residential. In addition, an application fee of \$10 per address is required for the establishment or expansion of an RPPD.

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Staff has verified that the petitioning blocks are within 2,000 feet walking distance from the pedestrian entrances and/or 1,000 feet from the property boundaries of Oakton High School, and all other requirements to expand the RPPD have been met.

FISCAL IMPACT:

The cost of sign installation is estimated to be \$950. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to the Fairfax County Code  
Attachment II: Map Depicting Proposed Limits of RPPD Expansion

STAFF:

Rachel Flynn, 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  
Henri Stein McCartney, Sr. Transportation Planner, FCDOT  
Charisse Padilla, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Cherie L. Halyard, Assistant County Attorney

Proposed Amendment

Amend *The Code of the County of Fairfax, Virginia*, by adding the following streets in Appendix G-19, Section (b), (2), Oakton Residential Permit Parking District, in accordance with Article 5A of Chapter 82:

*Edgelea Road (Route 783):*

From Oleander Avenue to Brightlea Drive, east side

From Courthouse Woods Court to the southern property boundary of  
2840 Edgelea Road, west side

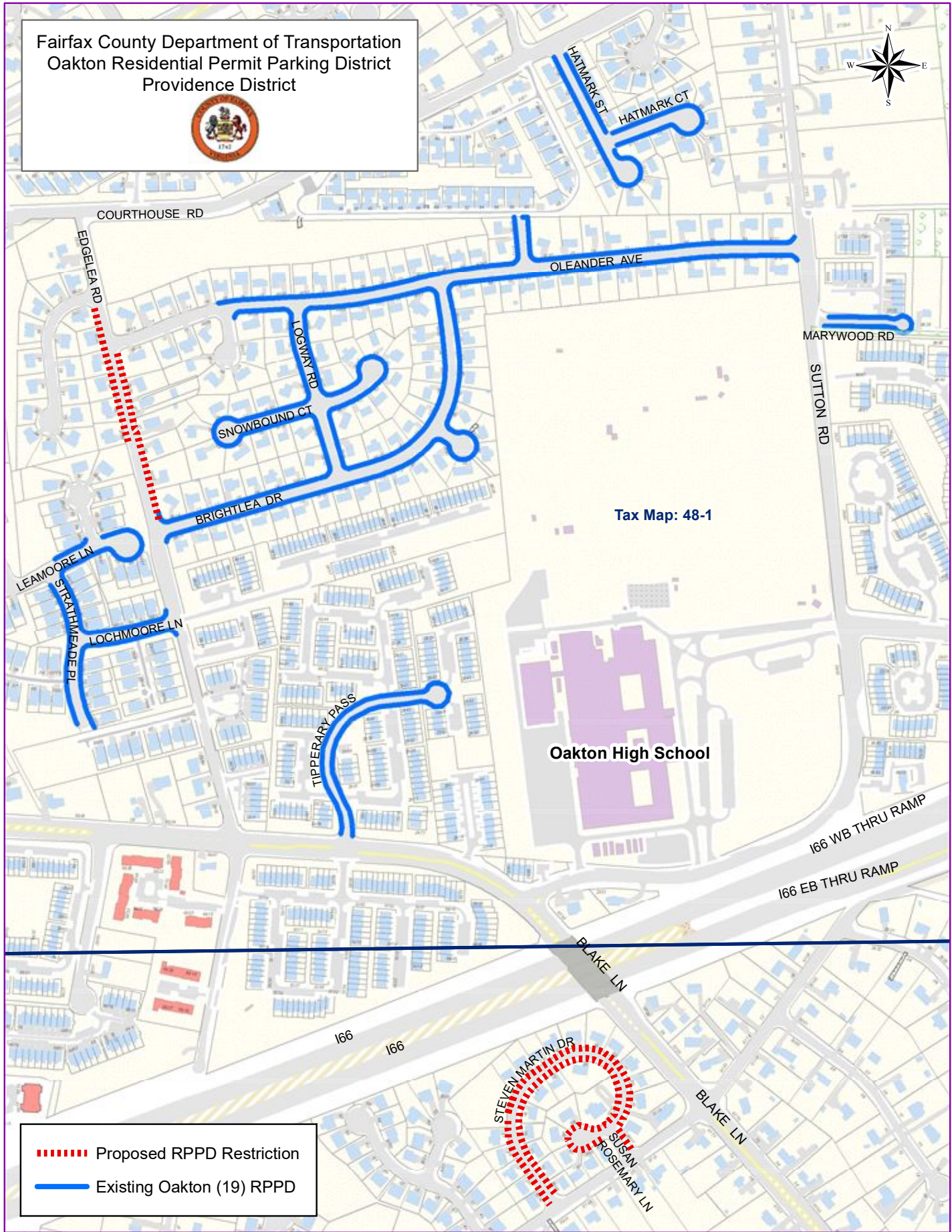
*Steven Martin Drive (Route 7761):*

From Five Oaks Road to the cul-de-sac inclusive

*Susan Rosemary Lane (Route 7760):*

From Five Oaks Road to Steven Martin Drive, east side

Fairfax County Department of Transportation  
Oakton Residential Permit Parking District  
Providence District



- Proposed RPPD Restriction
- Existing Oakton (19) RPPD



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June 25, 2019

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing on the Sale of 0.5 Million Gallons-Per-Day of Fairfax County's Unused Capacity at the Upper Occoquan Sewage Authority's Treatment Plant to the City of Manassas

ISSUE:

Authorization to advertise a public hearing to consider sale of a 0.5 million gallons-per-day (MGD) of Fairfax County's (County) unused capacity at the Upper Occoquan Sewage Authority's (UOSA) treatment plant to the City of Manassas to meet its growing need for additional treatment plant capacity.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing on July 16, 2019, at 3:00 p.m. to consider this sale.

TIMING:

Board action is requested on June 25, 2019, to advertise the proposed public hearing for sale of this capacity on July 16, 2019, at 3:00 p.m.

BACKGROUND:

The UOSA owns and operates a wastewater treatment plant that receives wastewater from its four member jurisdictions of Fairfax and Prince William counties, and the cities of Manassas and Manassas Park. The treatment plant has a total capacity of 54 MGD. The County's allocated capacity at the plant is 22.6 MGD. Our projection of future flows in the County portion of the UOSA's service area is 21.3 MGD. Current average daily flow is 16.8 MGD. Our current unused capacity is 5.8 MGD (22.6 – 16.8 = 5.8 MGD). After the sale of 0.5 MGD, our unused capacity will be 5.3 MGD. Staff believes this unused capacity will be enough to meet the County's future growth needs in the UOSA service area. Should at any time in the future the County's treatment capacity needs exceed its allocation, the treatment plant capacity can be expanded to meet the County's needs. Selling the unused capacity at this time recovers the County's cost of constructing this capacity and avoids paying for the up-coming upgrades at the plant for the capacity that is not projected to be used by the County.

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A public hearing is required in order to execute the capacity sales agreements between the County and the City of Manassas. Staff requests that the Board authorize the advertisement of the public hearing.

FISCAL IMPACT:

The sale price per 0.5 MGD of capacity at UOSA is \$13.1 million. The City of Manassas will initially pay the County \$8.2 million, which is the County's investment to date for constructing this capacity. Then the City will pay the debt service on the balance of the cost of constructing this capacity from 2020 to 2043, as outlined in the sale agreement. The proceeds from the sale of this capacity will go into the County's Integrated Sewer Fund and will be used in accordance with the terms of the Sewer Bond Resolution.

ENCLOSED DOCUMENTS:

Attachment I: Wastewater Capacity Sale and Purchase Agreement between the Board of Supervisors of Fairfax County and the City of Manassas, Virginia

STAFF:

Rachel Flynn, Deputy County Executive  
Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)  
Shahram Mohsenin, Director, DPWES, Wastewater Planning and Monitoring Division

ASSIGNED COUNSEL:

Emily H. Smith, Assistant County Attorney

**Attachment I**

**WASTEWATER CAPACITY SALE  
AND PURCHASE AGREEMENT**

**between**

**THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY**

**and**

**THE CITY OF MANASSAS, VIRGINIA**

**Dated \_\_\_\_\_, 2019**

## **Wastewater Capacity Sale and Purchase Agreement**

THIS AGREEMENT is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a body politic and corporate, hereinafter referred to as "Fairfax" and the CITY OF MANASSAS, VIRGINIA, a body politic and corporate, hereinafter referred to as "Manassas" (collectively referred to as the "Parties").

WITNESSETH:

WHEREAS, Fairfax, Prince William County, Manassas, and the City of Manassas Park are, as of the date of this Capacity Agreement, the current Participants to the UOSA Service Agreement, which provides for the delivery and treatment of wastewater at the UOSA Millard H. Robbins, Jr. Regional Water Reclamation Plant ("UOSA Plant"); and

WHEREAS, the UOSA Service Agreement provides, among other things, for the wastewater delivery and treatment capacity allocable to each respective Participant; and

WHEREAS, Fairfax has contracted with UOSA pursuant to the UOSA Service Agreement for 27.5999 million gallons per day of wastewater delivery and treatment capacity in the UOSA System; and

WHEREAS, Fairfax has determined that it has an available and unused wastewater Capacity Allocation in the UOSA Delivery System and the UOSA Plant that can be made available and used by the Participants using such facilities to meet the wastewater service area flow demands of such respective Participants; and

WHEREAS, Fairfax wants to offer a portion of its available unused wastewater delivery and treatment capacity to Manassas to assist Manassas in meeting the wastewater capacity needs of its respective service area; and

WHEREAS, the Parties realize the economic benefit of utilizing existing available wastewater treatment capacity to meet the wastewater treatment capacity requirements of the respective Participants' wastewater service areas to defer the construction of new wastewater treatment capacity; and

WHEREAS, in 2007, the Parties entered into a Wastewater Capacity Sale and Purchase Agreement whereby Fairfax sold 1 MGD (the "2007 Purchased Capacity") of its available unused wastewater delivery and treatment capacity to Manassas (the "2007 Capacity Agreement"); and

WHEREAS, the terms of this Agreement, except as to price, are substantially consistent with the terms of the 2007 Capacity Agreement, which UOSA approved in 2007;

WHEREAS, Manassas desires to secure more of the available unused wastewater delivery and treatment capacity that is currently allocated to Fairfax and which is an obligation of Fairfax with respect to the funding or payment of such capacity to UOSA; and

WHEREAS, Fairfax has the authority to enter into an agreement to sell a portion of the available unused wastewater delivery and treatment capacity to Manassas; and

WHEREAS, Manassas has the authority to enter into an agreement to purchase from Fairfax a portion of its available unused wastewater delivery and treatment capacity offered by Fairfax; and

WHEREAS, UOSA has advised the Parties that it will approve a reallocation of capacity consistent with § 2.2 herein;

NOW, THEREFORE, in consideration of the aforementioned premises, and of the mutual benefits to be derived therefrom, and of the respective undertakings, promises, and covenants of the Parties as hereinafter contained, and that the above recitals are true and correct and

incorporated herein by reference, the Parties mutually covenant, undertake, promise, and agree as follows:

ARTICLE I  
SHORT TITLE AND DEFINITIONS

SECTION 1.1        SHORT TITLE. This Agreement between Fairfax and Manassas shall be referred to as the “Capacity Agreement” or this “Agreement”.

SECTION 1.2        DEFINITIONS. The terms in this Section, for all purposes of this Capacity Agreement and any amendments or other changes thereto, shall have the following meanings:

1. “Adjusted Capacity Allocation” means the sum of Manassas’ Capacity Allocation, the Purchased Capacity, and the 2007 Purchased Capacity.
2. “Adjusted Capacity Allocation Percentage” means the Capacity Allocation Percentage adjusted for purposes of this Agreement to recognize the sale and purchase of the Purchased Capacity and the 2007 Purchased Capacity.
3. “Capacity” means the total capacity permitted by DEQ in the Certificate to Operate for the UOSA Plant expressed as the highest average of any 30 consecutive day flow.
4. “Capacity Allocation” means the allocation of Capacity in the UOSA Plant to which each Participant has the exclusive use and entitlement pursuant to the UOSA Service Agreement.
5. “Capacity Allocation Percentage” means the Capacity Allocation expressed on a percentage basis that is calculated using a Participant’s respective Capacity Allocation as the numerator and the Capacity as the denominator.
6. “DEQ” means the Virginia Department of Environmental Quality and / or the State Water Control Board or any other agency or agencies of the Commonwealth of Virginia or the United States that may succeed to their duties.
7. “Excess Flow” means the amount of wastewater flow delivered by Manassas to UOSA as metered at the Point of Delivery by UOSA that is greater than the Adjusted Capacity Allocation, as determined by the highest average of any 30 consecutive day flow.

8. "Fairfax Capacity Allocation" means the Capacity Allocation to which Fairfax is entitled under the UOSA Service Agreement.
9. "Force Majeure" includes, but is not limited to, acts of God, strikes, lockouts, or other industrial disturbances, acts of any public enemy, wars, blockades, riots, acts of armed forces, epidemics, delays by carriers, inability to obtain materials or rights-of-way on reasonable terms, acts or failures to act by public authorities not under the control of any party to this Agreement, or acts or failures to act by regulatory authorities.
10. "Meters", "metering", or "metered" means or refers to any device for measuring the flow of wastewater delivered to the UOSA System by the Participants.
11. "MGD" means millions of gallons per day.
12. "Occoquan Policy" means the DEQ State Water Control Board's Policy for Waste Treatment and Water Quality Management in the Occoquan Water shed, dated July 26, 1971, as the same has been or may be revised from time to time.
13. "Operating Costs" means all costs associated with operating the UOSA System and includes all costs of operation and maintenance, including indirect costs of administration and overhead, all as determined by UOSA.
14. "Participants" means the parties having a Capacity Allocation in the UOSA System in accordance with the UOSA Service Agreement, which parties include Fairfax County, Prince William County, the City of Manassas, the City of Manassas Park, and any other unit of local government which may be added in the future due to amendment, restatement, or modification of the UOSA Service Agreement.
15. "Permitted UOSA Plant Capacity" means the then current capacity permitted by DEQ pursuant to the issuance of a Certificate to Operate.
16. "Point of Delivery" means the location of the connections made by the Participants at any point along the UOSA Delivery System for the Participants' delivery of wastewater to UOSA for treatment and disposal.
17. "Purchased Capacity" means the amount of Fairfax Capacity Allocation that is purchased by Manassas in accordance with this Agreement.
18. "System Capacity" means the Capacity at the UOSA Plant and the Participants' implied capacity in the UOSA Delivery System necessary to deliver wastewater from the Point of Delivery to the UOSA Plant.

19. "Transfer Date" means the date that the Purchased Capacity is sold and made available by Fairfax and purchased by and transferred to Manassas for its exclusive use.
20. "UOSA" means the Upper Occoquan Sewage Authority, a public body politic and corporate duly created pursuant to the Virginia Water and Waste Authorities Act (Virginia Code §§15.2-5100 et seq.) by the Councils of the Cities (then Towns) of Manassas and Manassas Park and the Boards of Supervisors of Fairfax and Prince William Counties and a Certificate of Incorporation issued by the State of Corporation Commission of Virginia on April 1, 1971, as may be amended, restated, or modified from time to time.
21. "UOSA Bonds" means notes, bonds, bond anticipation notes, or other debt obligations of UOSA whether now outstanding or to be issued in the future.
22. "UOSA Delivery System" means the regional delivery system of trunk or interceptor sewers now existing or to be expanded, constructed, or modified that are now or will be owned, operated, and managed by UOSA for the transmission of wastewater from the respective Participant's sewer sheds or service areas to the UOSA Plant including, but not limited to, power supplies, pumping facilities, force mains, flow metering and measuring devices, storage facilities, and other related utility plant that are necessary to convey wastewater. Such facilities are in addition to the facilities that comprise the UOSA Plant that is owned, operated, or managed by UOSA.
23. "UOSA Existing Bonds" means the outstanding principal amount of the Regional Sewerage System Bonds, Series 1995A Bonds, Regional Sewerage System Revenue Bonds, Series 2010B, Virginia Resource Authority Loans 2011A and 2011B, Taxable Regional Sewerage System Revenue Refunding Bonds, Series 2013A, Regional Sewerage System Revenue Refunding Bonds, Series 2013B, Regional Sewerage System Revenue Refunding Bonds, Series 2014, Regional Sewerage System Revenue Bonds, Series 2016A, Regional Sewerage System Revenue Refunding Bonds, Series 2016B, and any other notes, bonds, bond anticipation notes or other debt obligations of UOSA issued prior to the Transfer Date, and any bonds issued to refund any of the bonds included in this definition.
24. "UOSA Existing Bonds Component" means the outstanding principal amount of the UOSA Existing Bonds that is allocable to the Capacity Allocation that is sold by Fairfax to Manassas.



25. "UOSA Liability" means the amount of existing and future UOSA Bonds and other related financial obligations for which the Participants are responsible for payment in accordance with the Capacity Allocation Percentage as referenced in the UOSA Service Agreement.
26. "UOSA Plant" means UOSA's Millard H. Robbins, Jr. Regional Water Reclamation Plant, now existing or as it may be expanded, constructed, re-rated, or modified that is owned, operated, or managed by UOSA, including administration buildings, plant offices, laboratory building, retention and ballast basins, power supplies, and necessary appurtenances and equipment, for the treatment of wastewater and the utilization or disposal of residuals and by-products in conformance with the requirements of the Occoquan Policy and DEQ.
27. "UOSA Service Agreement" means the UOSA Service Agreement dated as of the 15<sup>th</sup> day of May, 1972, as amended, restated, or modified from time to time, which, among other things, contractually obligates UOSA to provide wastewater delivery and treatment capacity and service to the Participants. A copy of the version of the UOSA Service Agreement in effect as of the date of this Agreement is included in Attachment A for reference.
28. "UOSA System" means the combination of the UOSA Plant and the UOSA Delivery System.

ARTICLE II  
SALE OF CAPACITY

SECTION 2.1        CAPACITY ALLOCATION TRANSFER. Fairfax agrees to sell and Manassas agrees to purchase 0.5 MGD of the Fairfax Capacity Allocation resulting from expansion of the UOSA Plant from 27.0 to 54.0 MGD, including expansion of the associated UOSA Delivery System, in addition to the 1.0 MGD of the Fairfax Capacity Allocation sold to Manassas under the 2007 Capacity Agreement. As between these Parties, the purchase of the additional 0.5 MGD of the Fairfax Capacity Allocation is considered as being permanent in nature and, as between these Parties, Manassas assumes all future responsibility for the UOSA Liability, including but not limited to the liability associated with the UOSA Existing Bonds Component, as it relates to the acquisition of Purchased Capacity, as of and subsequent to the Transfer Date. As between these Parties, Fairfax will be relieved of all UOSA Liability, including but not limited to the liability associated with the UOSA Existing Bonds Component, with respect to the sale of the Purchased Capacity as of and subsequent to the Transfer Date. As of the Transfer Date, the Parties will request UOSA to bill in accordance with the Adjusted Capacity Allocation Percentages as if the Capacity Allocations had been correspondingly revised in accordance with the UOSA Service Agreement. The Parties agree that for the 0.5 MGD of Capacity Allocation that is transferred from Fairfax to Manassas as of the Transfer Date, the Adjusted Capacity Allocation Percentage will be calculated as follows:

- A. For Fairfax's share of the total Permitted UOSA Plant Capacity:  
(Fairfax Capacity Allocation [27.5999 MGD] minus the Purchased Capacity\* / Permitted UOSA Plant Capacity [54.0 MGD])
- B. For Manassas's share of the total Permitted UOSA Plant Capacity:  
(Manassas Capacity Allocation [7.6893 MGD] plus 1.5 MGD) / Permitted UOSA Plant Capacity [54 MGD]

[\*For purposes of calculating Fairfax's Adjusted Capacity Allocation Percentage, Purchased Capacity will also include 1 MGD purchased by the City of Manassas from Fairfax in 2007, and 2 MGD purchased by Prince William County in each of 2007 and 2011 for a total of 5.5 MGD.]

The parties hereto acknowledge that the purchase and sale of the Purchased Capacity will not affect the Capacity Allocations or Capacity Allocation Percentages under the UOSA Service Agreement.

SECTION 2.2        NOTIFICATION OF TRANSFER. Execution of this Agreement will serve as notification by Fairfax and Manassas to UOSA of the intent to sell a portion of the Fairfax Capacity Allocation to Manassas. Upon execution of this Agreement, the Parties will provide a copy of this Agreement to UOSA and request, pursuant to § 5.4 of the UOSA Service Agreement that UOSA approve the reallocation of capacity set forth herein. Pursuant to § 5.4 of the UOSA Service Agreement (Attachment A), the Parties will further request UOSA to change the UOSA Plant capacity allocations on its books and records for billing purposes and bill in accordance with the transfer of capacity set forth in this Agreement. However, the Parties acknowledge that this Agreement does not in any way alter the Parties' underlying obligations under the UOSA Service Agreement. The Parties affirm that this Agreement is not an assignment or novation of the UOSA Service Agreement and does not reduce, change, or modify either Party's obligations under the UOSA Service Agreement.

SECTION 2.3        BILLING ADJUSTMENT DATE. The Billing Adjustment Date for the Purchased Capacity shall occur on the first day of the calendar year quarter (January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup>, or October 1<sup>st</sup>) subsequent to the execution of this Agreement by all Parties.

SECTION 2.4        ACQUISITION PRICE OF PURCHASED CAPACITY AND PAYMENT OF FUTURE COSTS. The acquisition price to be paid by Manassas for the purchase of 0.5 MGD will be based on all costs incurred by Fairfax with respect to the expansion of the UOSA Plant from 27.0 MGD to 54.0 MGD, including carrying interest cost for five years. The price per 0.5 MGD of the UOSA System Capacity is calculated to be \$ 8.22 million provided the remaining principal component of the debt service owed with respect to Purchased Capacity will be paid in future installments by Manassas as shown on Attachment B, which is made a part of this Agreement.

Manassas agrees the initial payment of \$ 8,220,297 for the Purchased Capacity will be due in total prior to the Transfer Date. Manassas further agrees it will incur a debt repayment obligation associated with the UOSA Existing Bonds Component in accordance with the payment schedule in Attachment B.

Each Party reserves the right to seek a change in the UOSA Service Agreement which reflects the sale of capacity set forth in this Agreement.

Manassas further agrees that it will be responsible for all future costs and charges invoiced by UOSA to Fairfax pursuant to §§ 6.1(b) and (c) and 6.3 and 6.4 of the UOSA Service Agreement, as may be amended from time to time, that are allocable to the Purchased Capacity. Specifically, Fairfax will charge Manassas for, and Manassas agrees to pay, all costs allocated and invoiced to Fairfax by UOSA for the Purchased Capacity. The amount to be charged by Fairfax to Manassas will be based on the following formula:

Capacity Costs multiplied by (Manassas Purchased Capacity / Current Fairfax Capacity Allocation)

Whereby:

Capacity Costs – all costs invoiced by UOSA to Fairfax pursuant to §§6.1(b) and (c) and §§ 6.3 and 6.4 of the UOSA Service Agreement, as may be amended from time to time, that are based on the Capacity Allocation Percentage as referenced in the UOSA Service Agreement;

Manassas Purchased Capacity – 0.5 MGD; and

Current Fairfax Capacity Allocation – the Capacity Allocation that is used by UOSA for the billing of obligations as set forth in §§ 6.1(b) and (c) and §§ 6.3 and 6.4 the UOSA Service Agreement, as may be amended from time to time. As of the date of this Agreement, the Current Fairfax Capacity Allocation is 27.5999

MGD. This capacity figure does not take into account the previous 5 MGD sale of capacity or the sale of 0.5 MGD capacity contemplated by this Agreement.

Unless and until an amendment to the UOSA Service Agreement is executed that recognizes the sale of capacity set forth herein, in addition to all obligations related to the 2007 Purchased Capacity, and based on the cost allocation formula shown above, Manassas will be responsible for 1.81% (0.5 MGD / 27.5999 MGD) of all existing and future costs associated with the issuance of additional bonds that are allocable to such capacity, the payment of the Cost of Replacements and Necessary Improvements (as defined in the UOSA Service Agreement and sometimes referred to and invoiced by UOSA as "reserve maintenance"), and any other costs that are invoiced by UOSA to Fairfax based on the Current Fairfax Capacity Allocation. The Parties expect that no later than the Billing Adjustment Date UOSA will invoice Manassas quarterly for such costs attributable to the Purchased Capacity using the Payment Schedule by Fiscal Year in Attachment B, but until UOSA begins invoicing Manassas for the Purchased Capacity, Fairfax will bill Manassas quarterly for all such future costs invoiced by UOSA to Fairfax that are attributable to the Purchased Capacity.

Manassas agrees that, subsequent to the Transfer Date, it will be liable for all future costs invoiced by UOSA to Fairfax that are attributable to the Purchased Capacity and agrees to pay Fairfax for such costs. Fairfax will invoice Manassas within 30 days after receipt of the quarterly UOSA invoice for such costs attributable to the Purchased Capacity. To the extent that Manassas does not compensate Fairfax for the future costs invoiced to Fairfax for the Purchased Capacity, then Fairfax shall have the right to impose interest on such unpaid amounts, which shall accrue at the highest rate of interest payable by UOSA on any of the bonds then outstanding until such amounts and interest thereon have been paid in full.

**SECTION 2.5 OPERATING COSTS ASSOCIATED WITH CAPACITY ALLOCATION.** Participants are responsible for all Operating Costs based on metered wastewater flow measured by metering at the Point of Delivery. Accordingly, all Operating Costs corresponding to the wastewater flow associated with the Purchased Capacity will be measured by metering at the Point of Delivery by UOSA and will be billed directly by UOSA to

Manassas. As between the Parties, in no event will Fairfax be responsible for the payment of any Operating Costs associated with the Purchased Capacity.

SECTION 2.6 COMPLIANCE WITH UOSA SERVICE AGREEMENT. Subject to § 2.2, and with respect to the Purchased Capacity acquired by Manassas and transferred by Fairfax, Manassas agrees to be in compliance with all its responsibilities as provided for in the UOSA Service Agreement as it relates to the operation and financing of the UOSA System. These compliance provisions include, but are not limited to, the payment of the allocated debt service payments on the UOSA Bonds, payment of rates for service, delivery of wastewater flows in accordance with the capacity and strength limits, and any other requirements as defined in the UOSA Service Agreement. It is acknowledged by the Parties that any default by Manassas with respect to the UOSA Service Agreement relating to the Purchased Capacity shall be, as between Fairfax and Manassas, the sole obligation and responsibility of Manassas. Fairfax retains all legal rights and remedies against Manassas to recover any and all monies Fairfax is obligated to pay to UOSA as a result of such default.

### ARTICLE III EXCESS FLOWS

SECTION 3.1 EXCESS FLOW ABOVE CAPACITY ALLOCATION. As a condition of this Agreement and in order to meet the service area wastewater requirements, Manassas has agreed to purchase a portion of the Fairfax Capacity Allocation for its specific use as discussed in Article II and has agreed not to utilize any additional amount of the Fairfax Capacity Allocation. Manassas and Fairfax recognize that in order to maintain equity and to provide fair compensation among the Participants, any time Manassas has an Excess Flow occurrence, as defined in § 1.2 above, Manassas shall compensate the Participant(s) that has(have) the available and unused Capacity Allocation which is effectively being used to meet Excess Flow demands. Accordingly, when Manassas has an Excess Flow occurrence it shall pay an additional charge as set forth in § 3.2. Manassas' Adjusted Capacity Allocation shall be used to determine whether an Excess Flow has occurred.

SECTION 3.2. PAYMENT FOR EXCESS FLOW. To the extent that Manassas has an Excess Flow occurrence, Fairfax may charge, and Manassas agrees to pay Fairfax, an amount equal to the Fairfax pro rata share of the amount to be calculated in accordance with this § 3.2; provided, however, that Fairfax agrees not to impose charges under this § 3.2 for any period that UOSA imposes charges pursuant to § 6.6 of the UOSA Service Agreement payable to Fairfax for Manassas Excess Flow. Fairfax will rely on UOSA data to determine the Manassas flows. Additional charges imposed by Fairfax, and paid by Manassas, in accordance with this § 3.2 do not purchase any capacity for Manassas in addition to the amounts purchased under this Agreement, nor do they condone such Excess Flows.

The payment for Excess Flow shall be calculated by multiplying the cost per MGD, based on UOSA's total annual Debt Service and Capacity (currently 54 MGD), by the amount of exceedance in MGD. To the extent that other Participants also have available and unused Capacity Allocation, Fairfax would only bill Manassas under this Agreement for the Fairfax pro rata share of the Excess Flow payment. Fairfax will notify Manassas of the amount of the Excess Flow and will invoice Manassas for the share of additional charges required under this § 3.2.

Attachment C further outlines the methodology which UOSA or Fairfax would use to determine whether an exceedance occurred and to calculate applicable additional charges.

#### ARTICLE IV MODIFICATION OF UOSA SERVICE AGREEMENT

SECTION 4.1 COMPLIANCE. Both Fairfax and Manassas, as Participants to the UOSA Service Agreement, shall continue to adhere to all terms, conditions, covenants, and requirements as outlined in the UOSA Service Agreement that are applicable to such Participants. While the Parties between themselves have altered their responsibilities for i) the change in the respective Capacity Allocation in the UOSA System for Fairfax and Manassas and the obligations associated with such changes in Capacity Allocation; and ii) the recognition of Excess Flows and the compensation to all Participants that provide the necessary Capacity

Allocation to meet such Excess Flow conditions, as between each Party and UOSA nothing in this Agreement shall modify, change, or adjust either Party's obligations under the UOSA Service Agreement and the ability to meet the policies and intent as defined in the Occoquan Policy.

ARTICLE V  
MISCELLANEOUS PROVISIONS

SECTION 5.1        NO PARTNERSHIP. It is not the purpose or the intention of this Agreement to create, and this Agreement shall not be construed as creating, a joint venture, partnership, or other relationship whereby either Party would be liable for the omissions, commissions, or performance of the other Party.

SECTION 5.2        WAIVER. The failure of either Party to insist on the performance of any of the terms and conditions of this Agreement, or any waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions of this Agreement, and the terms and conditions of this Agreement shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

SECTION 5.3        ENTIRE AGREEMENT; AMENDMENT. This Agreement including the recitals, which are incorporated by this reference, contains the entire Agreement between the Parties regarding the purchase of 0.5 MGD of the Fairfax Capacity Allocation by Manassas. No change or modification of this Agreement shall be valid unless the same is an amendment, in writing, signed by both Parties.

SECTION 5.4        GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.

SECTION 5.5        SEVERABILITY. The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any



provision of this Agreement is held to be invalid, the Parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both Parties subsequent to the expungement of the invalid provision.

SECTION 5.6 FURTHER ASSURANCE. The Parties shall execute and deliver such further instruments and do further acts and things as may be required to carry out the intent and purposes of this Agreement as may be reasonably requested by either Party.

SECTION 5.7 HEADINGS. The descriptive headings in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

SECTION 5.8 COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

SECTION 5.9 ASSIGNMENT. Neither Party may assign its rights under this Agreement to any person, entity, or other governmental or quasi-governmental body without the prior written consent of the other Party and UOSA.

SECTION 5.10 FORCE MAJEURE. With respect to the matters contemplated by this Agreement, neither Party shall be liable or responsible to the other as a result of any injury to property or as a result of inability to provide capacity, which was caused by any Force Majeure event.

SECTION 5.11 NOTICE. All notices or requests shall be in writing and shall be given by hand delivery or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Fairfax, to:

Wastewater Planning and Monitoring Division  
12000 Government Center Parkway, Suite 358  
Fairfax, Virginia 22035  
ATTN: Shahram Mohsenin, Director

With a copy to:

Office of the County Attorney  
12000 Government Parkway, Suite 549  
Fairfax, Virginia 22035  
ATTN: Elizabeth D. Teare, County Attorney

Or such persons and places as Fairfax may specify by notice. The date of the notice or request shall be the date of receipt, if delivered by hand, or the postmarked date thereof.

If to Manassas, to:

City of Manassas  
8500 Public Works Drive  
Post Office Box 560  
Manassas, Virginia 20110  
ATTN: Director of Utilities

With a copy to:

City of Manassas  
8500 Public Works Drive  
Post Office Box 560  
Manassas, Virginia 20110  
ATTN: Assistant Director/Water & Sewer

With a copy to:

City of Manassas  
8500 Public Works Drive  
Post Office Box 560  
Manassas, Virginia 20110  
ATTN: Finance Manager

Or such persons or places as Manassas may specify by notice. The date of the notice or request shall be the date of receipt, if delivered by hand, or the postmarked date thereof.

The use of electronic means of notification (e-mail) will not be considered as a method of providing notice for the purposes of this Agreement. Any Party may, by notice in writing given to the other, designate any further or different addresses to which subsequent notices, certificates

or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand or three days after the date mailed. Each Party to this Agreement shall have a continuing duty to promptly notify the other Party of any change to any of this information.

SECTION 5.12 EFFECTIVE DATE. This Agreement shall become effective upon the last date of the Parties executing this Agreement, as set forth here below.

**(Remainder of page intentionally left blank)**

IN WITNESS WHEREOF, the Parties hereto have caused this Wastewater Capacity Sale and Purchase Agreement to be executed, and their seals to be affixed and attested by their duly authorized officers, all as of the date appearing next to their signatures.

ATTEST: BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA

\_\_\_\_\_  
Clerk BY: \_\_\_\_\_  
Chairman

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

ATTEST: CITY OF MANASSAS, VIRGINIA

\_\_\_\_\_  
Clerk BY: \_\_\_\_\_

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

ATTACHMENT A

**Upper Occoquan Sewage Authority Restated and Amended UOSA Service Agreement**

(Agreement attached)

**RESTATED AND AMENDED SERVICE AGREEMENT**

THIS AGREEMENT, made as of the 15th day of May, 1972, and restated and amended herein, by and between the UPPER OCCOQUAN SEWAGE AUTHORITY (UOSA), a public body politic and corporate duly created pursuant to the Virginia Water and Waste Authorities Act, and the CITY OF MANASSAS and the CITY OF MANASSAS PARK, municipal corporations of the Commonwealth of Virginia, and the BOARD OF SUPERVISORS OF FAIRFAX COUNTY and the BOARD OF COUNTY SUPERVISORS OF PRINCE WILLIAM COUNTY, acting for and on behalf of said counties and the sanitary districts thereof, which are located in whole or in part within the Service Area (hereinafter defined) (such four parties being called collectively the Political Subdivisions and individually a Political Subdivision), provides that:

WHEREAS, the parties entered into a Service Agreement dated as of the 15th day of May, 1972 (the Service Agreement), providing for the treatment of sewage at a regional sewage treatment plant; and

WHEREAS, the Service Agreement has been amended and restated from time to time; and

WHEREAS, the parties desire to restate and amend their Service Agreement and to change the same as follows:

**ARTICLE I**

**Definitions and Warranties**

Section 1.1. The following words as used in this Agreement shall have the following meanings:

**"Act"** shall mean the Virginia Water and Waste Authorities Act (§15.2-5100, et seq., Code of Virginia of 1950, as amended, and as it may be amended from time to time).

**"Authority"** shall refer to any entity other than UOSA formed in accordance with the Act.

**"Auxiliary Facility"** shall mean any sewage treatment facility other than the UOSA Plant and the UOSA Delivery System, which is 1) limited to the treatment and/or disposal of Industrial Wastewater, 2) sponsored by a Political Subdivision, and 3) to remain at all times under the exclusive operation and control of UOSA.

**"Auxiliary Facility Agreement"** shall mean a written contract between UOSA and a sponsoring Political Subdivision(s) with respect to an Auxiliary Facility as set forth herein.

**"Auxiliary Facility Expense"** shall mean all expenses, obligations, damages, costs of whatever nature, including charges by UOSA for indirect costs of administration and overhead, whether directly or indirectly relating to an Auxiliary Facility, its construction, operation, maintenance, de-mobilization and consequential cost, expenses, and damages.

**"Bonds"** wherever used, shall include notes, bonds, bond anticipation notes or other debt obligations of UOSA whether now outstanding or to be issued in the future.

**"Cost"** when used with respect to the UOSA Plant and the UOSA Delivery System, shall mean the purchase price of any sewage treatment system or the cost of acquiring all of the capital stock of the corporation owning such system and the amount to be paid to discharge all of its obligations in order to vest title to the system or any part thereof in UOSA, the Cost of Replacements and Necessary Improvements, the cost of all lands, properties, rights, easements, franchises and permits acquired, the cost of all machinery

and equipment, financing charges, interest prior to and during construction and for one year after completion of construction, any deposit to any Bond interest and sinking fund reserve account, cost of engineering and legal services, plans, specifications, surveys, estimates of costs and of revenues, other expenses necessary or incident to the determining of the feasibility or practicability of any such acquisition, improvements, or construction, administrative expenses, and such other expenses as may be necessary or incident to the financing herein authorized, to the acquisition, improvements, construction or expansion of the UOSA Plant and the UOSA Delivery System. Any obligation or expense incurred by UOSA in connection with any of the foregoing items of cost and any obligation or expense incurred by UOSA prior to the issuance of Bonds by UOSA for engineering studies and for estimates of cost and of revenues and for other technical or professional services which may be utilized in the acquisition, improvement or construction or expansion of such system, may be regarded as a part of the cost of such system.

**"Cost of Replacements and Necessary Improvements"** when used with respect to the UOSA Plant and the UOSA Delivery System, shall mean the cost of acquiring, installing or constructing replacements and necessary improvements which do not increase the capacity or scope of the UOSA Plant and the UOSA Delivery System, and shall embrace the cost of all labor and materials, the cost of all lands, property, rights, easements, franchises and permits acquired which are deemed necessary for such acquisition, installation or construction, interest during any period of disuse during such acquisition, installation or construction, the cost of all machinery and equipment, financial charges, cost of engineering and legal expenses, plans, specifications, and such other expenses as may be necessary or incident to such acquisition, installation or construction.



"DEQ" shall mean the Virginia Department of Environmental Quality and/or the State Water Control Board or any other agency or agencies of the Commonwealth of Virginia or the United States, which may succeed to their duties.

"Industrial Wastewater" shall mean any water which, during manufacturing, processing or assembling operations, comes into direct contact with or results directly from the processes of production or use of any raw material, intermediate product or finished product. As used herein, the word sewage shall include Industrial Wastewater.

"Meters" shall mean any device for measuring the flow of sewage.

"mgd" shall mean million gallons per day based on the highest average of any 30 consecutive day flow.

"Occoquan Policy" shall mean the DEQ State Water Control Board's Policy for Waste Treatment and Water Quality Management in the Occoquan Watershed, dated July 26, 1971, as the same has been or may be revised from time to time.

"Points of Delivery" shall mean the location of the connections made by Political Subdivisions at any point along the UOSA Delivery System for the delivery of sewage to UOSA. Connections may be added or changed to other locations along the UOSA Delivery System only by agreement between UOSA and the Political Subdivisions making such connection.

"Political Subdivisions" shall mean the Cities of Manassas and Manassas Park, as municipal corporations of the Commonwealth of Virginia, and the Counties of Fairfax and Prince William, as counties of the Commonwealth, as they now or may be hereafter constituted.

**"Project"** shall mean UOSA's advanced waste treatment system, consisting of the UOSA Delivery System, the UOSA Plant, and Auxiliary Facilities approved and undertaken at the discretion of UOSA pursuant to the terms of this Agreement, including any replacements, modifications, improvements or authorized expansions.

**"Reserves"** shall mean (unless modified with the approval of all Political Subdivisions) all amounts held by UOSA as reserves which shall not exceed (1) an amount equal to the next year's estimated expenditures for operation and maintenance; (2) depreciation in a minimum amount required by law and the Trust Agreement; (3) funds necessary to pay principal (whether at maturity or by required sinking fund payment), premium, if any, and interest on the Bonds as they become due and payable; and (4) a margin of safety for making debt service payments not to exceed the highest year's payments for principal (whether at maturity or by required sinking fund payment), premium, if any, and interest on the Bonds.

**"Septage Receiving Facility"** shall mean that portion of the UOSA Plant, which accepts septage for treatment.

**"Service Area"** shall mean that portion of the watershed of Occoquan Creek and its tributaries lying above the confluence of Occoquan Creek and Bull Run, save and except the Cedar Run Watershed and that portion of the Occoquan Creek Watershed in Prince William County lying generally to the south of the centerline of Occoquan Creek, and being within the geographic boundaries of the Political Subdivisions. These geographic boundaries of the Service Area shall be determined more exactly from time to time by UOSA.

**"Trust Agreement"** shall mean, collectively, any resolution, trust agreement or indenture authorizing and securing Bonds to which UOSA is a party.

**"Trustee"** shall mean the trustee designated in any Trust Agreement.

**"UOSA"** shall mean the Upper Occoquan Sewage Authority, a public body politic and corporate duly created pursuant to the Act by the Councils of the Cities (then Towns) of Manassas and Manassas Park and the Boards of Supervisors of Fairfax and Prince William Counties and by a certificate of Incorporation issued by the State Corporation Commission of Virginia on April 1, 1971.

**"UOSA Delivery System"** shall mean the regional delivery system of trunk or interceptor sewers now existing or to be expanded, constructed or modified, owned and/or operated by UOSA, including power supplies, pumping facilities, force mains, flow measurement devices and retention basins, to transport sewage from Points of Delivery to the UOSA Plant, all as shown on Exhibit A attached hereto.

**"UOSA Plant"** shall mean the advanced waste treatment plant now existing and as it may be expanded, constructed, or modified, owned and operated by UOSA, including administration buildings, plant offices, laboratory building, retention and ballast basins, power supplies and necessary appurtenances and equipment, for the treatment of sewage and the utilization and/or disposal of residuals and by-products in conformance with requirements of the Occoquan Policy and DEQ.

**"VPDES Permit"** shall mean the Virginia Pollution Discharge Elimination System permit or any permit of a different name which may hereafter authorize what is now permitted by a VPDES permit.

Section 1.2. UOSA and the Political Subdivisions each represent and warrant that they have full power and authority to enter into and perform this Agreement.

## ARTICLE II

### Term of Agreement

Section 2.1. This Agreement shall remain in full force and effect until December 31, 2049, and thereafter as may be provided by concurrent resolution of the member Political Subdivisions, which are then parties thereto. This Agreement may not be terminated by or as to any party until December 31, 2012 and thereafter until all Bonds have been paid or provision made for their payment.

Section 2.2. Subject to the limitation of Section 2.1, and the fulfillment of all conditions therein, any party to this Agreement may withdraw from UOSA and terminate all of its obligations under this Agreement. No sponsoring Political Subdivision of an Auxiliary Facility may withdraw from UOSA so long as the Auxiliary Facility Agreement is in effect. No such termination shall become effective until three years after written notice thereof shall have been given to each of the other parties hereto. Withdrawal and termination by one Political Subdivision shall not terminate this Agreement as to any other Political Subdivision.

## ARTICLE III

### Financing, Construction and Operation of Facilities

Section 3.1. UOSA is authorized and directed to proceed with the expansion of the capacity of the UOSA Plant to 54 mgd and sewerage system improvements identified as Phases I, II, and III of the CH2M HILL Preliminary Engineering Report, dated July 1987

(PER) that are part of the UOSA Delivery System, the CH2M HILL "Cub Run Gravity Delivery System Evaluation", dated March 2004, and the Hazen and Sawyer "Flat Branch Delivery System Study", dated May 2005, and such other improvements as are necessary or beneficial to expand the UOSA Plant and Delivery System to 54 mgd.

Section 3.2. UOSA is authorized and directed to proceed with the expansion of the UOSA Flat Branch Delivery System from 54 mgd to 64 mgd as identified in the Hazen and Sawyer "Flat Branch Delivery System Study", dated May 2005, and such other improvements as are necessary to make related improvements to the UOSA Delivery System.

Section 3.3. UOSA is authorized and directed to proceed with the construction, alterations and improvements required by DEQ to install nutrient reduction facilities and systems in the UOSA Plant and such other improvements as are necessary or beneficial to ensure compliance with DEQ regulations.

Section 3.4 UOSA is authorized and directed to proceed with the construction, alterations and improvements referred to as "hydraulic improvements", which are only those improvements that are specifically identified in the CH2M HILL Technical Memorandum: "Basis for Hydraulic Improvements to the UOSA Regional Water Reclamation Plant", dated July 13, 2006, and such beneficial changes as are necessary to carry out the project identified therein and comply with regulatory requirements.

Section 3.5. UOSA has acquired approximately 210 acres of additional land in anticipation of its future needs. Such acquisition cost and/or debt shall be charged to the Political Subdivisions as may be necessary as an item specified in Section 6.1(c).

Section 3.6. UOSA shall direct the Trustee to deposit any balance of construction funds remaining from any issue of Bonds after completion of the improvements for which such Bonds were issued in a separate account pursuant to the Trust Agreement. Such funds shall be used and credited by UOSA as set forth in Section 6.4 (h).

Section 3.7. A Political Subdivision shall have the right to approve additional locations and capacity of sewer lines forming a part of the UOSA Delivery System, which are located within its boundaries and are not authorized by the expansion referenced in Section 3.1. UOSA shall not construct additional lines within a Political Subdivision without prior authorization of that Political Subdivision.

Section 3.8. UOSA shall expand (as herein authorized), operate and maintain the UOSA Plant and the UOSA Delivery System in an efficient and economical manner, making all necessary and proper repairs, improvements, replacements and renewals, consistent with good business and operating practices for comparable facilities and in accordance with applicable standards of DEQ and the Occoquan Policy.

#### ARTICLE IV

##### Obligations of Political Subdivisions

Section 4.1. The Political Subdivisions shall deliver to UOSA at Points of Delivery all sewage collected by them in the Service Area and, except as expressly permitted by this Agreement, shall not permit or provide for the treatment of sewage collected by them in the Service Area in any other manner. The Political Subdivisions shall be responsible for delivering sewage collected by them in the Service Area to UOSA at Points of Delivery and

for financing, construction, operation and maintenance of all facilities for the collection and delivery of sewage to Points of Delivery.

Section 4.2. The Political Subdivisions recognize that the capacity of the UOSA Plant will be regulated by DEQ and that allocations of UOSA Plant capacity will have to be made to avoid overloading. Each of the Political Subdivisions covenants and agrees not to exceed its UOSA Plant capacity as allocated from time to time. Each Political Subdivision has the primary responsibility for the necessary actions to insure that its wastewater flows to the UOSA Plant remain within such Political Subdivision's allocated share of DEQ certified flow capacity for the UOSA Plant.

Section 4.3. At such time as any Political Subdivision is advised by UOSA that its average flow for any consecutive thirty-day period during the past 48 months has reached 95% of its allocated capacity in the UOSA Plant, such Political Subdivision shall temporarily terminate the issuance of permits which allow start of construction on projects in that portion of the UOSA Service Area in the Political Subdivision until UOSA Plant capacity is increased by reason of reallocation, arrangements are made for sewage from the Service Area in excess of its allocation to be treated outside the Occoquan Watershed, or it is advised by UOSA that it may deliver additional sewage to UOSA.

Section 4.4. Each of the Political Subdivisions covenants and agrees to pay promptly, when due, charges of UOSA as determined pursuant to Article VI and billed to it from time to time; provided, however, that all such charges shall be payable solely from revenues received by each Political Subdivision (or transferee or Authority or other legal entity created thereby as described in Section 4.8) from the charges to be paid by the

users of its sewerage system and available to it for such purposes including availability fees, connection fees, service fees or any other fees, and other system revenues.

Section 4.5. Each of the Political Subdivisions covenants and agrees to fix and collect (or cause to be fixed and collected) from the users of its sewerage system charges sufficient to make the payments required of it under this Agreement. UOSA will provide each Political Subdivision with information as to the minimum charge necessary for such Political Subdivision's required payments.

Section 4.6. Each of the Political Subdivisions will endeavor to observe all applicable administrative and technical requirements contained in the Occoquan Policy or legally required by any authorized regulatory body, including UOSA. Upon receipt of a notice of violation by an authorized regulatory body, the Political Subdivision shall proceed to comply with such rules or regulations within a reasonable time considering the exigencies of the circumstances.

Section 4.7. Each of the Political Subdivisions covenants and agrees (subject to provisions of its charter, if applicable) that it will not enter into any contract providing for sewage treatment with any party having sewage flows originating within the geographic boundaries of other Political Subdivisions that are members of UOSA without the prior approval of such other Political Subdivision; provided, however, that such right of approval shall not be construed to limit the power of DEQ to fulfill its function under the law.

Section 4.8. (a) Each Political Subdivision agrees not to sell, transfer or dispose of its sewerage system unless:

(i) Such transfer is to another governmental unit within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended;



(ii) The transferee agrees to comply with the terms of this Agreement to the extent applicable to sewage delivered to UOSA;

(iii) The transferee agrees to fix and collect rates and charges sufficient to satisfy the obligation of the transferring Political Subdivision under Section 4.5;

(iv) The transferee agrees to make the payments to UOSA required to be made by the transferring Political Subdivision to the extent such payments are not made by the Political Subdivision; and

(v) The sale, transfer or disposition is approved by UOSA.

Notwithstanding the foregoing, no such sale, transfer or disposition will release the transferring Political Subdivision from any obligation or liability under this Agreement or affect any agreement or understanding between the Political Subdivision and the transferee.

(b) In the event that a Political Subdivision creates or has created an Authority or other legal entity to act as its agent, for the purposes of collecting sewage in the Service Area and/or for billing and collecting fees or charges to be paid by the users of a sewerage system located in the Service Area, such Political Subdivision shall not be relieved of its obligations under this Agreement. Such Political Subdivision shall require any Authority or other legal entity it creates to comply fully with this Agreement with respect to all sewage collected within the Service Area and shall nonetheless remain responsible for any noncompliance. The Political Subdivision shall cause such Authority or other entity to covenant and agree to fix and/or collect from the users of its sewerage system charges sufficient to make the payments required under this Agreement. A Political Subdivision

which creates or has created such an entity shall ensure that UOSA has the same rights as that Political Subdivision to enforce the setting and collecting of rates and the payment of charges to UOSA. To the extent that any such Authority or other legal entity agrees to charge, collect and pay all or any part of Political Subdivision's obligations to UOSA, such agreement shall supplement and not be in lieu of the Political Subdivision's covenant and agreement to charge, collect and pay UOSA as provided in this Agreement.

Section 4.9. All parties hereto and any Authority or other entity described in Section 4.8.(b) will pursue diligently the abatement of inflow and infiltration.

Section 4.10. (a) Notwithstanding anything to the contrary in this Agreement, UOSA may contract with a Political Subdivision(s) to undertake the operation and (with the agreement of UOSA and the sponsoring Political Subdivision(s)) ownership of an Auxiliary Facility sponsored by that Political Subdivision(s) pursuant to an Auxiliary Facility Agreement, when authorized and approved by unanimous consent of the UOSA Board, with all eight members present and voting, in its sole discretion after having confirmed by resolution that:

(i) UOSA has determined that such alternative disposal of Industrial Wastewater to the Auxiliary Facility shall not violate the Occoquan Policy; and

(ii) the Auxiliary Facility shall not be detrimental to UOSA, the water supply, the Project or the operation thereof.

(b) Notwithstanding any other provision of this Agreement, all Auxiliary Facility Expenses shall be the sole and full responsibility of the Political Subdivision(s) proposing and sponsoring such Auxiliary Facility. Any payment UOSA is

required to make as a consequence of its undertaking, ownership or operation of the Auxiliary Facility shall be conclusively deemed an expense chargeable to the sponsoring Political Subdivision(s) only and no other Political Subdivisions shall be responsible or required to reimburse UOSA for any expenses, obligations, damages, costs or liabilities whatsoever that are directly or indirectly associated with such Auxiliary Facility.

(c) In addition to such other terms as the Board may decide upon, the Auxiliary Facility Agreement shall include, and if not there set out shall be deemed to include, the following provisions:

(i) that any required VPDES permits shall be issued to UOSA and UOSA shall have all necessary authority to ensure compliance with such permits, relevant laws and regulations and the efficient operation and control of such Auxiliary Facility;

(ii) that the Political Subdivision(s) which sponsor(s) an Auxiliary Facility shall have the sole and full responsibility for all Auxiliary Facility Expenses, and neither UOSA shall be caused a diminution of revenue, nor the other Political Subdivisions be burdened with any Auxiliary Facility Expenses;

(iii) that the Political Subdivision(s) which sponsors(s) such Auxiliary Facility shall, to the full extent permitted by law, provide indemnification to, and hold harmless, UOSA and the other Political Subdivisions for all such expenses, obligations, damages, costs and liabilities, including attorney fees, court costs and litigation expenses in any way associated with claims or causes of actions arising out of the Auxiliary Facility or the enforcement of the hold harmless obligation and the right to indemnification;

(iv) that UOSA, in addition to all other rights by law or contract, shall have the right to terminate the operations of the Auxiliary Facility, upon reasonable notice to the sponsoring Political Subdivision, if any of the requirements of this Agreement or the Auxiliary Facility Agreement are breached by the sponsoring Political Subdivision;

(v) that the Political Subdivision(s) which sponsor(s) an Auxiliary Facility shall be responsible for financing, construction, operation and maintenance of all facilities for the collection and delivery of Industrial Wastewater to that Auxiliary Facility and for the conveyance of the treated effluent to the VPDES permit approved point of discharge.

(d) Any Political Subdivision, whether or not a party to an Auxiliary Facility Agreement, may sue to enforce the terms of such Auxiliary Facility Agreement. The party substantially prevailing in such litigation shall be awarded its reasonable attorneys fees and costs incurred with respect to the issues upon which it prevailed.

(e) Any Authority created by a Political Subdivision may be a party to any Auxiliary Facility Agreement to which the Political Subdivision is a party, with such rights, duties and obligations as the parties shall agree. In no event shall such an Auxiliary Facility Agreement be assignable without the written consent of UOSA and such assignment shall be only to another Political Subdivision.

(f) Delivery of Industrial Wastewater by a Political Subdivision to an Auxiliary Facility pursuant to this Section shall be deemed delivery to UOSA as required in Section 4.1 herein.

## ARTICLE V

### Obligations of UOSA

Section 5.1. Subject to the provisions of this Agreement, UOSA shall accept and treat all sewage delivered by the Political Subdivisions at Points of Delivery up to their respective allocated (or reallocated per Section 5.4) UOSA Plant capacities. UOSA shall also accept and treat septage delivered to the Septage Receiving Facility in accordance with Section 5.7. UOSA shall be under no obligation to treat sewage at the UOSA Plant delivered by any Political Subdivision in excess of its allocated (or reallocated per Section 5.4) UOSA Plant capacity. Subject to the other provisions of this Agreement, UOSA shall accept and treat Industrial Wastewater at any Auxiliary Facility in accordance with the terms of the respective Auxiliary Facility Agreement.

Section 5.2. UOSA shall not request DEQ certification for any additional UOSA Plant capacity for a specific Political Subdivision unless so requested by the governing body of such Political Subdivision. Any increase in certified UOSA Plant capacity shall be subject to UOSA and the Political Subdivisions meeting all applicable requirements of the Occoquan Policy. Any increase in certified UOSA Plant capacity shall be allocated to and paid for by Political Subdivisions requesting such increases in certification (to include reimbursement to the other Political Subdivisions for any capital contributions previously made in excess of the revised percentage allocations).

Section 5.3. Prior to DEQ issuing a Certificate to Operate the UOSA Plant at a capacity greater than 27 mgd, the capacity allocation was as follows:

Fairfax County	9.9149 mgd
Prince William County	8.6781 mgd
City of Manassas	6.6813 mgd
City of Manassas Park	1.7257 mgd
	27.0000 mgd

Section 5.4. Any Political Subdivision may reallocate any portion of its allocated UOSA Plant capacity to any other Political Subdivision on such terms as may be mutually agreeable, subject to approval of UOSA. The Political Subdivisions shall give UOSA written notice of any such transfer and UOSA shall change the UOSA Plant capacity allocations on its books and records. However, these reallocations shall not alter the obligations of each Political Subdivision as set forth in Sections 6.1(b) and (c) and Sections 6.3 and 6.4.

Section 5.5. At such time that DEQ issued a Certificate to Operate the UOSA Plant at a capacity greater than 27 mgd but less than 54 mgd, the allocation of the first 27 mgd was as set forth in Section 5.3 and the allocation of capacity above 27 mgd to 54 mgd was in the following percentages:

	<u>Percentage of Additional Capacity</u>
Fairfax County	65.5%
Prince William County	26.4%
City of Manassas	3.7%
City of Manassas Park	<u>4.4%</u>
	100.0%

Section 5.6 As of January 3, 2005, the date DEQ issued a Certificate to Operate the UOSA Plant at a capacity of 54 mgd, the allocation of capacity became as follows:

	<u>Total Capacity Allocation</u>	<u>Percentage of Total Capacity</u>
Fairfax County	27.5999 mgd	51.1109%
Prince William County	15.7971 mgd	29.2539%
City of Manassas	7.6893 mgd	14.2395%
City of Manassas Park	<u>2.9137 mgd</u>	<u>5.3957%</u>
	54.0000 mgd	100.0000%

Section 5.7. UOSA may, with the consent of the appropriate Political Subdivision and in accordance with rates lawfully established by UOSA, contract with and license any person, corporation or association operating a septic tank cleaning or similar service for the treatment of septage collected in a Political Subdivision. UOSA may also so contract with a Political Subdivision or an Authority which licenses septage haulers for the treatment of septage collected in a Political Subdivision and delivered to the septage Receiving Facility as long as such contract is in accordance with rates lawfully established by UOSA. All such septage shall be counted against the allocated UOSA Plant capacity of the appropriate Political Subdivision. Notwithstanding any provision in this Agreement to the contrary, UOSA shall allocate the costs of operating the Septage Receiving Facility in proportion to the amount of septage received from each Political Subdivision. All revenues derived from the use of the Septage Receiving Facility paid to UOSA from septage hauls originating in a Political Subdivision shall be deducted from that Political Subdivision's costs.

Section 5.8. UOSA covenants and agrees that it will endeavor to observe all applicable administrative and technical requirements contained in the Occoquan Policy or legally required by any authorized regulatory body. Upon receipt of a notice of violation by

any authorized regulatory body, UOSA shall proceed to comply with such rules and regulations within a reasonable time considering the exigencies of the circumstances.

## ARTICLE VI

### Rates and Charges

Section 6.1. UOSA shall fix and determine from time to time charges for the use of the UOSA Plant and UOSA Delivery System. Such charges shall be established by UOSA at such levels as may be necessary to provide funds, together with other available funds, sufficient at all time to pay:

- (a) the cost of operation and maintenance of
  - (1) the UOSA Plant, including reasonable reserves for such purposes, and
  - (2) the UOSA Delivery System, including reasonable reserves for such purposes;
- (b) the Cost of Replacements and Necessary Improvements of
  - (1) the UOSA Plant, including reasonable reserves for such purposes, and
  - (2) the UOSA Delivery System, including reasonable reserves for such purposes; and
- (c) the principal of, premium, if any, and interest on the Bonds, the Cost of the UOSA Plant and UOSA Delivery System not paid with Bond proceeds, or any



other monies due under the Trust Agreement, as the same become due, and required reserves therefore on Bonds issued to finance the Cost of

- (1) the UOSA Plant, and
- (2) the UOSA Delivery System.

Reserves accumulated by UOSA may be used to the extent permitted by the Trust Agreement to meet the reasonable Cost of Replacements and Necessary Improvements, which do not increase the capacity or scope of the UOSA Plant and UOSA Delivery System. The Political Subdivisions recognize that reserves may not be available at all times, and they may be billed for the Cost of Replacements and Necessary Improvements as needed.

Section 6.2. The total charges determined pursuant to Section 6.1(a) shall be paid by each Political Subdivision in proportion to the ratio, which its annual flow as metered through the Points of Delivery bears to the total annual flow received at the UOSA Plant. Indirect costs of administration and overhead shall be allocated on the same basis as Section 6.1(a) charges.

Section 6.3. Prior to the time DEQ issued a Certificate to Operate the UOSA Plant at a capacity greater than 27 mgd, the total charges determined pursuant to Section 6.1(b) were paid by each Political Subdivision in accordance with the following percentages:

Fairfax County	30.83%
Prince William County	33.03%
City of Manassas	21.19%
City of Manassas Park	14.95%

At such time as DEQ issued or will issue in the future a Certificate to Operate the UOSA Plant at a capacity greater than 27 mgd, the total charges determined pursuant to Section

6.1(b) shall be paid by each Political Subdivision in proportion to the ratio its maximum capacity allocation bears to the total maximum capacity allocation of all Political Subdivisions.

Section 6.4. The total charges determined pursuant to Section 6.1(c) shall be paid by each Political Subdivision in accordance with the following percentages:

(a) For all charges due or incurred under 6.1(c) for the construction and expansion of the UOSA Plant and Delivery System up to 27 mgd:

Fairfax County	30.83%
Prince William County	33.03%
City of Manassas	21.19%
City of Manassas Park	14.95%

(b) For all charges due or incurred under 6.1(c) for expanding the UOSA Plant and Delivery System from 27 mgd to 54 mgd:

	I Plant <u>Expansion</u>	II Delivery System <u>Expansion *</u>
Fairfax County	65.5%	51.1109%
Prince William County	26.4%	29.2539%
City of Manassas	3.7%	14.2395%
City of Manassas Park	4.4%	5.3957%

\* Identified as Sewerage System Improvements Phases I, II and III in the CH2M HILL Preliminary Engineering Report dated July 1987 (PER), the CH2M HILL "Cub Run Gravity Delivery System Evaluation", dated March 2004, and the Hazen and Sawyer "Flat Branch Delivery System Study", dated May 2005, and related Costs.

(c) For all charges due or incurred under 6.1. (c) for expanding the UOSA Flat Branch Delivery System from 54 mgd to 64 mgd:

Prince William County	90%
City of Manassas	10%

The Flat Branch Delivery System costs for expanding from 54 mgd to 64 mgd shall be calculated as 9.3 percent of the total costs for the projects identified in the Hazen and Sawyer engineering analysis, dated July 12, 2005. The remainder, or 90.7 percent, of the total costs identified in that analysis are associated with expanding the Flat Branch Delivery System from 27 mgd to 54 mgd and shall be charged based on the UOSA Delivery System percentage shown in Section 6.4. (b).

(d) For all charges due or incurred under 6.1 (c) for incorporating nutrient reduction facilities and systems into the UOSA Plant authorized by Section 3.3:

Fairfax County	45.5554%
Prince William County	32.9576%
City of Manassas	16.0913%
City of Manassas Park	5.3957%

(e) For all charges due or incurred under 6.1. (c) "Hydraulic Improvements" authorized by Section 3.4:

Fairfax County	28.52%
Prince William county	57.13%
City of Manassas	12.44%
City of Manassas Park	1.91%

Pursuant to the CH2M HILL Technical Memorandum: "Basis for Hydraulic Improvements to the UOSA Regional Water Reclamation Plant", dated July 13, 2006, the Section 3.4. Hydraulic Improvements are based on peak flows of 95 mgd from UOSA's Flat Branch Pump Station and peak flows of 68.5 from pump stations within Fairfax County, for a total

peak flow of 163.5 mgd. The Political Subdivisions agree that should additional peak flows necessitate additional hydraulic capacity improvements beyond those identified in the Technical Memorandum, the cost of such additional hydraulic capacity improvements shall be borne by the Political Subdivision(s) which generates the necessity for such additional improvements.

(f) All charges due or incurred under 6.1. (c) for any Cost of Replacements and Necessary Improvements (including repairs and renewals) for which Bonds are issued shall be paid by each Political Subdivision in proportion to the ratio its maximum capacity allocation bears to the total maximum capacity allocation, as set forth in the then current Certificate to Operate, of all the Political Subdivisions.

(g) A Political Subdivision may pre-pay its debt service obligations so long as such pre-payment does not affect adversely the tax status of any Bonds. UOSA, at its option, may apply all or a portion of any such pre-payment and any earnings therefrom (1) to the subsequent debt service obligations of the pre-paying Political Subdivision as they become due, or (2) to effect a redemption of all or a portion of such Political Subdivision's share of outstanding Bonds. In the event of any such redemption, the pre-paying Political Subdivision's share of debt service obligations (with respect to the Bond issue of which the redeemed Bonds were a part) shall be reduced correspondingly by the amount of the redemption.

(h) Subject to the provisions of the Trust Agreement, residual funds from past or future Bond offerings shall be applied to authorized expansions or Costs of Replacements or Necessary Improvements and shall be credited toward each Political

Subdivision's obligation in proportion to the Political Subdivision's obligations in Article VI on the project or projects from which the funds are derived.

Section 6.5. Should DEQ certify additional capacity in the UOSA Plant after a request from a Political Subdivision or Political Subdivisions upon approval by UOSA, the total charges for Section 6.1(c) shall be adjusted as outlined in Section 5.2. The charges determined pursuant to Section 6.1(c) for any additional UOSA Plant capacity added in the future shall be paid in accordance with the maximum capacity allocation specified by the amendment to this Agreement which authorize such additions, or as otherwise provided in such amendments.

Section 6.6. The charges pursuant to Section 6.1(c) to be paid by a Political Subdivision shall be increased for each month the actual quantity of sewage from such Political Subdivision, as determined by the highest average of any 30 consecutive day flow ending during the calendar month, exceeds its UOSA Plant capacity allocation (or reallocation pursuant to Section 5.4 or Section 6.5). In such an event, a Political Subdivision shall pay additional charges ("Additional Charges") pursuant to Section 6.1(c) as if the UOSA Plant capacity had been available and allocated, provided that such Additional Charges shall not purchase any additional rights for the use of the UOSA Plant by such Political Subdivision and in no way condones such excess flows. These Additional Charges shall be applied to the reimbursement, on a pro rata basis, to such other Political Subdivisions to the extent their highest average of any 30 consecutive day flow ending during that calendar month was less than their allocated capacity . To the extent the Additional Charges exceed such reimbursement, they shall be deposited in an escrow account to be used for the purposes of defraying the Cost of expansion, capital

improvements or studies of future expansions of the UOSA Plant and UOSA Delivery System. Any reimbursements under this section shall not alter the Political Subdivision's obligation to pay its share of the charges required by Section 6.1. (c).

Section 6.7. No Political Subdivision shall discharge sewage to UOSA which exceeds its allocated share (or reallocated share pursuant to Section 5.4 or Section 6.5) by weight or concentration of the total design capacity of the UOSA Plant or cause UOSA to exceed any lawful limitations imposed upon its discharge. A Political Subdivision's allocated share of the total designed UOSA Plant loadings shall be the same percentage as its allocated percentage of total UOSA Plant design flow (mgd). At such time as any Political Subdivision is advised by UOSA that its pollutant discharge exceeds its allocated share of total designed UOSA Plant loadings, such Political Subdivision shall proceed to take such measures as may be necessary to bring its discharges into compliance and shall temporarily terminate the issuance of permits which would result in any increase in the excessive loading in that portion of the UOSA Service Area in the Political Subdivision until its allocated share of total UOSA Plant loadings is increased by reason of reallocation or it is advised by UOSA that it may deliver additional sewage to UOSA. During the period of noncompliance, UOSA may assess the Political Subdivision costs for the treatment of the excess loading. All monitoring costs during the noncomplying period shall be borne by the noncomplying Political Subdivision.

Section 6.8. UOSA may present charges (including charges with respect to Auxiliary Facilities) based on budget estimates, subject to adjustment on the basis of an independent audit at the end of each fiscal year. All charges of UOSA shall be payable upon presentation. In the event any Political Subdivision shall fail to make payment in full

within 30 days after presentation, interest on such unpaid amounts shall accrue at the highest rate of interest payable by UOSA on any of the Bonds then outstanding until such amounts and interest thereon have been paid in full. UOSA may enforce payment by any remedy available at law or in equity.

Section 6.9. UOSA shall provide Meters where necessary to determine and record on a continuing basis the quantities of sewage delivered by each Political Subdivision. Meters shall be tested by UOSA for accuracy not less than once every two years. At the request of any Political Subdivision, UOSA shall test any Meter for accuracy at any time; provided, however, that should such Meter prove to be accurate within a range of plus or minus 2%, the cost of the Meter test shall be borne by the requesting Political Subdivision. In the event any Meter shall fail to record correctly the flow of sewage for any period of time, UOSA shall estimate the amount of flow on the basis of prior experience.

Section 6.10. Notwithstanding anything in this Agreement to the contrary:

(a) Industrial Wastewater delivered to and treated at an Auxiliary Facility shall not be considered as flows to the UOSA Plant for the determination of allocated capacity in the UOSA Plant or as annual flows received at the UOSA Plant for the determination of rates and charges under Section 6.2; and

(b) All Auxiliary Facility Expenses, which are the full responsibility of the Political Subdivision(s) proposing and sponsoring such Auxiliary Facility, shall be budgeted, presented and collected by UOSA from the sponsoring Political Subdivision separate from and in addition to the other charges established by this Article VI.

## ARTICLE VII

### Miscellaneous

Section 7.1. This Agreement restates and amends the prior Service Agreement.

Section 7.2. It is recognized by the parties hereto that this Agreement constitutes an essential part of UOSA's financing plan and that this Agreement cannot be amended, modified, or otherwise altered in any manner that will impair or adversely affect the security afforded hereby for the payment of the principal of, premium, if any, and interest on the Bonds, except as provided in the Trust Agreement. The obligations of the Political Subdivisions hereunder or the issuance of the Bonds shall not be deemed to constitute a pledge of the faith and credit of the Commonwealth or of any Political Subdivision thereof. The Bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any county, city or town of the Commonwealth are pledged to the payment of the principal of or the interest on such Bonds. The issuance of the Bonds shall not directly or indirectly or contingently obligate the Commonwealth or any county, city or town of the Commonwealth to levy any taxes whatever therefor or to make any appropriations for their payment.

Section 7.3. This Agreement can be modified or amended only with the consent of UOSA, the Political Subdivisions and the Trustee.

Section 7.4. UOSA shall keep proper books and records in accordance with accepted accounting practices which shall be available for inspection at all reasonable times by the Political Subdivisions through their duly authorized agents. UOSA shall cause an annual audit of its books and records to be made by an independent certified public



accountant at the end of each fiscal year and a certified copy thereof to be filed promptly with the governing body of each of the Political Subdivisions.

Section 7.5. The provision of sewer service to the screened area shown on the plat, dated April, 1981, attached hereto as Exhibit B and made a part hereof, by an entity other than UOSA shall not be considered a violation of this Agreement, such area being more particularly described as follows:

Beginning at the southeast corner of the property located on Fairfax County Tax Map 68-1 ((1)) parcel 13, then running along the western right-of-way of Route 123 in a northerly direction approximately 1,900 feet to the centerline of Route 620-Braddock Road, then continuing along the western right-of-way line of Route 123 in a northeasterly direction approximately 2,600 feet to the northeast corner of property located at tax map No. 57-3 ((1)) parcel 7A; then following from said corner for approximately 1,400 feet in a northwesterly direction, then 600 feet in a southwesterly direction and 550 feet in a northerly direction to a corner common to George Mason University [tax map 57-3 ((1)) parcel 7A] and Richlynn Development, Inc. (University Square Subdivision) then along the George Mason University property line as follows: for approximately 1,900 feet in a northwesterly direction, approximately 2,750 feet in a southwesterly direction to the northern right-of-way line of Route 620-Braddock Road, then along said right-of-way line in a southeasterly direction for approximately 1,400 feet to the East Fork of Popes Head Creek; then across Braddock Road in a southeasterly direction along the property line of Hazel [tax map No. 68-1 ((1)) parcel 16] for approximately 2,000 feet; then in a southeasterly direction along the properties of Hazel and others for approximately 2,100 feet to the point of beginning, containing approximately 360 acres.

At such time as the UOSA Delivery System is extended to serve the above-described area, such area shall be served by UOSA.

Section 7.6. This Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties hereto and their respective successors.

Section 7.7. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect any other provision hereof.

Section 7.8. This Agreement shall be executed in several counterparts, any of which shall be regarded for all purposes as one original.

Section 7.9. This Agreement shall become effective upon the last date of the parties executing this Agreement, as set forth here below.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be restated, amended and executed, and their seals to be affixed and attested by their duly authorized officers, all as of the date appearing next to their signatures.

UPPER OCCOQUAN SEWAGE AUTHORITY

Date: 12-6-7

BY: Frederick G. Tate

(SEAL)  
ATTEST:

CITY OF MANASSAS

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

Section 7.9. This Agreement shall become effective upon the last date of the parties executing this Agreement, as set forth here below.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be restated, amended and executed, and their seals to be affixed and attested by their duly authorized officers, all as of the date appearing next to their signatures.

UPPER OCCOQUAN SEWAGE AUTHORITY

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

BY: \_\_\_\_\_

(SEAL)  
ATTEST:

CITY OF MANASSAS

*Antoinette M. Elgart, Deputy*  
City Clerk

BY: *[Signature]*  
Mayor

Date: *September 25, 2007*

(SEAL)  
ATTEST:

CITY OF MANASSAS PARK

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

(SEAL)  
ATTEST:

Lana A. Conner  
City Clerk

Date: 11-20-07

CITY OF MANASSAS PARK

BY: [Signature]  
Mayor

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk

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

BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA

BY: \_\_\_\_\_  
Chairman

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk

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

BOARD OF COUNTY SUPERVISORS OF  
PRINCE WILLIAM COUNTY, VIRGINIA

BY: \_\_\_\_\_  
Chairman

(SEAL)  
ATTEST:

CITY OF MANASSAS PARK

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

(SEAL)  
ATTEST:

BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA

*Nancy Velus*  
\_\_\_\_\_  
Clerk

BY: *[Signature]*  
\_\_\_\_\_  
Chairman

Date: October 29, 2007

(SEAL)  
ATTEST:

BOARD OF COUNTY SUPERVISORS OF  
PRINCE WILLIAM COUNTY, VIRGINIA

\_\_\_\_\_  
Clerk

BY: \_\_\_\_\_  
Chairman

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

(SEAL)  
ATTEST:

CITY OF MANASSAS PARK

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

(SEAL)  
ATTEST:

BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA

\_\_\_\_\_  
Clerk

BY: \_\_\_\_\_  
Chairman

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

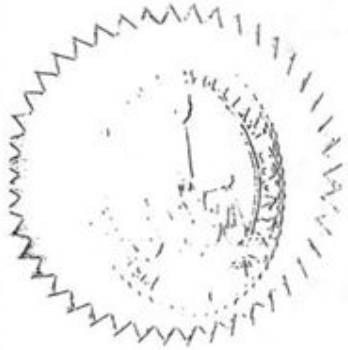
(SEAL)  
ATTEST:

BOARD OF COUNTY SUPERVISORS OF  
PRINCE WILLIAM COUNTY, VIRGINIA

*Phillip J. Campbell*  
Clerk

BY: *Cy Alston*  
Chairman

Date: 12/04/07



APPROVED AS TO FORM  
COUNTY ATTORNEY  
*Ronald Hester*  
DATE: 12/3/07

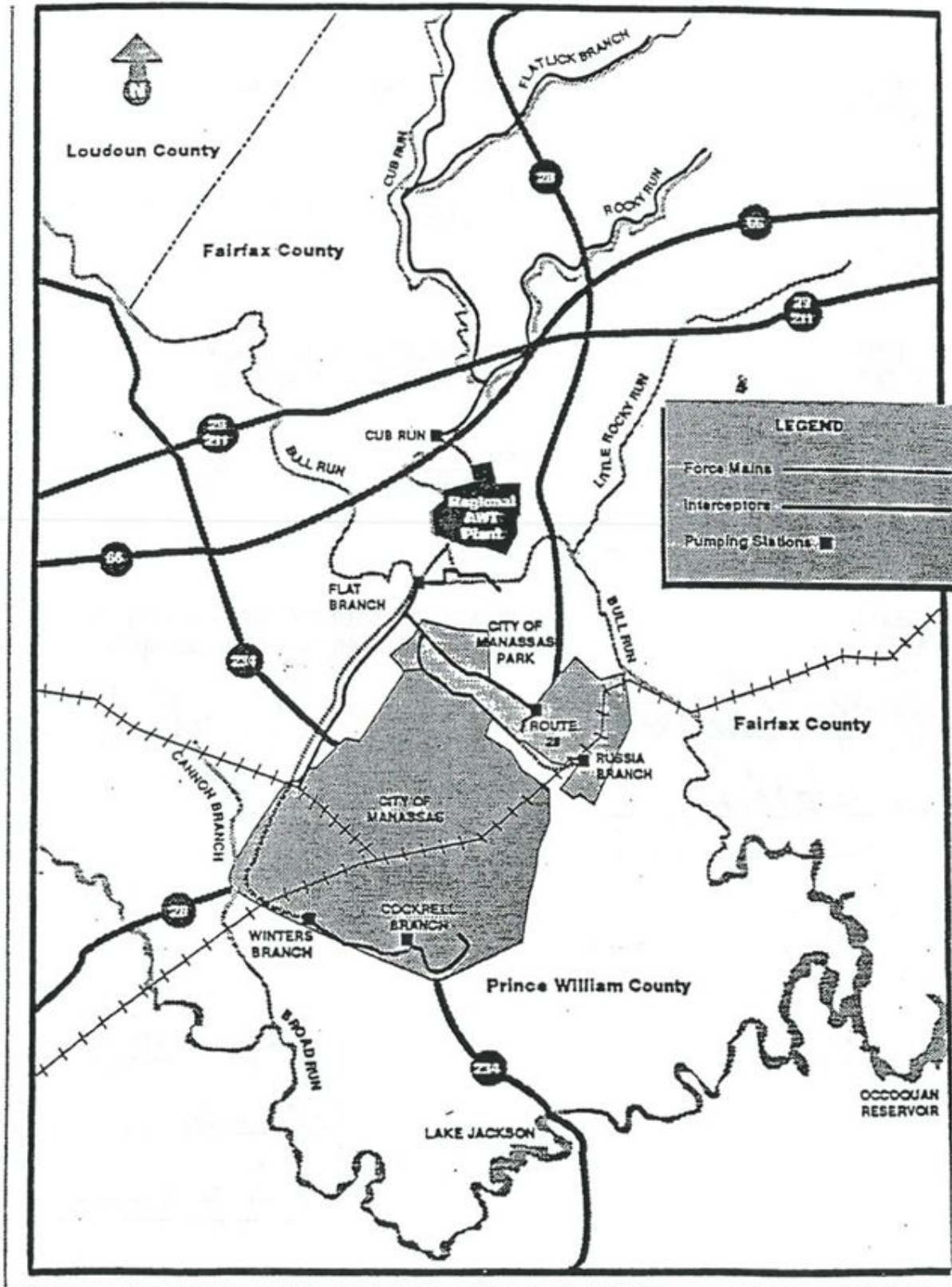


EXHIBIT A

General Location Map  
UOSA Delivery System

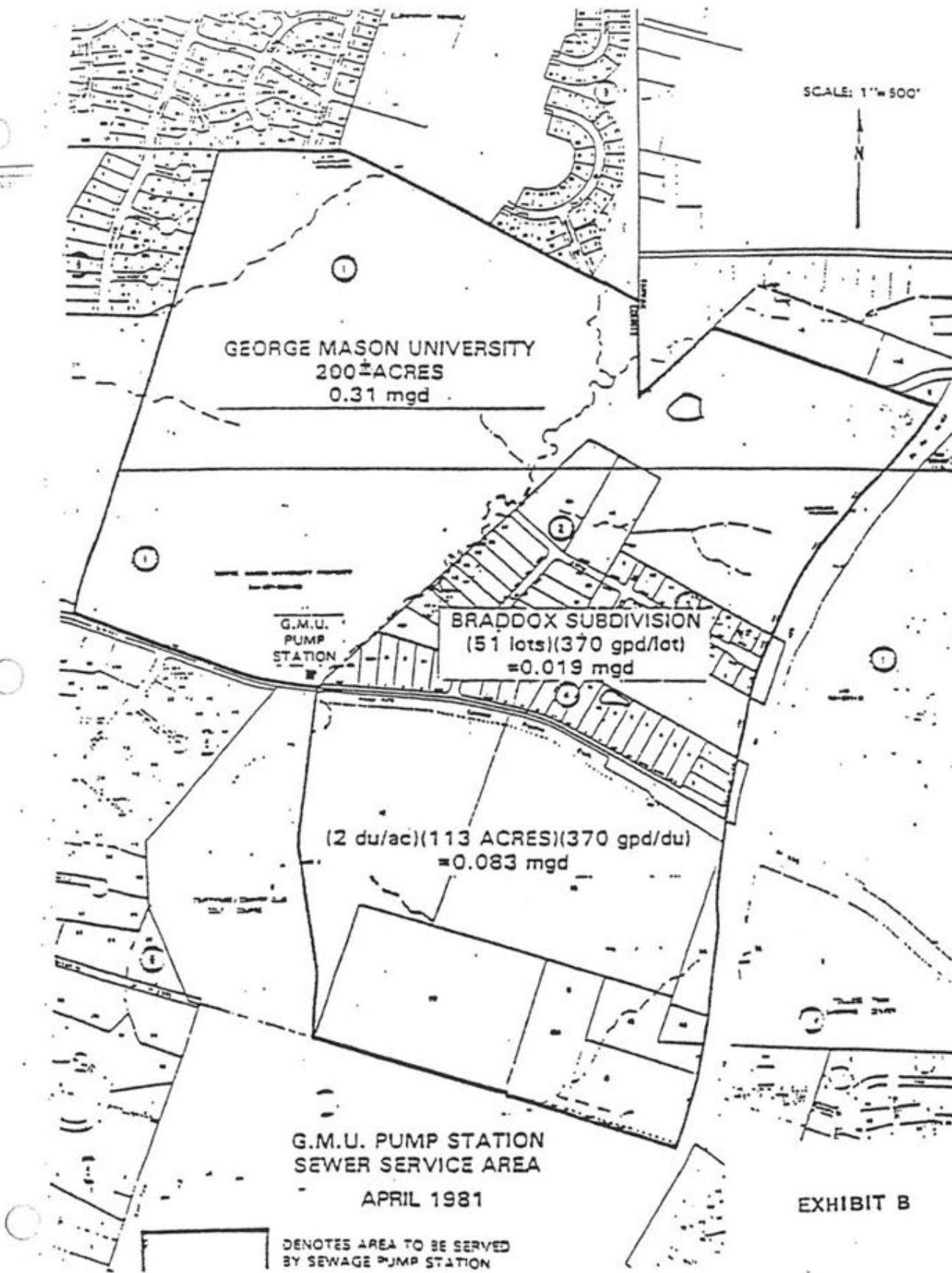


EXHIBIT B



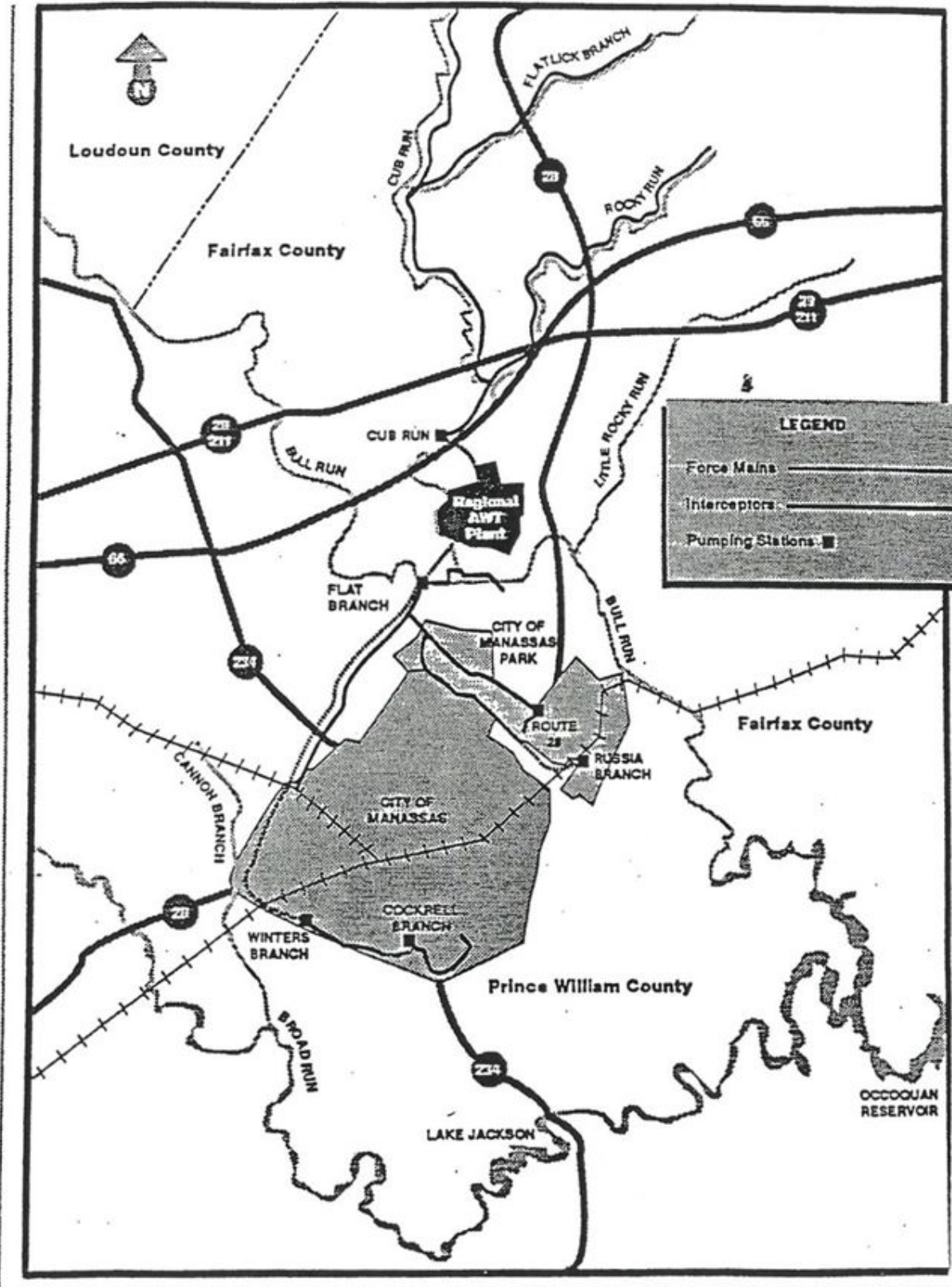


EXHIBIT A

General Location Map  
UOSA Delivery System

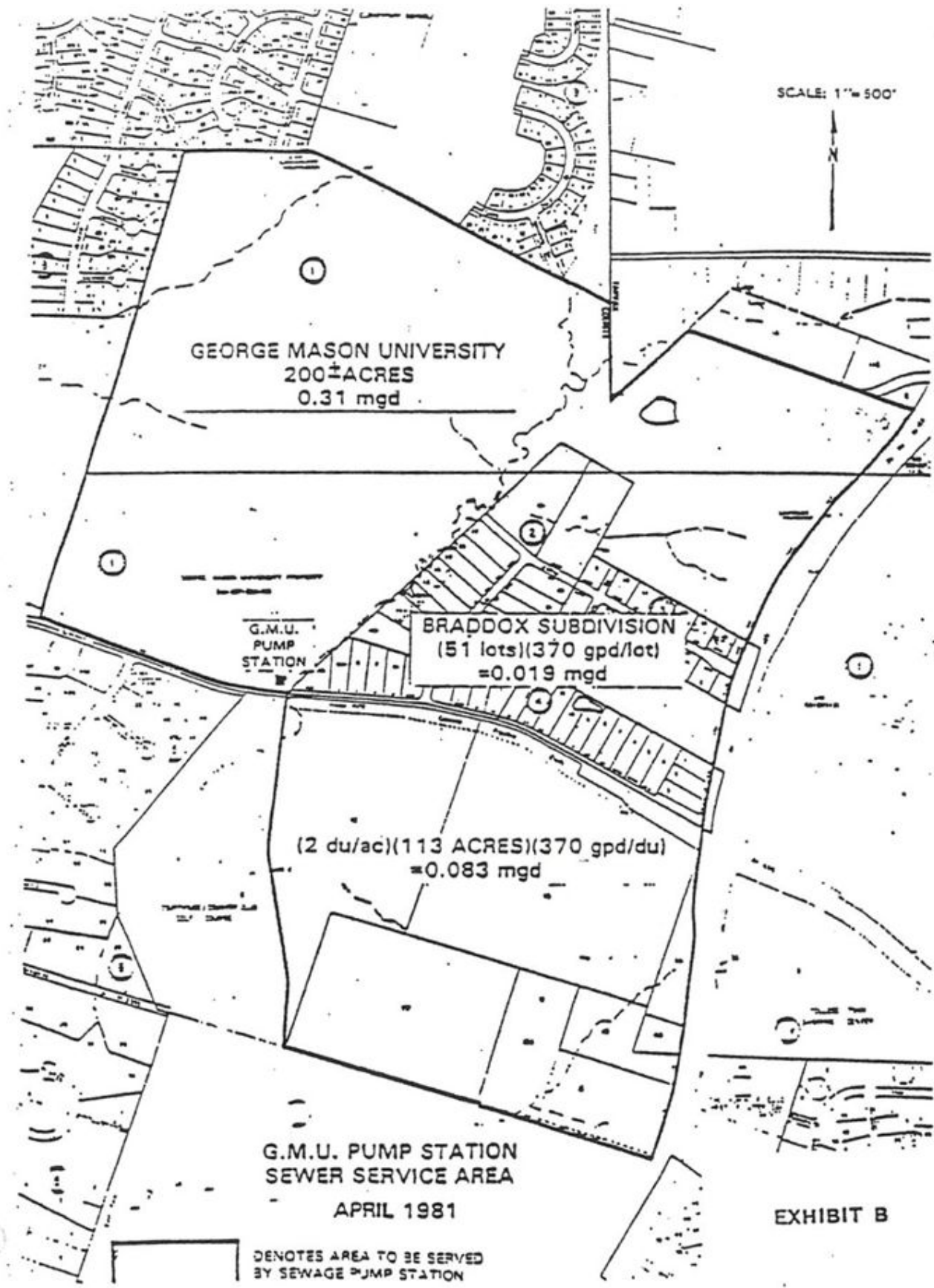


EXHIBIT B



## Upper Occoquan Service Authority

*Leader in Water Reclamation and Reuse*

14631 COMPTON ROAD, CENTREVILLE, VIRGINIA 20121-2506 (703) 830-2200

Charles P. Boepple  
Executive Director

Michael D. Reach  
Deputy Executive Director

August 11, 2015

Mr. William Patrick Pate  
City Manager  
City of Manassas  
9027 Center Street  
Manassas, Virginia 20110

Mr. Edward L. Long, Jr.  
County Executive  
Fairfax County  
12000 Government Center Parkway  
Suite 552  
Fairfax, Virginia 22035

Ms. Kimberly L. Alexander  
City Manager  
City of Manassas Park  
One Park Center Court  
Manassas Park, Virginia 20111

Ms. Melissa S. Pecor  
County Executive  
Prince William County  
1 County Complex Court  
Prince William, Virginia 22192

RE: UOSA Service Agreement Amendment

Ladies and Gentlemen:

Enclosed is a fully executed copy of the Amendment to the Revised and Restated Service Agreement which UOSA requested each of your jurisdictions to adopt.

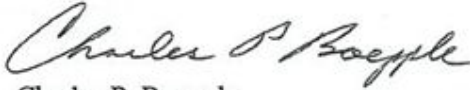
Concisely, the Amendment provides an option for a UOSA member Political Subdivision to cash fund all or a portion of that member's respective costs for a future planned UOSA bond financing. The Amendment requires certain conditions to be met so that the existing bond holders' rights are not impaired as well as making such a financing cost neutral to the jurisdictions that need to borrow funds. In addition, the Amendment permits officers of a Political Subdivision to execute continuing disclosure agreements with respect to series of Bonds without prior governing body action of the Political Subdivision in each instance.

The effort to amend this document has involved the participation of many individuals and organizations over the past eighteen months. On behalf of the UOSA Board of Directors and UOSA Legal Counsel, I would like to extend our appreciation to you, your Attorneys and other staff members for their contributions and participation in this process.

UOSA Service Agreement Amendments  
August 11, 2015  
Page 2 of 2

Please contact me if you have any questions or would like additional information.

Sincerely,



Charles P. Boepple  
Executive Director

Enclosure (1)

CPB/jm

cc: Sally Ann Hostetler, UOSA Legal Counsel  
UOSA Board of Directors  
Jeff Kent, Financial Manager, County of Fairfax DPWES  
Michelle Attreed, Director of Finance, County of Prince William  
Tony Dawood, Acting Director of Utilities, City of Manassas  
Lana Connor, City Clerk, City of Manassas Park

**2014 AMENDMENT TO  
RESTATED AND AMENDED SERVICE AGREEMENT**

**THIS 2014 AMENDMENT AGREEMENT** (this "Amendment"), made as of the 5<sup>th</sup> day of Aug., 2015, amends the Service Agreement dated as of May 15, 1972, as most recently restated and amended as of 2007 (the "Service Agreement"), by and between the UPPER OCCOQUAN SEWAGE AUTHORITY ("UOSA"), a public body politic and corporate duly created pursuant to the Virginia Water and Waste Authorities Act, and the CITY OF MANASSAS and the CITY OF MANASSAS PARK, municipal corporations of the Commonwealth of Virginia, and the BOARD OF SUPERVISORS OF FAIRFAX COUNTY and the BOARD OF COUNTY SUPERVISORS OF PRINCE WILLIAM COUNTY, acting for and on behalf of said counties and the sanitary districts thereof, which are located in whole or in part within the Service Area as defined in the Service Agreement (such four parties being called collectively the "Political Subdivisions" and individually a "Political Subdivision");

**WITNESSETH:**

**WHEREAS**, the Service Agreement provides for the treatment of sewage at an advanced regional wastewater treatment plant and related facilities and for the financing thereof through the issuance, from time to time, of obligations secured by revenues payable to UOSA by the Political Subdivisions under the Service Agreement, such revenues including not only payments for principal of, premium, if any, and interest on such obligations but also operating expenses and amounts to replenish debt service reserve or other reserve funds with respect to such obligations or the facilities financed;

**WHEREAS**, the parties to the Service Agreement desire to provide that when one or more facilities or portions thereof is to be financed by a borrowing secured through revenues under the Service Agreement, one or more of the Political Subdivisions may deposit cash to

fund all or a portion of its or their respective initial costs of such project in lieu of UOSA borrowing such deposited amounts; and

**WHEREAS**, an amendment to the Service Agreement is required to effectuate such option setting forth the requirements for such action and the effects thereof on related matters under the Service Agreement; and

**WHEREAS**, in connection with the issuance of obligations which are publicly offered, since the promulgation of Rule 15c2-12 of the Securities and Exchange Commission, UOSA and the Political Subdivisions have executed continuing disclosure agreements with the underwriters of such obligations with respect to the types of information to be provided to the public thereunder and the timing therefor and, because of the regularity and content consistency of such agreements, UOSA wants to provide an option to its member Political Subdivisions to agree to provide this information through its officers as opposed to requiring a vote of the governing bodies of each Political Subdivision;

**NOW THEREFOR**, the Service Agreement is hereby amended as follows:

**Section 1.** The following definition is hereby added to the definitions of terms provided in Section 1.1 of the Service Agreement:

"Partial Cash Funded Project" shall mean one or more facilities or portions thereof (including replacements or improvements) which is described in and qualified under Sections 4.11 and 4.12 herein.

**Section 2.** New Sections 4.11 and 4.12 are hereby added to the Service Agreement and shall read as follows:

Section 4.11. If one or more of the Political Subdivisions wants to be permitted to deposit cash to fund all or a portion of that Political Subdivision's costs of one or more

projects or a designated portion of an identified UOSA program to be funded by Bonds (or other financing) authorized by this Agreement, then for purposes of this Agreement, such project or projects or portion of a program shall be deemed to be a Partial Cash Funded Project if the additional conditions set forth in this Section and Section 4.12 are met. A request for a Partial Cash Funded Project shall be made in writing at least 90 days prior to the issuance of such Bonds (or other financing) authorized by this Agreement and shall include:

- a) The portion or amount of the desired deposit; and
- b) An acknowledgement that such Political Subdivision shall continue to be obligated under the provisions of Section 6.1(c) to make payments to UOSA to restore the balance in any debt service reserve with respect to the Bonds for such project, even if the entire respective portion of the costs of such project has been deposited by the Political Subdivision and it therefor has no responsibility for regular payments for principal, premium, if any, or interest on such Bonds.

All monies relating to the same project, whether cash or financed funds, shall be maintained and administered in one fund. Any excess monies at the conclusion of the project shall be used for future project costs as may be permitted by the Bond (or other financing) documents in accordance with each member Political Subdivision's allocation of the costs of such project or projects or program.

Section 4.12. Before issuance of the Bonds (or other financing) for the Partial Cash Funded Project shall occur, the following three criteria must be met:

- (a) a unanimous vote by the UOSA Board to allow a project to be a Partial Cash Funded Project;
- (b) evidence satisfactory to it that the ratings on the Bonds for the Partial Cash

Funded Project will be at least as high as the ratings on outstanding (but not defeased) Bonds of UOSA with which the Bonds to be issued will be secured in parity, unless the reduced rating can be attributed wholly to matters not associated with the financing qualifying as a Partial Cash Funded Project; and

(c) from the Political Subdivision or Subdivisions making the request under Section 4.11, the deposit with the trustee for the Bonds financing the Partial Cash Funded Project of cash in an amount equal to the portion of the cost of the Partial Cash Funded Project (not including Bond issuance expenses or initial reserve deposits) identified by the Political Subdivision or Subdivisions as the portion for which it intends to provide cash in lieu of a borrowing. Such Deposit shall include that Political Subdivision's share of the project costs to be financed, as well as that Political Subdivision's proportionate share of the fixed costs of borrowing (such as bond rating agency and financial advisor costs, etc.), but shall not include the variable costs of the borrowing which are calculated as a percentage of the borrowing (underwriting fees and initial reserve deposit). The proportionate share of the fixed costs of borrowing is based on the allocation of project costs (as set forth in Section 6.4) compared to the allocation of total project costs being funded. Project cost allocations and the proportionate share of fixed costs for a project to increase UOSA plant capacity beyond 54 mgd would have to be defined through a future Service Agreement Amendment.

**Section 3.** The following sentence is hereby added as a paragraph at the end of Section 6.1(c):

For purposes of Section 6.4(a) - (f), with respect to any Partial Cash Funded Project, the phrase "all charges due or incurred under 6.1(c)" shall be determined pursuant to Section 6.11.



**Section 4.** A new Section 6.11 is hereby added to the Service Agreement and shall read as follows:

Section 6.11. Political Subdivisions which funded cash deposits for a Partial Cash Funded Project, to the extent such deposits were in lieu of their responsibility for the borrowing, shall not be charged for payment of principal of, premium, if any, and interest on the Bonds for such Partial Cash Funded Project provided such requesting Political Subdivisions shall be responsible in accordance with Section 6.4(a) - (f) (with the specified percentage or other allocation therein determined as if the one or more financed facilities or portions thereof was not a Partial Cash Funded Project) and charged for the related Cost of the UOSA Plant and UOSA Delivery System not paid with Bond or financing proceeds, and other monies due under the Trust Agreement, as the same become due. It is acknowledged by the parties hereto that such deposit shall not reduce or otherwise affect the obligation of the Political Subdivisions under Section 6.1(c) to make payments for any deficiencies in any required reserves for such project or on such Bonds or bonds refunding such Bonds as if the one or more financed facilities or portions thereof was not a Partial Cash Funded Project.

The existence of a Partial Cash Funded Project shall not affect the responsibility of any Political Subdivision under any provision of this Agreement other than Section 6.4 and then only as it relates to a Partial Cash Funded Project. If Bonds which funded a Partial Cash Funded Project are subsequently refunded, the responsibility for the payment of principal of, premium, if any, and interest on the refunding Bonds shall be proportionately the same as for the Bonds for the project, with the responsibility for any deficiencies in the reserves after the initial deposit being allocated in the same percentages as for the refunded Bonds including as to the depositing Political Subdivisions.

November 2014

**Section 5.** A new Section 6.12 is hereby added to the Service Agreement and shall read as follows:

Section 6.12. In connection with the issuance of publicly offered Bonds, unless a member Political Subdivision determines that the obligations under any continuing disclosure agreement to be executed therefor are materially different, either in the actions required or the types of information to be disclosed, from the obligations under agreements executed in connection with prior UOSA Bonds, then such agreements, at the option of the member Political Subdivision, may be executed on behalf of a Political Subdivision by responsible officers thereof without a specific vote of the governing body thereof.

#2528065v1 08847/00716

November 2014

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed, and their seals to be affixed and attested by their duly authorized officers, all as of the date appearing next to their signatures.

Date: 11/3/13

(SEAL)  
ATTEST:

\_\_\_\_\_  
City Clerk

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

(SEAL)  
ATTEST:

\_\_\_\_\_  
City Clerk

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

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk

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

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk

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

UPPER OCCOQUAN SEWAGE AUTHORITY

BY: [Signature]

CITY OF MANASSAS

BY: \_\_\_\_\_

Mayor

CITY OF MANASSAS PARK

BY: \_\_\_\_\_

Mayor

BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA

BY: \_\_\_\_\_

Chairman

BOARD OF COUNTY SUPERVISORS OF  
PRINCE WILLIAM COUNTY, VIRGINIA

BY: \_\_\_\_\_

Chairman

November 2014

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed, and their seals to be affixed and attested by their duly authorized officers, all as of the date appearing next to their signatures.

UPPER OCCOQUAN SEWAGE AUTHORITY

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

BY: \_\_\_\_\_

(SEAL)  
ATTEST:

CITY OF MANASSAS

*Andrea P. Madden*  
City Clerk

BY: *Harry J. Fink*  
Mayor

Date: 5-1-15

CITY OF MANASSAS PARK

(SEAL)  
ATTEST:

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk

BY: \_\_\_\_\_  
Chairman

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

BOARD OF COUNTY SUPERVISORS OF  
PRINCE WILLIAM COUNTY, VIRGINIA

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk

BY: \_\_\_\_\_  
Chairman

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

November 2014

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed, and their seals to be affixed and attested by their duly authorized officers, all as of the date appearing next to their signatures.

UPPER OCCOQUAN SEWAGE AUTHORITY

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

BY: \_\_\_\_\_

(SEAL)  
ATTEST:

CITY OF MANASSAS

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

(SEAL)  
ATTEST:

CITY OF MANASSAS PARK

*Lana A. Conner*  
City Clerk

BY: *[Signature]*  
Mayor

Date: 3-18-15

(SEAL)  
ATTEST:

BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA

\_\_\_\_\_  
Clerk

BY: \_\_\_\_\_  
Chairman

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

(SEAL)  
ATTEST:

BOARD OF COUNTY SUPERVISORS OF  
PRINCE WILLIAM COUNTY, VIRGINIA

\_\_\_\_\_  
Clerk

BY: \_\_\_\_\_  
Chairman

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

November 2014

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed, and their seals to be affixed and attested by their duly authorized officers, all as of the date appearing next to their signatures.

UPPER OCCOQUAN SEWAGE AUTHORITY

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

BY: \_\_\_\_\_

(SEAL)  
ATTEST:

CITY OF MANASSAS

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

CITY OF MANASSAS PARK

(SEAL)  
ATTEST:

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA

(SEAL)  
ATTEST:

*Michael A. Clemons*  
Clerk

BY: *Harmon D. Johnson*  
Chairman

Date: *6/26/15*

BOARD OF COUNTY SUPERVISORS OF  
PRINCE WILLIAM COUNTY, VIRGINIA

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk

BY: \_\_\_\_\_  
Chairman

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

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed, and their seals to be affixed and attested by their duly authorized officers, all as of the date appearing next to their signatures.

UPPER OCCOQUAN SEWAGE AUTHORITY

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

BY: \_\_\_\_\_

(SEAL)  
ATTEST:

CITY OF MANASSAS

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

(SEAL)  
ATTEST:

CITY OF MANASSAS PARK

\_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_  
Mayor

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

(SEAL)  
ATTEST:

BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA

\_\_\_\_\_  
Clerk

BY: \_\_\_\_\_  
Chairman

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

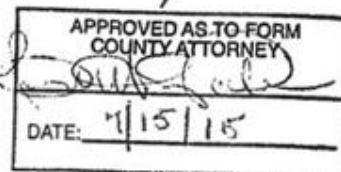
(SEAL)  
ATTEST:

BOARD OF COUNTY SUPERVISORS OF  
PRINCE WILLIAM COUNTY, VIRGINIA

*Heather Campbell*  
Clerk

BY: *Harmon S. Callaghan*  
Vice Chairman

Date: 7/15/15



**ATTACHMENT B**

**Fairfax County Wastewater Management**

**UOSA Capacity Cost Calculation**

(Calculation attached)



Attachment B			
Fairfax County Wastewater Management			
<u>UOSA Capacity Cost Calculation</u>			
Line			
No.	Description		Sale Price
1	Current Value per 1 gallon per day [1]		\$22.887
2	Less Remaining Principal Amount of Bonds as of 6/30/19 [2]		(\$9.766)
3	Plus FFX Carry Costs [3]		\$2.238
4	NPV Value Adjustment [5]		\$1.082
5	Total Sale Price per 1 gallon per day		\$16.441
6			
7	Capacity Reservation, million gallons per day		0.5
8			
9	<b><u>Payment Schedule by Fiscal Year</u></b>		
10	2019 (Initial payment to Fairfax)		\$8,220,297
11	2020 (Future debt service payments to UOSA)		371,967
12	2021		365,706
13	2022		418,536
14	2023		374,456
15	2024		374,464
16	2025		374,487
17	2026		517,614
18	2027		398,963
19	2028		398,892
20	2029		398,944
21	2030		160,351
22	2031		160,456
23	2032		160,348
24	2033		158,666
25	2034		153,045
26	2035		156,191
27	2036		156,121
28	2037		156,142
29	2038		156,145
30	2039		151,457

31	2040		151,438
32	2041		129,370
33	2042		44,407
34	2043		44,394
35	Total		\$14,152,854

## Footnotes:

[1] Amounts shown derived from valuation of Fairfax capacity prepared by UOSA staff based on methodology used in prior transactions (see attached for continuation of Attachment B)

[2] Amounts shown represent the principal amount bonds, issued by UOSA on behalf of the County, expected to be outstanding as of June 30, 2019 and calculated as a rate per gallon of reserved capacity as follows:

Principal Payments 7/1/19 - 6/30/43	\$220,715,722
Fairfax Treatment Capacity (gal. /day)	22,599,900
Calculated Amount per \$/Gallon	\$9.7662

[3] Represents an allowance for the carry or interest expense paid to Fairfax to reserve or hold unused capacity subject to the sale. The allowance was limited to five (5) years since: i) such period of time is recognized as an allowable period of time to recover capital expansion costs by certain public service commissions for private utility rate making; and ii) to provide a reasonable limit to the carry costs as opposed to assuming all historical years of carrying or interest expense incurred by the County.

Interest Payments 7/1/13-6/30/18	\$50,580,733
Fairfax Treatment Capacity (gpd)	22,599,900
Calculated Amount per \$/Gallon	\$2.2381

[4] Represents the necessary increase to the upfront payment to produce an equivalent Net Positive Value to that of the Total Sale Price per 1 gallon of \$16.441.

**ATTACHMENT B CONTINUED**  
**Determination of the Capital Cost per Gallon of UOSA Capacity**

Fairfax County Unit Cost Calculation, confirmed with UOSA  
 Updated September 27, 2018 - Amended for CIP Reconciliation

Bond Funded Projects	Total	Treatment	Delivery
<b>Series 1991 Bonds</b>			
Project Cost	\$ 67,238,640	\$ 56,480,458	\$ 10,758,182
BAN Retirement (Land Purchase)	6,500,000	6,500,000	
Issuance Cost	2,343,582	1,968,609	374,973
Debt Service Reserve	5,866,738	4,928,060	938,678
<b>Total Series 1991 Bonds</b>	<b>\$ 81,948,960</b>	<b>\$ 69,877,127</b>	<b>\$ 12,071,833</b>
<b>Series 1995A Bonds</b>			
Project Cost	\$ 260,000,000	\$ 220,000,000	\$ 40,000,000
BAN Retirement		-	-
Issuance Cost	20,646,103	17,469,779	3,176,324
Debt Service Reserve	-	-	-
<b>Total Series 1995A Bonds</b>	<b>\$ 280,646,103</b>	<b>\$ 237,469,779</b>	<b>\$ 43,176,324</b>
Capacity in MGD		27.0	27.0
Combined Total 1991 & 1995A Series	\$ 362,595,063	\$ 307,346,906	\$ 55,248,157
Capacity Constructed		27.0	27.0
Total of Cost for 1991 & 1995A Series			
Cost Per Million Gallons	\$ 13,429,447	\$ 11,383,219	\$ 2,046,228
<b>Series 2007B Bonds</b>			
Project 54-Plant	\$ 25,910,980	\$ 25,910,980	\$ -
Reserve Maintenance	4,382,004	4,382,004	-
Hydraulic Improvements	1,075,888	1,075,888	-
Nutrient Cap	5,928,594	5,928,594	-
<b>Plant Total</b>	<b>37,297,466</b>	<b>37,297,466</b>	<b>-</b>
Project 54 (Delivery Systems)	74,183,625	-	74,183,625
Project 64 (Delivery Systems)	8,233,909	-	8,233,909
<b>Delivery System Total</b>	<b>82,417,534</b>	<b>-</b>	<b>82,417,534</b>
<b>Total Series 2007B Bonds</b>	<b>\$ 119,715,000</b>	<b>\$ 37,297,466</b>	<b>\$ 82,417,534</b>
Amended - CIP Reconciliation			
Capacity in MGD		Various	Various
Cost Per Million Gallons - 2007B Series	\$ 2,972,401	\$ 948,697	\$ 2,023,704
<b>Series 2010 Bonds</b>			
Project 54-Plant	\$ 9,029,517	\$ 9,029,517	\$ -
Reserve Maintenance	26,583,035	26,583,035	-
Hydraulic Improvements	3,651,567	3,651,567	-
Nutrient Cap	7,191,636	7,191,636	-
<b>Plant Total</b>	<b>46,455,755</b>	<b>46,455,755</b>	<b>-</b>
Project 54 (Delivery Systems)	33,676,107	-	33,676,107
Project 64 (Delivery Systems)	5,048,138	-	5,048,138
<b>Delivery System Total</b>	<b>38,724,245</b>	<b>-</b>	<b>38,724,245</b>
<b>Total Series 2010 Bonds</b>	<b>\$ 85,180,000</b>	<b>\$ 46,455,755</b>	<b>\$ 38,724,245</b>
Amended - CIP Reconciliation			
Capacity in MGD		Various	Various
Cost Per Million Gallons - 2010 Series	\$ 2,079,964	\$ 1,506,989	\$ 572,975

**ATTACHMENT B CONTINUED**  
**Determination of the Capital Cost per Gallon of UOSA Capacity**

Fairfax County Unit Cost Calculation, confirmed with UOSA  
 Updated September 27, 2018 - Amended for CIP Reconciliation

Bond Funded Projects	Total	Treatment	Delivery
<b>Series 2011A Bonds</b>			
Reserve Maintenance	\$ 6,100,000	\$ 6,100,000	\$ -
<b>Plant Total</b>	<b>\$ 6,100,000</b>	<b>\$ 6,100,000</b>	<b>\$ -</b>
Capacity in MGD		Various	Various
Cost Per Million Gallons - 2011A Series	\$ 112,963	\$ 112,963	\$ -
<b>Series 2011B Bonds</b>			
Nutrient Cap	\$ 11,868,251	\$ 11,868,251	\$ -
Reserve Maintenance	2,066,301	2,066,301	-
<b>Plant Total</b>	<b>\$ 13,934,552</b>	<b>\$ 13,934,552</b>	<b>\$ -</b>
Capacity in MGD		Various	Various
Cost Per Million Gallons - 2011B Series	\$ 258,047	\$ 258,047	\$ -
<b>Series 2016A Bonds</b>			
Reserve Maintenance	30,317,871	30,317,871	-
Nutrient Cap	3,122,237	3,122,237	-
<b>Plant Total</b>	<b>33,440,108</b>	<b>33,440,108</b>	<b>-</b>
Project 54 (Delivery Systems)	1,832,843	-	1,832,843
Project 64 (Delivery Systems)	201,616	-	201,616
<b>Delivery System Total</b>	<b>2,034,459</b>	<b>-</b>	<b>2,034,459</b>
<b>Total Series 2010 Bonds</b>	<b>\$ 35,474,567</b>	<b>\$ 33,440,108</b>	<b>\$ 2,034,459</b>
Capacity in MGD		Various	Various
Cost Per Million Gallons - 2011B Series	\$ 653,954	\$ 618,953	\$ 35,001
<b>Total of All Cost Components</b>			
Cost Per Million Gallons	\$ 19,506,776	\$ 14,828,868	\$ 4,677,908
<b>Unit cost w/o project expenses funded with interest earnings.</b>	<b>\$ 19,506,776</b>	<b>\$ 14,828,868</b>	<b>\$ 4,677,908</b>
<b>Interest Earning Spent on Projects</b>			
Interest Earnings	91,268,923	\$ 69,381,778	\$ 21,887,145
<b>Interest Earnings per MG (27MGD)</b>	<b>\$ 3,380,330</b>	<b>\$ 2,569,695</b>	<b>\$ 810,635</b>
<b>Unit Cost w/ expenses funded with interest earnings</b>	<b>\$ 22,887,107</b>	<b>\$ 17,398,564</b>	<b>\$ 5,488,543</b>

**ATTACHMENT C**

**Implementation of Additional Charges for Excess Flow  
(Memorandum dated August 15, 2007 from Charles P. Boepple to UOSA Board of  
Directors)**

**(Memorandum attached)**



## upper occoquan sewage authority

14631 COMPTON ROAD, CENTREVILLE, VIRGINIA 20121-2506 (703) 830-2200

Charles P. Boepple  
Executive Director

Michael D. Reach  
Deputy Executive Director

### MEMORANDUM

**Subject:** Implementation of Additional Charges Pursuant to Section 6.6 of the UOSA Service Agreement

**To:** UOSA Board of Directors

**From:** Charles P. Boepple *Charles P Boepple*

**Date:** August 15, 2007

Section 6.6 of the UOSA Service Agreement provides for additional charges to be assessed for each month in which a Political Subdivision exceeds its allocated capacity. The examples below are intended to provide for the Board's consideration the methodology the staff proposes to utilize to A) determine whether an exceedance has occurred; and B) calculate the applicable additional charges.

#### A. Exceedance Analysis

UOSA's capacity allocations are based on thirty consecutive day average flows. Consistent with past monthly calculations and exceedance determinations, if there are one or more days during a calendar month in which the average of the preceding thirty consecutive days of flow exceeds a Political Subdivision's allocation, that Political Subdivision will be deemed to have exceeded its capacity for that month, and Section 6.6 additional charges may be assessed.

Exhibit 1 provides two sets of flow data for hypothetical Jurisdiction A with a capacity allocation of 10.650 mgd. The two sets of data each have a column containing the average flow for each individual day and a second column showing the thirty day consecutive or "rolling" averages for the preceding thirty day period.

The first set of data depicts with yellow highlights the period (5/13/2007 – 5/24/2007) in which Jurisdiction A exceeded its capacity allocation. The highest thirty consecutive day average flow during the month of May was 10.869 mgd. Consequently, Jurisdiction A's additional charges for an exceedance in the month of May 2007 will be based on the difference between the actual highest

FAIRFAX COUNTY / PRINCE WILLIAM COUNTY / CITY OF MANASSAS / CITY OF MANASSAS PARK

consecutive thirty day flow for the month (10.869 mgd) minus the allocated thirty consecutive day average flow of 10.650 mgd, or 0.219 mgd.

The second set of data also depicts with yellow highlights the period (3/30/2007 – 4/16/2007) in which Jurisdiction A exceeded its capacity allocation. However, this example illustrates that certain wet weather events using the above methodology may generate an exceedance determination for two subsequent months. In this set of data the rolling thirty day average began exceeding 10.650 mgd on March 30, 2007 and reached a high thirty consecutive day average (11.013 mgd) for the month of March on March 31, 2007. Consequently, Jurisdiction A's additional charges for an exceedance in the month of March 2007 will be based on the difference between the actual highest consecutive thirty day flow for the month (11.013 mgd) minus the allocated thirty consecutive day average flow of 10.650 mgd, or 0.363 mgd.

Further, the 30 consecutive day averages continued to exceed the 10.650 mgd allocation during the April 1, 2007 to April 16, 2007 time frame. The highest thirty consecutive day average during April (11.141 mgd) occurred on April 2, 2007. Consequently, Jurisdiction A's additional charges for an exceedance in the month of April 2007 will be based on the difference between the actual highest consecutive thirty day flow for the month (11.141 mgd) minus the allocated thirty consecutive day average flow of 10.650 mgd, or 0.491 mgd.

Consequently, the above methodology for the second data set would generate an additional charge for a 0.363 mgd exceedance in March and a 0.491 mgd exceedance in April.

There are other methodologies that could be considered for purposes of implementing Section 6.6 and these alternative methodologies could be explored if the Board so desires.

#### B. Calculation of Payment for Excess Flow

Below are three examples of the determination of Excess Flow charges and credits. The first two examples correspond to the data sets discussed above. The methodology is based on calculating the cost per mgd based on UOSA's total annual Debt Service. This cost per mgd is then multiplied by the amount of the exceedance in mgd to yield an excess flow charge amount. The charge is then allocated as a credit to the jurisdictions with unused capacity. The billing for the excess flow and the associated credits to other jurisdictions would be noted on each jurisdiction's invoice during the quarterly billing cycle.

**Example 1 – (Dataset 1)**

**Example 1 Assumptions:**

1. Jurisdiction A's Excess Flow for a thirty-day period equals 0.219 mgd.
2. UOSA Debt Service is equal to \$24,465,792 (Total annual Debt Service in fiscal year of exceedance)

**The payment for Excess Flow should be determined as follows:**

1. Calculate Monthly Debt           \$24,465,792 / 12 months = \$2,038,816
2. Calculate cost per mgd           \$2,038,816 / 54 mgd = \$37,756
3. Calculate payment                 \$37,756 X 0.219 = \$8,269 (Cost X excess flow)

4. Allocate credits to jurisdictions

<b>Jurisdictions</b>	<b>Unused Capacity</b>	<b>% Unused Capacity</b>	<b>Payment Allocation</b>
Jurisdiction A	0.0	0.00%	\$0
Jurisdiction B	1.0	71.43%	\$5,907
Jurisdiction C	0.2	14.29%	\$1,181
Jurisdiction D	0.2	14.29%	\$1,181
UOSA Unallocated Exceedances	<u>0.0</u>	<u>0.00</u>	<u>\$0</u>
<b>Total</b>	<b>1.4</b>	<b>100.00%</b>	<b>\$8,269</b>



**Example 2 – (Dataset 2)**

**Example 2 Assumptions – March:**

1. Jurisdiction A's Excess Flow for March equals 0.363 mgd.
2. UOSA Debt Service is equal to \$24,465,792 (Total annual Debt Service in fiscal year of exceedance)

**The payment for Excess Flow should be determined as follows:**

1. Calculate Monthly Debt                    \$24,465,792 / 12 months = \$2,038,816
2. Calculate cost per mgd                    \$2,038,816 / 54 mgd = \$37,756
3. Calculate payment                         \$37,756 X 0.363 = \$13,705 (Cost X excess flow)
4. Allocate credits to jurisdictions

**Example 2 Assumptions - April:**

1. Jurisdiction A's Excess Flow for April equals 0.491 mgd.
2. UOSA Debt Service is equal to \$24,465,792 (Total annual Debt Service in fiscal year of exceedance)

**The payment for Excess Flow should be determined as follows:**

1. Calculate Monthly Debt                    \$24,465,792 / 12 months = \$2,038,816
2. Calculate cost per mgd                    \$2,038,816 / 54 mgd = \$37,756
3. Calculate payment                         \$37,756 X 0.491 = \$18,538 (Cost X excess flow)
4. Allocate credits to jurisdictions

Jurisdictions	March Unused Capacity	% Unused Capacity	March Payment Allocation	April Unused Capacity	% Unused Capacity	April Payment Allocation
Jurisdiction A	0.0	0.00%	\$0	0.0	0.00%	\$0
Jurisdiction B	1.1	78.57%	\$10,768	1.0	71.43%	\$13,242
Jurisdiction C	0.1	7.14%	\$979	0.2	14.29%	\$2,648
Jurisdiction D	0.2	14.29%	\$1,958	0.2	14.29%	\$2,648
UOSA Unallocated Exceedances	<u>0.0</u>	<u>0.00%</u>	<u>\$0</u>	<u>0</u>	<u>0.00%</u>	<u>\$0</u>
<b>Total</b>	<b>1.4</b>	<b>100.00%</b>	<b>\$13,705</b>	<b>1.4</b>	<b>100.00%</b>	<b>\$18,538</b>

NOTE: If the capacity exceedance had been larger than the sum of unused capacity from the jurisdictions that did not exceed their capacity, the proportional charge associated with the same would be deposited in an escrow account pursuant to Section 6.6 of the Service Agreement.

### Example 3

#### Example 3 Assumptions – March:

1. Jurisdiction A's Excess Flow for March equals 1.800 mgd.
2. UOSA Debt Service is equal to \$24,465,792 (Total annual Debt Service in fiscal year of exceedance)

#### The payment for Excess Flow should be determined as follows:

1. Calculate Monthly Debt  $\$24,465,792 / 12 \text{ months} = \$2,038,816$
2. Calculate cost per mgd  $\$2,038,816 / 54 \text{ mgd} = \$37,756$
3. Calculate payment  $\$37,756 \times 1.800 = \$67,961$  (Cost X excess flow)
4. Allocate credits to jurisdictions

#### Example 3 Assumptions - April:

1. Jurisdiction A's Excess Flow for April equals 0.491 mgd.
2. UOSA Debt Service is equal to \$24,465,792 (Total annual Debt Service in fiscal year of exceedance)

#### The payment for Excess Flow should be determined as follows:

1. Calculate Monthly Debt  $\$24,465,792 / 12 \text{ months} = \$2,038,816$
2. Calculate cost per mgd  $\$2,038,816 / 54 \text{ mgd} = \$37,756$
3. Calculate payment  $\$37,756 \times 0.491 = \$18,538$  (Cost X excess flow)
4. Allocate credits to jurisdictions

Jurisdictions	March Unused Capacity	% Unused Capacity	March Payment Allocation	April Unused Capacity	% Unused Capacity	April Payment Allocation
Jurisdiction A	0.0	0.00%	\$0	0.0	0.00%	\$0
Jurisdiction B	1.1	61.11%	\$41,531	1.0	71.43%	\$13,242
Jurisdiction C	0.1	5.56%	\$3,779	0.2	14.29%	\$2,648
Jurisdiction D	0.2	11.11%	\$7,550	0.2	14.29%	\$2,648
UOSA Unallocated Exceedances	<u>0.4</u>	<u>22.22%</u>	<u>\$15,101</u>	<u>0</u>	<u>0.00%</u>	<u>\$0</u>
<b>Total</b>	<b>1.8</b>	<b>100.00%</b>	<b>\$67,961</b>	<b>1.4</b>	<b>100.00%</b>	<b>\$18,538</b>

NOTE: The assumptions for March were amended to create the scenario where Jurisdictions B, C and D did not have enough excess capacity to offset the Jurisdiction A exceedance. In this instance \$15,101 would be deposited in an escrow account as a result of the 0.4 mgd unallocated exceedance.

Jurisdiction A 10.650 mgd Limit			Jurisdiction A 10.650 mgd Limit		
Day	ADF	30-d RA	Day	ADF	30-d RA
4/1/2007	12.870		2/1/2007	8.750	
4/2/2007	10.100		2/2/2007	8.010	
4/3/2007	8.900		2/3/2007	8.021	
4/4/2007	9.230		2/4/2007	8.032	
4/5/2007	8.550		2/5/2007	8.043	
4/6/2007	8.640		2/6/2007	8.054	
4/7/2007	8.460		2/7/2007	8.065	
4/8/2007	8.650		2/8/2007	8.076	
4/9/2007	8.660		2/9/2007	8.087	
4/10/2007	8.980		2/10/2007	8.098	
4/11/2007	7.980		2/11/2007	8.109	
4/12/2007	7.991		2/12/2007	8.120	
4/13/2007	8.560		2/13/2007	8.131	
4/14/2007	8.660		2/14/2007	9.220	
4/15/2007	8.671		2/15/2007	9.231	
4/16/2007	8.682		2/16/2007	9.242	
4/17/2007	8.540		2/17/2007	9.253	
4/18/2007	8.210		2/18/2007	9.264	
4/19/2007	8.030		2/19/2007	9.275	
4/20/2007	8.540		2/20/2007	14.650	
4/21/2007	8.880		2/21/2007	13.550	
4/22/2007	9.250		2/22/2007	12.880	
4/23/2007	9.560		2/23/2007	11.990	
4/24/2007	9.571		2/24/2007	11.550	
4/25/2007	9.582		2/25/2007	10.990	
4/26/2007	9.593		2/26/2007	11.001	
4/27/2007	9.604		2/27/2007	10.990	
4/28/2007	9.615		2/28/2007	9.890	
4/29/2007	9.626		3/1/2007	9.560	
4/30/2007	9.637	9.061	3/2/2007	9.571	9.590
5/1/2007	10.220	8.972	3/3/2007	9.582	9.618
5/2/2007	10.880	8.998	3/4/2007	9.593	9.671
5/3/2007	11.560	9.087	3/5/2007	9.604	9.723
5/4/2007	11.571	9.165	3/6/2007	9.615	9.776
5/5/2007	11.582	9.266	3/7/2007	9.626	9.829
5/6/2007	11.593	9.365	3/8/2007	9.637	9.882
5/7/2007	11.604	9.469	3/9/2007	9.648	9.934
5/8/2007	12.560	9.600	3/10/2007	9.659	9.987
5/9/2007	13.850	9.773	3/11/2007	9.550	10.036
5/10/2007	14.870	9.969	3/12/2007	9.561	10.085
5/11/2007	15.680	10.226	3/13/2007	9.572	10.134
5/12/2007	15.691	10.482	3/14/2007	9.583	10.182
5/13/2007	13.800	10.657	3/15/2007	9.594	10.231
5/14/2007	9.880	10.698	3/16/2007	9.605	10.244
5/15/2007	8.950	10.707	3/17/2007	9.616	10.257
5/16/2007	8.640	10.706	3/18/2007	9.627	10.270
5/17/2007	9.880	10.750	3/19/2007	9.638	10.282
5/18/2007	9.981	10.809	3/20/2007	9.649	10.295
5/19/2007	9.902	10.872	3/21/2007	9.660	10.308
5/20/2007	8.450	10.869	3/22/2007	9.671	10.142
5/21/2007	8.290	10.849	3/23/2007	9.682	10.013
5/22/2007	7.990	10.807	3/24/2007	9.900	9.914
5/23/2007	7.650	10.743	3/25/2007	10.260	9.856
5/24/2007	7.661	10.680	3/26/2007	14.870	9.967
5/25/2007	7.672	10.616	3/27/2007	16.150	10.139
5/26/2007	7.683	10.552	3/28/2007	18.740	10.397
5/27/2007	7.694	10.489	3/29/2007	17.540	10.615
5/28/2007	7.705	10.425	3/30/2007	16.880	10.848
5/29/2007	7.716	10.361	3/31/2007	14.520	11.013
5/30/2007	7.727	10.298	4/1/2007	12.870	11.123
5/31/2007	7.950	10.222	4/2/2007	10.100	11.141
			4/3/2007	8.900	11.118
			4/4/2007	9.230	11.105
			4/5/2007	8.550	11.070
			4/6/2007	8.640	11.037
			4/7/2007	8.460	10.998
Avg ADF	9.651				

← month peak

← month peak

← month and event peak

4/8/2007	8.650	10.964
4/9/2007	8.660	10.931
4/10/2007	8.980	10.912
4/11/2007	7.980	10.859
4/12/2007	7.991	10.807
4/13/2007	8.560	10.772
4/14/2007	8.660	10.741
4/15/2007	8.671	10.710
4/16/2007	8.682	10.679
4/17/2007	7.890	10.621
4/18/2007	8.210	10.574
4/19/2007	8.030	10.520
4/20/2007	8.540	10.482
4/21/2007	8.880	10.456
4/22/2007	9.250	10.441
4/23/2007	9.560	10.430
4/24/2007	9.571	10.407
4/25/2007	9.582	10.231
4/26/2007	9.593	10.012
4/27/2007	9.604	9.708
4/28/2007	9.615	9.444
4/29/2007	9.626	9.202
4/30/2007	9.637	9.039
Avg ADF	9.884	

Key	
ADF	Average Daily Flow
30-d RA	30-day Rolling Average

Board Agenda Item  
June 25, 2019

ADMINISTRATIVE – 6

Extension of Review Period for 2232 Applications (Braddock and Mount Vernon 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: 2232-V19-3 and 456A-S80-08-1.

TIMING:

Board action is required June 25, 2019, to extend the review period for the applications noted above before its expiration date.

BACKGROUND:

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

The review period for the following applications should be extended:

- |               |   |
|---------------|---|
| 2232-V19-3    | Department of Public Works and Environmental Services<br>Mount Vernon RECenter<br>Tax Map No. 93-1 ((2407)) 4A<br>2017 Belle View Blvd<br>Alexandria, VA<br>Mount Vernon District<br>Accepted May 8, 2019<br>Extend to April 8, 2020                        |
| 456A-S80-08-1 | Department of Public Works and Environmental Services<br>The Crisis Care Program (Old Boys Probation House)<br>Tax Map No. 56-4 ((1)) 11<br>4410 Shirley Gate Rd<br>Fairfax, VA<br>Braddock District<br>Accepted April 30, 2019<br>Extend to March 30, 2020 |

Board Agenda Item  
June 25, 2019

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

None.

STAFF:

Rachel Flynn, Deputy County Executive

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

Michelle K. Stahlhut, Chief, Facilities Planning Branch, Planning Division, DPZ

Bryan D. Botello, Planner, Facilities Planning Branch, Planning Division, DPZ

ADMINISTRATION - 7

Authorization to Advertise Public Hearings on Proposed Changes to Chapter 61 (Building Provisions); Chapter 101 (Subdivision Provisions); Chapter 108.1 (Noise Ordinance); Chapter 109.1 (Solid Waste Management) Chapter 114 (Agricultural and Forestal Districts of Statewide Significance); and Chapter 115 (Local Agricultural and Forestal Districts) of *The Code of the County of Fairfax*

ISSUE:

The proposed amendment will change the department name from “Department of Planning and Zoning” or the “Office of Comprehensive Planning” to “Department of Planning and Development” in several chapters of *The Code of the County of Fairfax* (the Code). No other changes are proposed as part of this amendment.

RECOMMENDATION:

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

TIMING:

Board action is requested on June 25, 2019, to provide sufficient time to advertise the proposed Planning Commission public hearing on July 25, 2019, at 7:30 p.m., and the proposed Board public hearing on July 30, 2019, at 4:30 p.m.

BACKGROUND:

Effective July 1, 2019, the Department of Planning and Zoning (DPZ) will be renamed to the Department of Planning and Development (DPD). A related Zoning Ordinance Amendment is scheduled to be adopted by the Board on the afternoon of June 25, 2019 to facilitate the agency name change throughout the Zoning Ordinance, also known as Chapter 112 of the Code. The changes proposed in this staff report will facilitate the agency name change in the other affected chapters of the Code.

REGULATORY IMPACT:

The proposed amendment will result in the name change from the “Department of Planning and Zoning” or the “Office of Comprehensive Planning” to the “Department of Planning and Development” (including the associated acronyms) throughout *The Code of the County of Fairfax*.

Board Agenda Item  
June 25, 2019

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution  
Attachment 2 – Staff Report

STAFF:

Rachel Flynn, Deputy County Executive  
Fred Selden, Director, Department of Planning and Zoning/Development (DPZ/DPD)  
Leslie B. Johnson, Zoning Administrator, DPZ/DPD  
Donna Pesto, Deputy Zoning Administrator, DPZ/DPD  
Sara Morgan, Senior Planner, DPZ/DPD

ASSIGNED COUNSEL:

Christopher Sigler, Assistant 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 June 25, 2019, which meeting a quorum was present and voting, and the following resolution was adopted:

WHEREAS, the agency name will change from the Department of Planning and Zoning or DPZ to the Department of Planning and Development or DPD effective on July 1, 2019; and

WHEREAS, there are multiple references to this agency in Chapters 61, 101, 108.1, 109.1, 114 and 115 of the Code of the County of Fairfax that need to be updated to reflect this agency name change; and

WHEREAS, the public necessity, convenience, and general welfare require consideration of the proposed revisions to affect the agency name change.

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 public hearing during which the Planning Commission and the Board will consider the proposed Zoning Ordinance and County Code amendments as recommended by staff.

Given under my hand this 25<sup>th</sup> day of June, 2019.

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 COUNTY CODE AMENDMENT**

Proposed Changes to Chapter 61 (Building Provisions); Chapter 101 (Subdivision Provisions); Chapter 108.1 (Noise Ordinance); Chapter 109.1 (Solid Waste Management); Chapter 114 (Agricultural and Forestal Districts of Statewide Significance); and Chapter 115 (Local Agricultural and Forestal Districts) of *The Code of the County of Fairfax*

**PUBLIC HEARING DATES**

**Planning Commission** July 25, 2019 at 7:30 p.m.

**Board of Supervisors** July 30, 2019 at 4:30

p.m.

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

June 25, 2019

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SM



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

## STAFF COMMENT

### **Background**

Effective July 1, 2019, the Department of Planning and Zoning (DPZ) will be renamed to the Department of Planning and Development (DPD). A related Zoning Ordinance Amendment is scheduled to be adopted by the Board on the afternoon of June 25, 2019 to facilitate the agency name change throughout the Zoning Ordinance, also known as Chapter 112 of *The Code of the County of Fairfax* (the Code). The changes proposed in this staff report will facilitate the agency name change in the affected chapters of the Code.

### **Current Provisions and Proposed Changes**

Because the affected department name is referenced in several places in the Code, changes are needed to Chapter 61 (Building Provisions), Chapter 101 (Subdivision Provisions), Chapter 108.1 (Noise Ordinance), Chapter 109.1 (Solid Waste Management), Chapter 114 (Agricultural and Forestal Districts of Statewide Significance); and Chapter 115 (Local Agricultural and Forestal Districts). The change from “Zoning” to “Development” in the agency name is self-explanatory in each of the affected provisions found as Attachment A to this staff report. In Section 61-1-2 of Chapter 61, the reference to the Department of Planning and Zoning is included, in an unnecessary provision regarding the effective date of a previous amendment, therefore this entire sentence will be struck. Other than these changes related to the name of the Department, no other changes are proposed as part of this amendment.

Chapters 114 and 115 of the Code provide the framework for each of the 7 Statewide Agricultural and Forestal (A&F) Districts (Appendix E of the Code) and the 73 Local A&F Districts (Appendix F of the Code.) Within these 80 separate A&F District documents, there are references to the Department of Planning and Zoning and, in some cases, the former name of the Office of Comprehensive Planning occurs in 33 different A&F Districts. Rather than go through the extensive process of amending each document governing the individual A&F Districts, which requires landowner consent and Board approval for each, staff proposes to address the agency name change in Chapters 114 and 115 in a generic manner.

In Chapter 114, the amendment would add a provision to Section 114-2-1, District Ordinances, to specify that any references to the “Department of Planning and Zoning,” “DPZ,” “Office of Comprehensive Planning,” or “OCP” are deemed to mean the “Department of Planning and Development” or “DPD” on or after July 1, 2019. In Chapter 115, Section 115-9-1, District Ordinances, would be changed to specify that any references to the “Department of Planning and Zoning” or “DPZ” are deemed to mean the “Department of Planning and Development” or “DPD” on or after July 1, 2019.

Staff notes that only the changes within Chapter 101 (Subdivision Provisions) and Chapter 115 (Local Agricultural and Forestal Districts) require a review and recommendation by the Planning Commission. Board of Supervisors’ review and action is required for each of the chapters being amended.

## **Conclusion**

The proposed amendment updates the relevant chapters of the Code to reflect the agency name change from the Department of Planning and Zoning to the Department of Planning and Development. Staff recommends adoption of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

## **Attachment**

A. Changes to Chapters 61, 101, 108.1, 109.1, 114 and 115 of *The Code of County of Fairfax*

**PROPOSED AMENDMENTS TO  
CHAPTER 61 (BUILDING PROVISIONS) OF THE  
CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

1 **Amend Article 1, Administration and Standards, to revise Sect. 61-1-2, Definitions, to read**  
2 **as follows:**

3  
4 For the purposes of this Chapter and the USBC, as amended, unless the context shall otherwise  
5 clearly require, the following words and phrases shall have the meanings respectively ascribed to  
6 them by this Section:

7  
8 *Property Maintenance Code Official* for existing residential and nonresidential buildings and  
9 structures shall mean the Director of the Department of Code Compliance or his duly authorized  
10 representative; being charged with the administration and enforcement of the property  
11 maintenance provisions of the USBC for such properties. *(Please note that the revisions to this*  
12 *paragraph referencing the Department of Planning and Zoning become effective January 1, 2007;*  
13 *The Director of the Fairfax County Health Department remains the property maintenance official*  
14 *for residential properties until that date. The Building Official is and will remain responsible for*  
15 *the administration and enforcement of the property maintenance provisions of the USBC for non-*  
16 *residential buildings.)*

17  
18  
19 **Amend Article 2, Fairfax County Board of Building and Fire Prevention Code Appeals, to**  
20 **revise Sect. 61-2-3, Membership of Board, to read as follows:**

21  
22 No official, technical assistant, inspector or other employee of the Departments of Public Works  
23 and Environmental Services, Land Development Services, Planning and ~~Zoning~~ Development, or  
24 Fire and Rescue shall serve as a member of the Board.  
25

**PROPOSED AMENDMENTS TO  
CHAPTER 101 (SUBDIVISION PROVISIONS) OF THE  
CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

**Amend Article 3, Pro Rata Road Reimbursement Districts, as follows:**

**- Amend Par. (a) of Sect. 101-3-9, Adoption of Pro Rata Road Reimbursement Districts, to read as follows:**

(a) Upon receipt of a petition requesting the establishment of a Pro Rata Road Reimbursement District including all submission requirements, staff of the Department of Transportation will evaluate the request, assisted by staff of Land Development Services, the Department of Planning and ~~Zoning~~ Development and such other staff as may be necessary.

**- Amend Par. (g) of Sect. 101-3-11, Payment of pro rata road reimbursements, to read as follows:**

(g) In order to be entitled to continue to receive pro rata road reimbursement payments, the initial subdivider or developer must give written notice by certified mail to the Directors of Land Development Services and the Department of Planning and ~~Zoning~~ Development of any change in his mailing or street addresses from the date of adoption of the District. If the initial subdivider or developer has designated an agent for the purposes of receiving pro rata road reimbursement payments and signing notarized certifications pursuant to paragraph (b) above, then either the agent or the initial subdivider or developer must give such written notice of any change in the mailing or street addresses of the agent from the date of adoption of the District. Failure to give the written notice as required herein within 30 days of such change may cause the initial subdivider or developer to forfeit pro rata road reimbursement payments collected or due after such change. (13-93-101, § I; 37-00-101; 23-17-101.)

**PROPOSED AMENDMENTS TO  
CHAPTER 108.1 (NOISE ORDINANCE) OF THE  
CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

1 **Amend Article 2, Definitions, by revising Par. (a)(6) of Sect. 108.1-2-1, Definitions, to read**  
2 **as follows:**

- 3  
4 (a) The following words and phrases, when used in this Chapter, shall for the purposes of this  
5 Chapter, have the meanings respectively ascribed to them in this Section, except in those  
6 situations where the context clearly indicates a different meaning:

7  
8 *(Retain Subparagraphs 1 through 5)*

- 9  
10 (6) Director shall mean the Director of the Fairfax County Department of Planning  
11 and ~~Zoning~~ Development or his/her duly authorized agent.

12  
13  
14 **Amend Article 3, Administration, Penalties and Authority and Duties, by revising section**  
15 **title of Sect. 108.1-3-3, Authority and duties of the Director of Planning and Zoning, to read**  
16 **as follows:**

17  
18 Authority and duties of the Director of Planning and ~~Zoning~~ Development.  
19

**PROPOSED AMENDMENTS TO  
CHAPTER 109.1 (SOLID WASTE MANAGEMENT) OF THE  
CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

1 **Amend Article 1, General Requirements, by revising Par. (a) of Sect. 109.1-1-3, Statement**  
2 **of Policy and Administration, to read as follows:**

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- (a) The Director shall be responsible for the administration and enforcement of this Chapter. Fairfax County Departments that shall assist in enforcing this Chapter, in cooperation with the Director, include but are not limited to, the Health Department, the Police Department, the Fire and Rescue Department, the Department of Planning and ~~Zoning~~ Zoning Development, the Department of Code Compliance, and the Park Authority.



**PROPOSED AMENDMENTS TO  
CHAPTER 114 (AGRICULTURAL AND FORESTAL DISTRICTS  
OF STATEWIDE SIGNIFICANCE)  
OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

1 **Amend Article 2, Districts Established Under this Chapter, to read as follows:**

2

3 **Section 114-2-1. – District ordinances.**

4

5 Ordinances establishing specific agricultural and forestal districts of statewide significance  
6 are listed in Appendix E. (12-83-114.) Any references to the Office of Comprehensive  
7 Planning, OCP, the Department of Planning and Zoning, or DPZ are deemed to mean the  
8 Department of Planning and Development or DPD, on or after July 1, 2019.

9

**PROPOSED AMENDMENTS TO  
CHAPTER 115 (LOCAL AGRICULTURAL AND FORESTAL DISTRICTS)  
OF THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

1 **Amend Article 9, Districts Established Under This Chapter, to read as follows:**

2

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**Section 115-9-1. – District ordinances.**

Ordinances establishing specific local agricultural and forestal districts are listed as Appendix F. (13-83-115.) Any references to the Department of Planning and Zoning, or DPZ are deemed to mean the Department of Planning and Development or DPD, on or after July 1, 2019.

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ADMINISTRATIVE - 8

Authorization to Advertise Proposed Amendments to Chapter 101 (Subdivision Ordinance) and Chapter 112 (Zoning Ordinance) of *The Code of the County of Fairfax, Virginia* (County Code) and the Public Facilities Manual (PFM) Re: Development in Dam Break Inundation Zones, Construction of State-Regulated Impounding Structures, Plan Submissions, and Minor Editorial Changes

ISSUE:

Board authorization to advertise public hearings on proposed amendments to the Subdivision Ordinance, Zoning Ordinance, and PFM related to development in dam break inundation zones and construction of state-regulated impounding structures. The proposed amendments also include revisions to the provisions for plan submissions, and minor editorial changes. The proposed amendments are necessary to align county ordinances and the PFM with the Code of Virginia and current practice.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed amendments as set forth in the Staff Report dated June 25, 2019.

TIMING:

Board action is requested on June 25, 2019, to provide sufficient time to advertise public hearings on July 24, 2019, before the Planning Commission, and on September 24, 2019, before the Board.

BACKGROUND:

In 2008, the Virginia Legislature adopted requirements for proposed developments in the dam break inundation zone of a state-regulated impounding structure and for notifications of the proposed construction of a new state-regulated impounding structure. The inundation zone is the area below an impoundment that would be flooded if the dam failed completely. The intent of the legislation was to ensure that all parties that might be impacted by dam failures, including the state, the county, property owners, and dam owners, are aware of the impacts and that the impacts are mitigated.

Impounding structures regulated by the state are defined in the Virginia Impounding Structure Regulations (4VAC 50-20). State-regulated impounding structures include: dams that are 25 feet or greater in height and have an impounding capacity of 15 acre-feet or greater; and dams that are six feet or greater in height and have an impounding capacity of 50 acre-feet or greater. There are 120 state-regulated impounding structures

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in the county. A list of these [state-regulated impounding structures](#) and available dam break inundation zone maps is posted on the county's website. Dam break inundation zone maps for 31 state-regulated impounding structures are on file with the county. This is important because the state requirements for development in a dam break inundation zone only apply to proposed development in the inundation zone of a state-regulated impounding structure for which maps are on file with the county.

Under the Virginia Impounding Structure Regulations, each dam is classified based on potential loss of human life and property damage if it were to fail. Classification is based on a determination of the effects that a dam failure would likely have on people and property in the downstream inundation zone. Hazard classifications in descending order are high, significant, and low. This classification is unrelated to the physical condition of the dam or the probability of its failure. It is related to the number and type of structures in the inundation zone. Therefore, hazard classifications can change when development is proposed in the inundation zone.

In 2009, the Department of Public Works and Environmental Services implemented the new requirements through a Letter to Industry and changes to plan cover sheets requiring identification of developments in dam break inundation zones. Submission of site and subdivision plans subject to the requirements is infrequent and a resulting change in hazard classification would be rare because the majority of the dams are already classified as high hazard. The proposed amendments incorporate the requirements previously implemented, through the Letter to Industry, into the County Code and PFM. The proposed amendments to the Zoning Ordinance are listed as Priority 2 Item #54 on the adopted 2018 Zoning Ordinance Amendment Work Program.

In addition to the amendments related to the requirements in the Code of Virginia, amendments are being proposed to update the Subdivision and Zoning Ordinances to provide flexibility to the Director in the plan submission process.

**PROPOSED AMENDMENTS:**

The proposed amendments require that developments in dam break inundation zones of state-regulated impounding structures that are mapped and on file with the county be identified on site plans, subdivision plans, and development plans. Once identified, the county is required to send copies of the site and subdivision plans (not development plans) to the Virginia Department of Conservation and Recreation for review and a determination of whether the proposed development will change the hazard classification of the impounding structure. If the hazard classification does not change, the only subsequent requirements are that the as-built drawings be forwarded to the dam owner to be used in updating the emergency action plan for the facility and that the inundation zone be shown and appropriately notated on the record plat for subdivisions. If the hazard classification does change, the developer must either redesign the development to avoid the change in classification or prepare an engineering study and a

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cost estimate for any necessary upgrades to the impounding structure. Following DCR approval of the cost estimate and prior to final plan approval, the developer would pay one-half the cost of the upgrades into a state administered fund for eventual distribution to the dam owner. The proposed amendments to the Subdivision and Zoning Ordinances also address plan submission requirements and make minor editorial changes. The PFM amendment incorporates notification requirements for developers constructing new state-regulated impounding structures. The proposed amendments are discussed in more detail in the Staff Report.

REGULATORY IMPACT:

There is no significant regulatory impact for the amendments related to state-regulated impoundments. The amendments codify requirements currently in place that are required by state law. As previously noted, the submission of site and subdivision plans in dam break inundation zones is infrequent and a change in hazard classification is unlikely. Also, the requirements don't apply to simple subdivisions creating two lots and residential development on existing single-family residential lots. The proposed amendments related to plan submission requirements align the requirements with current business practices and the requirements for state-regulated impoundments.

FISCAL IMPACT:

There is no fiscal impact to the County.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution

Attachment 2 – Staff Report Dated June 25, 2019, available online at:

<https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/pdf/pfm/staff-report-dam-break-inundation-zones.pdf>

STAFF:

Rachel Flynn, Deputy County Executive

William D. Hicks, P.E., Director, Land Development Services

Leslie B. Johnson, Zoning Administrator, Department of Planning and Zoning

ASSIGNED COUNSEL:

Hayden Codding, Assistant 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 June 25, 2019, at which meeting a quorum was present and the following resolution was adopted:

WHEREAS, the amendments will implement state requirements for development in dam break inundation zones; and

WHEREAS, providing for flexibility in the submission of plans will provide both time and cost savings to citizens and the county and facilitate the county's economic success; and

WHEREAS, related minor changes to requirements for plan submission are needed; and

WHEREAS, the public necessity, convenience, general welfare, and good 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 authorize the advertisement of the proposed amendments to the Zoning Ordinance, as recommended by staff.

Given under my hand this 25<sup>th</sup> day of June, 2019.

A Copy Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors

Board Agenda Item  
June 25, 2019

ADMINISTRATIVE - 9

Authorization to Advertise Proposed Amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance) and Chapter 124 (Stormwater Management Ordinance) of *The Code of the County of Fairfax, Virginia* (County Code) Re: Long-Term Maintenance of Stormwater Management Facilities, Illicit Discharges, and Enforcement

ISSUE:

Board of Supervisors' (Board) authorization to advertise public hearings on proposed amendments to the provisions related to long-term maintenance of stormwater management facilities, illicit discharges, and enforcement in the Chesapeake Bay Preservation Ordinance and Stormwater Management Ordinance. The amendments are necessary to align the ordinances with current lines of business and business practices and to allow violations to be processed more expeditiously.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed amendments as set forth in the Staff Report dated June 25, 2019.

TIMING:

Board action is requested on June 25, 2019, to provide sufficient time to advertise public hearings on July 24, 2019, before the Planning Commission and on September 24, 2019, before the Board.

BACKGROUND:

The Director of Land Development Services (LDS) is responsible for administering the Stormwater Management Ordinance. However, some County responsibilities under the ordinance are performed by the Department of Public Works and Environmental Services (DPWES) and are funded through its budget. These responsibilities include the post-construction stormwater management facility inspection program, which is a requirement of the Virginia Stormwater Management Program (VSMP) Regulation and the County's Municipal Separate Storm Sewer System (MS4) Permit; and the illicit discharge and industrial and high-risk runoff facility inspection programs, which are elements of the County's MS4 Permit. LDS became the administering agency for the Stormwater Management Ordinance when it was created as a separate agency in 2017.

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The Director of LDS delegated to the Director of DPWES responsibility for administering the above provisions of the ordinance and processing of violations of those provisions. The amendments will expressly authorize the Director of DPWES to administer the portions of the Stormwater Management Ordinance over which he currently has delegated authority and will align the ordinance with the existing lines of business.

The VSMP Regulation requires localities to ensure the long-term functionality of privately owned stormwater management facilities through the use of maintenance agreements. The regulation specifies, among other things, that maintenance agreements must require owners to submit inspection and maintenance reports to the VSMP authority (the County). However, the regulation does not specify how often reports must be submitted or what those reports must include. The maintenance agreements currently used by the County specify the inspection and maintenance reporting requirements which require owners to submit inspection and maintenance reports annually to the County. The County proposes to modify the maintenance agreements to allow owners to retain the reports on-site and be available for review by County staff upon request.

Legal action to assess civil penalties is one enforcement method used to obtain compliance with and penalize violations of the Stormwater Management Ordinance. The ordinance requires that civil penalties be filed in circuit court even though the enabling legislation (Virginia Stormwater Management Act, Va. Code §§ 62.1-44.15:24. *et seq.*) allows legal action to be taken in any appropriate court. In some case, seeking civil penalties in general district court would be more efficient and require less staff time. Therefore, amending the Stormwater Management Ordinance to allow legal action to be taken in any appropriate court would provide flexibility to pursue civil penalties in general district court, and will expedite enforcement and reduce staff time to process certain violations.

The density and planting requirements for the establishment and restoration of Resource Protection Area (RPA) buffers under the Chesapeake Bay Preservation Ordinance is being amended to align the ordinance with the Public Facilities Manual (PFM) and state guidance in the *Riparian Buffers Modification and Mitigation Guidance Manual*.

PROPOSED AMENDMENTS:

The Stormwater Management Ordinance is being amended to authorize the Director of DPWES to administer and enforce specific provisions of the ordinance related to the County's MS4 Permit and long-term maintenance of stormwater management facilities, which is consistent with current lines of business. Also, the ordinance is being amended to allow legal action under the ordinance to be pursued in any appropriate court. The



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Board will also be asked to approve two standard maintenance agreements for privately maintained stormwater management facilities that reflect the changes to the ordinance. There is one agreement for facilities located on private property and a second agreement for facilities located in the right-of-way (applicable to the Tyson's area only).

The density and planting requirements for the establishment and restoration of Resource Protection Area (RPA) buffers in the Chesapeake Bay Preservation Ordinance are being amended to align with the requirements in the PFM and the required caliper of trees for restoration of RPA buffers is being reduced from 2 inches to 1.5 inches. One and one-half-inch caliper is the size recommended in the *Riparian Buffers Modification and Mitigation Guidance Manual*. Details of the proposed amendments are provided in the Staff Report.

REGULATORY IMPACT:

There is only minimal regulatory impact on the public. The proposed amendments provide for the processing of civil penalties through General District Court instead of Circuit Court, which will expedite the enforcement process for some enforcement actions.

FISCAL IMPACT:

There is no fiscal impact to the County. The ability to process violations through General District Court instead of Circuit Court may result in some savings in staff time.

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report Dated June 25, 2019, available at:

<https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/pdf/pfm/staff-report-enforcement-maintenance.pdf>

STAFF:

Rachel Flynn, Deputy County Executive  
William D. Hicks, P.E., Director, LDS  
Randolph W. Bartlett, P.E., Director, DPWES

ASSIGNED COUNSEL:

Marc Gori, Assistant County Attorney

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ADMINISTRATIVE - 10

Authorization to Advertise a Public Hearing to Lease County-Owned Property at 7584 Leesburg Pike to the Friends of Tysons-Pimmit Library (Dranesville District)

ISSUE:

Authorization to advertise a public hearing to lease County-owned property at 7584 Leesburg Pike to the Friends of Tysons-Pimmit Library.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to publish the advertisement of a public hearing to be held on July 30, 2019, at 4:00 p.m.

TIMING:

Board action is requested on June 25, 2019 to provide sufficient time to advertise the proposed public hearing on July 30, 2019, at 4:00 p.m.

BACKGROUND:

The Board of Supervisors is the owner of Tysons-Pimmit Regional Library, located at 7584 Leesburg Pike, on a County-owned parcel identified as Tax Map Number 0401 01 0037 (the Library). The Library is an approximately 25,000 square foot building that was recently renovated by the Department of Public Works and Environmental Services (DPWES) with a new high-efficiency HVAC system, extensive windows and skylights and enhanced technological systems for use by the public.

The Friends of Tysons-Pimmit Library (Friends) is a non-profit organization that provides funding for materials and programming for the Library and for other Countywide initiatives. Examples of such programs sponsored by the Friends include community open house events, collegiate scholarships, children's literacy projects and native plant landscaping for the Library. One of the primary methods for the Friends to raise this funding is to hold ongoing book sales at the Library as well as much larger book marketplaces on a quarterly basis.

To assist in their preparations for the book sales, the Friends would like to pay for the construction of a 199-square foot brick-faced building to serve as a storage shed (Shed) as a standalone structure next to the Library. The Shed would only be serviced with electricity for the operation of indoor lighting; there would be no climate control or indoor plumbing provided to the structure. Access to the Shed to deposit and retrieve the books and other materials ancillary to the book sales would be limited to designated Friends volunteers and the Library's branch manager. Upon completion of the construction, the Board will own the Shed but the Friends will continue to occupy the space as a tenant.

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Because the Friends is a nonprofit organization that supports the County's library and its citizens, the Board is authorized to permit the Friends to use the space without payment of consideration pursuant to Va. Code Ann. § 15.2-953. Virginia Code Ann. § 15.2-1800 requires a locality to hold a public hearing before it may lease its real property. Staff recommends that the Board authorize the staff to advertise a public hearing to lease County-owned property to the Friends.

FISCAL IMPACT:

There would be no impact to the General Fund other than the cost of supplying electricity for the interior lighting of the shed.

ENCLOSED DOCUMENTS:

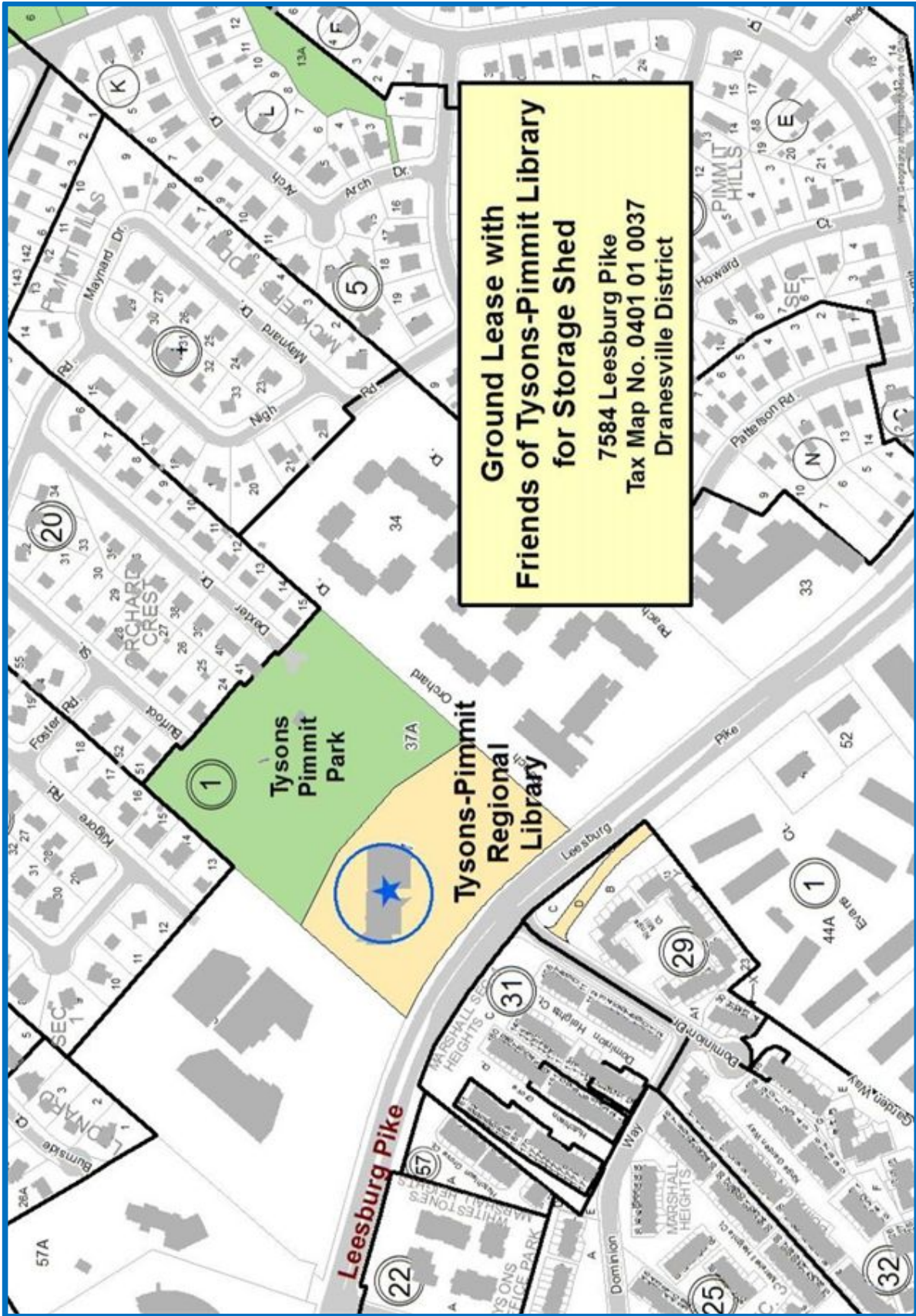
Attachment 1 – Location Map 0401 01 0037

STAFF:

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

ASSIGNED COUNSEL:

Daniel Robinson, Assistant County Attorney



ACTION – 1

Authorization for the County Executive to Execute Contracts for Purchase of Whole  
Parcels for Transportation Projects on Behalf of the Board of Supervisors

ISSUE:

Consideration of a resolution authorizing the County Executive to execute contracts for the purchase of whole parcels necessary for the construction of transportation projects on behalf of the Board of Supervisors.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the attached resolution authorizing delegation of authority to execute contracts for purchase of whole parcels on behalf of the Board of Supervisors for transportation projects.

TIMING:

Action is requested now to expedite acquisition of land for the expansion of Route 28 within the next year, as well as future transportation projects such as the Richmond Highway Bus Rapid Transit Project.

BACKGROUND:

Traditionally, for the construction of capital infrastructure, County staff acquires property and land rights for County purposes. The process for the acquisition of land and land rights varies with the type of construction that the County is engaged in; the construction of buildings and other vertical structures generally require the acquisition of whole properties, while horizontal construction such as roads, sidewalks and trails generally require the acquisition of dedications of portions of a given lot and easements.

Construction of buildings such as police stations and fire stations begin with CIP approval and allocation of funding for the facilities. County staff identifies potential locations for each facility and evaluates the suitability of each option. Once a location is identified that best meets the requirements of the use, appraisals are performed to establish a range of values and memos are prepared making a business case for the acquisition for approval by the County Executive. The potential acquisition is then presented to the Board in closed session to obtain authorization to negotiate and secure a contract for purchase of the property. It has been a long standing Board practice to bring acquisition of whole parcels (as opposed to obtaining dedications or

easements) to closed session for review and approval prior to negotiating and executing a contract for the purchase.

In authorizing the acquisition, the Board is asked to approve the following:

- The business case for the capital project in a specified location,
- The source of funding for the acquisition,
- The monetary range for negotiating the purchase of the property.

Most transportation projects require easements and dedications of portions of lots rather than purchase of whole parcels. In these instances, contracts for purchase and settlements are not utilized, instead the Board has delegated signature authority to the County Executive, the Director of Land Acquisition, or the designated signatory in Land Development Services to accept deeds of dedication and easements on behalf of the Board.

As required by State Code, any eminent domain acquisitions must be brought to the Board in an advertised public hearing by County staff after proper notice is given to the affected land owner that such action is contemplated.

The Fairfax County Department of Transportation (FCDOT) is now proceeding with the planning, implementation and design of two large scale transportation projects that will use a design/build contract for design, land acquisition and construction of the project. Staff anticipates that the projects will require purchase of multiple parcels for construction of transportation improvements and stormwater detention, and obtaining approval to negotiate for each parcel in closed session could result in significant delays in the land acquisition phase of the project.

The first large scale transportation project is the expansion of Route 28 from approximately 100 feet north of the Prince William/ Fairfax County line (Route 28 Bull Run bridge) to approximately 0.3 miles south of Route 29, that anticipates the acquisition of up to 6 vacant properties for stormwater detention ponds.

The second project is the Richmond Highway Bus Rapid Transit project. The design of the first phase is planned to be completed by 2022, with construction tentatively scheduled for completion by 2026. Although total land acquisition needs have not been determined yet, significant land purchases could be required.

For the above referenced projects and all future Board approved large scale transportation projects, staff recommends the Board delegate signature authority to the County Executive to sign purchase and sale contracts to acquire whole parcels on behalf of the Board without obtaining approval to negotiate for each purchase in closed session if funding for the project has been previously approved by the Board. Note that

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the County Executive already has signature authority to sign deeds on behalf of the Board once the purchase goes to settlement. This delegation of signature authority to execute contracts for purchase will further streamline the land acquisition and construction process. The Board will have already approved the transportation project, funding, costs and location, so there is awareness of the acquisition and its purpose. In addition, staff recommends the following procedures be instituted to keep the Board informed during the process:

- Any board item for approval of the original transportation project will include a statement that acquisition of whole parcels may be required to construct the project, and an estimate of land acquisition costs (including land purchase, dedications and easements) will be included.
- The Supervisor(s) in whose district(s) the project will be constructed will be briefed on the properties subject to acquisition.
- Land acquisition procedures are also subject to federal and state funding requirements as applicable.
- As required by State Code, any eminent domain acquisitions must be brought to the Board in an advertised public hearing by County staff.

FISCAL IMPACT:

The delegation of signature authority to execute contracts for purchase to the County Executive on behalf of the Board of Supervisors will not result in any fiscal impacts to funding for transportation projects. Costs associated with parcel acquisition will continue to be included in the estimates provided in project authorizations submitted to the Board of Supervisors for approval.

ENCLOSED DOCUMENTS:

Attachment A – Resolution

STAFF:

Rachel O'Dwyer Flynn, Deputy County Executive  
Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)

Tom Biesiadny, Director, Department of Transportation (FCDOT)

Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

ASSIGNED COUNSEL:

Pamela K. Pelto, 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 at 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, June 25, 2019, at which meeting a quorum was present and voting, the following resolution was adopted:

**WHEREAS**, the Board of Supervisors reviews and approves large scale transportation projects, including the project location and funding, prior to the acquisition of land rights in order to implement the project; and

**WHEREAS**, certain large scale transportation projects may require acquisition of whole parcels, rather than dedications and easements of portions of a lot, and

**WHEREAS**, the Board has previously delegated signature authority to the County Executive to sign deeds for whole parcel acquisitions on their behalf to streamline the process of acquisition for the construction of capital infrastructure; and

**WHEREAS**, for large scale transportation projects, contracts for purchase of whole parcels must also be executed prior to settlement and recordation of the deed.

**NOW THEREFORE BE IT RESOLVED**, that the Board of Supervisors delegates to the County Executive the authority to execute Purchase and Sale Contracts on behalf of the Board in connection with the purchase of whole parcels of property for large scale transportation capital infrastructure projects, provided the Board of Supervisors previously approved and funded such projects.

A Copy – Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors



ACTION – 2

Approval of a Memorandum of Understanding Between the Board of Supervisors and the Southeast Fairfax Development Corporation, Inc. (Lee and Mount Vernon Districts)

ISSUE:

Approval of a Memorandum of Understanding (MOU) between the Board of Supervisors and the Southeast Fairfax Development Corporation (SFDC) for the period of July 1, 2019, through June 30, 2023.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the attached MOU with the SFDC, and authorize the County Executive to sign the Memorandum on behalf of the Board.

TIMING:

The Board action should be taken at the June 25, 2019, meeting, as the current MOU expires on June 30, 2019.

BACKGROUND:

SFDC was organized as a non-profit corporation for charitable, educational and other public purposes so as to develop, implement, and support programs, projects and activities designed to stimulate, foster, coordinate, plan, improve and encourage economic development and reinvestment in the area of influence of the Richmond Highway Corridor. SFDC has been assisting revitalization efforts in the Richmond Highway Corridor, and has had a MOU with the Board since 1981. The MOU, which is subject to periodic renewal and review, outlines the goals of the SFDC and the terms and conditions for its receipt of funds from the Board. The current MOU will expire on June 30, 2019, and, therefore, it is appropriate to renew the agreement at this time. The effective term of the proposed MOU is July 1, 2019, through June 30, 2023.

The MOU changes serve to affirm a continued collaborative effort to forward revitalization of the Richmond Highway Corridor. Two substantive changes were made to the updated MOU. The first is that SFDC will promote development opportunities along Richmond Highway, with particular emphasis on those areas being incentivized for reinvestment and economic growth. This reflects the desire to promote the Opportunity Zones and other zones along the Richmond Highway Corridor. The second item is that SFDC will pursue the attraction of new businesses to the Corridor, especially retail supportive of new development, and to actively work to promote and

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retain existing businesses. This is a role that SFDC already has been playing increasingly on the corridor and will become even more important as the widening of Richmond Highway comes to pass and there is a need to assist existing businesses in finding new locations on the corridor. Finally, minor changes were made to the MOU that were administrative in nature, such as changing the review of the SFDC Plan of Work biennially rather than annually, and extending from two to four months from the close of each fiscal year the provision of an annual report to Supervisors and partner agencies.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Memorandum of Understanding (MOU) between the Board of Supervisors and the Southeast Fairfax Development Corporation, Inc.

STAFF:

Barbara A. Byron, Director, Office of Community Revitalization (OCR)  
Elizabeth A. Hagg, Deputy Director, OCR

**MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF  
SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA,  
AND  
THE SOUTHEAST FAIRFAX DEVELOPMENT CORPORATION, INC.  
(July 1, 2019 – June 30, 2023)**

This memorandum of Understanding (“Memorandum”) is made as of (July 1, 2019) by and between the Board of Supervisors of Fairfax County, Virginia (the “County Board”) and the Southeast Fairfax Development Corporation, Inc., a Virginia non-profit corporation (the “SFDC”).

**RECITALS**

R-1 The SFDC is a non-profit corporation for charitable, educational and other public purposes that has been established to develop, implement, and support programs, projects and activities designed to stimulate, foster, coordinate, plan, improve and encourage economic development and reinvestment in the Richmond Highway Corridor; and

R-2 The Board of Directors of the SFDC (the “SFDC Board”) is comprised of thirteen (13) voting members and has been established to oversee the operation of the SFDC. SFDC Board members shall have backgrounds and/or interest in revitalization; and

R-3 The members of the County Board from the Mt. Vernon and Lee Districts shall each have a right to appoint from their respective districts two (2) members to the SFDC Board. The Mt. Vernon Council of Citizens’ Associations and the Lee District Association of Civic Organizations each shall have a right to appoint to the SFDC Board from their respective membership’s one (1) member, and the Mt. Vernon-Lee Chamber of Commerce shall have the right to appoint from its membership one (1) member. To the extent possible, these appointed members shall have backgrounds and interest in revitalization. All other members shall be selected as determined by the SFDC Board, and shall have professional backgrounds in economic development, business, marketing, planning, transportation, urban design, banking, real estate, and/or similar professions that can aid SFDC in working toward achieving its revitalization objectives; and

R-4 The SFDC is a combined effort between the resident and the business communities in the Richmond Highway area; and

R-5 The SFDC is an independent, separate, legal entity from the County Board or the Fairfax County, Virginia government; and

R-6 The SFDC’s primary partner in Fairfax County is the Department of Planning and Development (“DPD”); additional County-funded offices and organizations such as the Department of Transportation (“DOT”) and the Fairfax County Economic Development Authority (“EDA”) will function as collaborative partners to effect revitalization of the Richmond Highway Corridor in accordance with the Comprehensive Plan; and,

R-7 The County Board approves of the purposes for which the SFDC was formed and desires to see that its purposes are achieved; and

R-8 The Richmond Highway Corridor between the Beltway and Fort Belvoir has a unique history and presents unique problems which require innovative solutions; and

R-9 The County Board is authorized pursuant to Va. Code Ann. § 15.2-953 (LNMB Supp. 2010) to make contributions of public funds and property to charitable organizations such as the SFDC; and

R-10 Both the County Board and the SFDC desire to establish the framework within which contributions from the County Board to the SFDC shall be accepted and utilized.

**NOW THEREFORE**, in consideration of the mutual agreement of the parties hereto and in return for any contributions the County Board may make to the SFDC, both the County Board and the SFDC agree as follows:

A. Marketing and Promotion

1. The SFDC agrees to develop and implement marketing and promotion programs aimed at improving the image and increasing public awareness of Richmond Highway as a place to do business, invest, develop, reside, shop, and enjoy its amenities, and, as a result, increase its market share.
2. The SFDC agrees to promote development opportunities along the Richmond Highway Corridor, with an emphasis on areas incentivized for reinvestment and economic growth.

B. Business Recruitment, Promotion and Retention

1. The SFDC agrees to pursue the attraction of new businesses to the Richmond Highway Corridor, especially retail supportive of new development, and to actively work to promote and retain existing businesses.

C. Assistance to Developers and Businesses

1. The SFDC agrees to provide information and assistance within its capacity to property owners, prospects, business owners and developers seeking to build or improve properties along the Richmond Highway Corridor.
2. The SFDC agrees to coordinate with financial institutions to assist businesses and property owners to obtain capital for reinvestment and property improvements.
3. The SFDC agrees to provide guidance and assistance to parties in accessing and utilizing information and services available from Fairfax County and private sources, and to direct such parties to the applicable County staff as appropriate for further assistance, information and services.
4. The SFDC agrees to review initiatives by landowners and developers aimed at improving the appearance, character, and economic health of the Richmond Highway Corridor. Initiatives and projects deemed to be supportive of revitalization objectives may be considered by the SFDC Board for formal support.

D. Community Appearance, Planning, and Urban Design

1. Unless otherwise authorized by the County Board, the SFDC shall comply with all applicable laws and regulations of Fairfax County, the Commonwealth of Virginia, and the United States Government, including all established Fairfax County procedures for obtaining: (i) changes to the Comprehensive Plan; (ii) changes to the County Code; (iii)

rezonings, special exceptions and special permit uses: and (iv) site plan reviews and permits,

2. The SFDC Executive Director, the Director of the DPZ and the Director of the Department of Public Works and Environment Services (DPWES) or their designees shall inform each other of any active projects within the SFDC program area where a party is seeking: (i) a change to the Comprehensive Plan; (ii) a change to the County Code; (iii) approval of a rezoning, special exception and/or special permit use: or (iv) approval of a site plan or building permit. In addition, the SFDC shall invite DPZ, DOT and OCR to be a part of any vision planning and/or discussions related to changes to the Comprehensive Plan initiated by the SFDC and shall communicate with the Mt. Vernon District and Lee District Supervisors to keep them apprised of any such efforts.
3. The SFDC, the OCR, the DPZ, and other applicable County Departments shall work closely together regarding any urban design plans that the organizations should undertake, including but not limited to traffic and transportation studies, location-specific urban design plans and guidelines, and the wayfinding sign program.
4. The SFDC shall seek to improve the appearance and image of the Richmond Highway corridor through its programs and policies.
5. The SFDC shall not seek to obtain through litigation, approval for requests previously sought from, but denied by, the County Board.

#### E. Plan of Work

The SFDC agrees to maintain and at least biennially review a plan of work, which identifies its goals, objectives, major projects, sources of funding and estimated timelines. Such work plan shall be coordinated with the Mt. Vernon and Lee District Supervisors and the OCR.

#### F. Tax Exempt Status

The SFDC shall comply with all requirements of the Internal Revenue Service so as to remain an approved 501 (c) (3) charitable tax exempt corporation.

#### G. Eligible Uses of Funds

All funds the County Board may elect to make available to the SFDC hereunder shall be for corporate operations and projects initiated and carried out by the SFDC to improve the Richmond Highway Corridor in accordance with the goals and objectives as set forth in this Memorandum of Understanding and the SFDC's Articles of Incorporation.

#### H. Annual Budget Preparation and Approval

The SFDC shall prepare an annual budget and submit its funding request to the County Board for approval.

#### I. Supplemental Funding

The SFDC shall endeavor to augment contributions made to it by the County Board through the following activities:

1. The SFDC will, in coordination with the applicable Fairfax County departments, identify, evaluate and pursue federal, state, local and private grant and loan opportunities that may be available for revitalization projects, programs, and activities.
2. The SFDC will endeavor to supplement County Board contributions by developing alternative revenue streams funded by private sector parties.

I. Reporting

The SFDC Executive Director shall submit on a monthly basis to the Mt. Vernon and Lee District Supervisors, the Director of the DPD, and the SFDC Board a report of activities. Each year, within four months of the close of its Fiscal Year, the SFDC shall submit to the aforementioned parties an Annual Report containing financial and other information identifying and describing the accomplishments of the SFDC and the status of projects undertaken by the SFDC; such report shall be in sufficient detail and description to enable the County Board to evaluate the SFDC's effectiveness and success in achieving its goals and objectives to revitalize the Richmond Highway Corridor.

J. County Officials or Employees as Directors, Employees or Officers

No County officer, employee, member of the County Board or member of the County Board's staff shall be an officer or employee of the SFDC Board. Members of Fairfax County boards, commissions and authorities, however, may be directors, officers, and employees of the SFDC provided they are not within the categories of prohibited persons listed above and provided that no compensation is paid by the SFDC to any such director, officer or employee.

K. Conflict

1. The terms of the State and Local Government Conflict of Interests Act ("the Conflicts Act"), Va. Code Ann. §§ 2.2-3100 – 2.2-3131, as amended, are incorporated herein by reference and all directors, officers, and employees of the SFDC shall comply with those terms.
2. Directors, officers, and employees of the SFDC shall file, as a condition to assuming or holding office or employment, a disclosure statement of economic interests in the Richmond Highway Commercial Revitalization District and other such information as required by law or requested by the County Board, the County Board's Designees or applicable Fairfax County agencies.

L. Dissolution

Upon dissolution or other termination of the SFDC, all outstanding fund balances or assets derived from Fairfax County appropriations shall be transferred to the Fairfax County government. All other fund balances and assets shall be disbursed for purposes permitted under the SFDC's Articles of Incorporation in accordance with instructions from the SFDC Board, all applicable laws and regulations.

M. Additional Conditions

1. The SFDC shall abide by any conditions imposed by the County Board with respect to any contribution made by the County Board to the SFDC.
2. This Memorandum shall not be abrogated, changed or modified without the consent of the SFDC and the County Board.
3. This Memorandum shall not be construed to abrogate the statutory responsibility of the County Board.
4. At least as often as each four (4) years, the County Board and the SFDC shall review the Memorandum to determine whether any changes in the agreement are desired or if the Memorandum should be terminated.
5. This Memorandum shall continue to be in effect until (June 30, 2023) unless terminated by the County Board before that date.
6. SFDC shall comply with the Virginia Freedom of Information Act, Va. Code Ann. §§ 2.2-3700 – 2.2-3714, as amended.

N. Notice

Notices hereunder and reports and other documents to be furnished to either party in accordance with the terms herein shall be given in writing only directed to the following addresses:

1. If to the SFDC:

Southeast Fairfax Development Corporation  
8350 Richmond Highway, Suite 123  
Alexandria, VA 22309

2. If to the County Board:

County Executive  
12000 Government Center Parkway  
Suite 552  
Fairfax, VA 22035

And

Office of the County Attorney of Fairfax County  
12000 Government Center Parkway  
Suite 549  
Fairfax, VA 22035  
Attn: County Attorney

Every such notice shall be deemed to have been given on the date on which it is received or refused by the party to whom it is sent. Any changes of address shall be given in accordance with the terms herein, and shall not be effective until ten (10) days after the date received.

ACTION – 3

Approval of a Lease Agreement to Continue Commuter Parking at Springfield Plaza  
(Lee District)

ISSUE:

Board approval to execute a Lease Agreement (Attachment I) with Springfield Plaza LLC, that would ensure the availability of 127 commuter parking spaces at the Springfield Plaza located on Tax Map Parcel Numbers 80-3 ((1)) 4A and 80-3 ((1)) 10. Construction of the Springfield Community Business Center (CBC) Commuter Parking Garage is scheduled to begin in late fall 2019 at the existing 278 parking space Old Keene Mill Commuter Lot located on Tax Map Parcel Number 80-3 ((1)) 6. Based upon the temporary loss of 278 commuter parking spaces located directly across Old Keene Mill Road, this lease agreement is needed to ensure that the 127 spaces currently provided by Springfield Plaza LLC are preserved for the duration of the Springfield CBC Commuter Parking Garage construction.

RECOMMENDATION:

The County Executive recommends that the Board:

1. Approve in substantial form the attached lease agreement with Springfield Plaza LLC for 127 commuter parking spaces.
2. Authorize the Director of the Fairfax County Department of Transportation to execute this agreement on behalf of the County.

TIMING:

Board approval is requested on June 25, 2019, so that the Lease Agreement with Springfield Plaza LLC can be executed in a timely manner to ensure that these commuter parking spaces remain available during construction of the new Springfield CBC Commuter Parking Garage.

BACKGROUND:

Springfield Plaza LLC has provided commuter parking at its shopping center since the 1980's. Springfield Plaza LLC maintained the commuter lot at its own expense without any formal agreement. On March 14, 2017, upon request from the owner of an adjacent property, the Board approved a lease agreement to compensate Springfield



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Plaza, Section II, LLC, for providing 108 commuter parking spaces and for resurfacing their commuter lot. Acknowledging the above-mentioned lease, Springfield Plaza LLC contacted Fairfax County on February 25, 2019, to request equal compensation per space to continue providing 127 commuter parking spaces during construction of the Springfield CBC garage.

The Springfield CBC Commuter Parking Garage project will construct a six-story, approximately 1,000-space parking garage and transit center on the approximately 2.71-acre Old Keene Mill Park-and-Ride site that is owned by Fairfax County and currently used as a surface commuter parking lot. The future transit center will include seven bus bays, bicycle storage, and two slug lines. A pedestrian bridge will connect the garage to the Springfield Plaza parking lot on the north side of Old Keene Mill Road opposite the project site.

The existing Old Keene Mill Commuter Lot contains 278 parking spaces. Weekday occupancy of these parking spaces is typically at 100 percent capacity. The other nearby commuter lots, American Legion and Springfield United Methodist, are also fully utilized. In light of the fact that all adjacent commuter lots are currently operating at capacity and 278 spaces at the Old Keene Mill lot will be unavailable during construction of the new Springfield CBC Garage, Fairfax County Department of Transportation (FCDOT) has determined that these 127 commuter spaces are necessary to supply adequate parking options for commuters.

FISCAL IMPACT:

This commuter lot lease agreement will be supported by Fund 40000, County Transit Systems. If authorized, the lease agreement will continue during construction of the Springfield CBC Commuter Parking Garage, which is estimated to be completed in mid-2022.

The total anticipated cost is \$323,579, including \$262,579 in lease fees for FY 19-22 and \$61,000 for commuter parking area resurfacing. Sufficient funds are available to cover the anticipated FY 2019 cost of \$56,531, including a \$30,500 payment for commuter parking area resurfacing and \$26,031 in leasing fees for February 25, 2019, through June 30, 2019. Future year costs will be managed within the budget authorized for Fund 40000, County Transit Systems.

ENCLOSED DOCUMENTS:

Attachment I - Lease Agreement Between Fairfax County and Springfield Plaza LLC for Commuter Parking

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STAFF:

Rachel Flynn, Deputy County Executive, Office of the County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Dwayne Pelfrey, Division Chief, Transit Services Division, FCDOT  
Ray Johnson, Chief, Funding Oversight, FCDOT  
Kris Miller, Sr. Transportation Planner, FCDOT  
Nathan Wilkinson, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Robert M. Falconi, Assistant Count Attorney, Office of County Attorney

**LEASE AGREEMENT BETWEEN FAIRFAX COUNTY AND SPRINGFIELD PLAZA, LLC FOR  
COMMUTER PARKING**

THIS DEED OF LEASE (this "Agreement"), made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date"), by and between **SPRINGFIELD PLAZA, LLC**, a Delaware limited liability company (hereinafter referred to as "OWNER"), having an address of 8405 Greensboro Drive, 8th Floor, McLean, Virginia 22102-5121, and the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY** (hereinafter referred to as the "COUNTY"), a body public of Virginia, having an address at 12000 Government Center Parkway, Fairfax, Virginia 22035.

**WHEREAS**, the COUNTY continues to support public transportation services, facilities, and commuter park-and-ride lots as effective traffic mitigation facilities;

**WHEREAS**, the COUNTY desires to provide satellite parking spaces in various places in Fairfax County to supplement parking at Metrorail, Virginia Railway Express stations, and other commuter facilities;

**WHEREAS**, the COUNTY desires to lease the use of certain parking spaces at the Springfield Plaza Shopping Center, Springfield, Virginia (the "Plaza"), to provide additional commuter parking in the area;

**WHEREAS**, a portion of the Plaza shown on the map attached hereto and incorporated herein as Exhibit A, has available one hundred and twenty-seven (127) parking spaces for commuter parking on weekdays (i.e., Monday through Friday) between 5:00 a.m. and 8:00 p.m.; and

**WHEREAS**, OWNER is the owner of the parking area to be designated as commuter parking pursuant to this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and agreements set forth below, OWNER and the COUNTY agree as follows:

1. One hundred and twenty-seven (127) parking spaces in the Plaza parking lot (the "Commuter Parking Area"), as shown on **Exhibit A**, will be reserved for the exclusive use by commuters who carpool, vanpool, slug line, or ride public transportation between the hours of 5 a.m. and 8 p.m., Monday through Friday, and for the non-exclusive, common and joint use by other visitors to the Plaza at all other times.

2. a) A lease payment shall be paid to OWNER by the COUNTY under this Agreement in an amount equal to \$6,283.30 per month, based on equivalent monthly lease payments to an adjacent property owner. Quarterly payments shall be made in advance, on or before the first day of each quarter, without offset or deduction, in the amount of \$18,849.89 for each full calendar quarter in which all 127 spaces are made available. If the total number of parking spaces required by Section 1 above are not available for a full quarter, the lease payment shall be prorated accordingly for that quarter. Quarters are designated as:

- July 1 - September 30
- October 1 - December 31
- January 1 - March 31
- April 1 - June 30

Notwithstanding the foregoing, the payment for the period from April 1, 2019 - June 30, 2019, plus an appropriate prorated fraction of the payment for the period of January 1, 2019 - March 31, 2019, shall be paid upon the COUNTY's execution of this Agreement. Such prorated fraction for the period of January 1, 2019 - March 31, 2019, shall be calculated based on the OWNER's original request for compensation received February 25, 2019.

b) OWNER shall submit all quarterly invoices for this Agreement to:

Park-and-Ride Manager  
County of Fairfax Department of Transportation  
4050 Legato Road, Suite 400  
Fairfax, Virginia 22033-2895

- c) The lease payments for this Agreement with OWNER shall be made payable to and shall be sent to:

Rappaport Management Company  
8405 Greensboro Drive, 8th Floor  
McLean, Virginia 22102-5121

- d) The parties may elect to utilize electronic mail for invoicing and electronic payment for direct deposit.

e) Annual three percent (3%) increases will be applied to the lease payments beginning on January 1, 2020. Consequently, quarterly payments will increase to \$19,415.38 in 2020, \$19,997.84 in 2021, and \$20,597.78 in 2022.

3. This Agreement shall become operative within five (5) business days after receipt of written notice by OWNER from the COUNTY stating that use of the Commuter Parking Area shall begin and shall be binding upon the parties, their successors and assigns, and continue in force until such time that the construction of the Springfield CBC Commuter Garage is complete and the garage is opened to the public. Thereafter, either party shall have the right to terminate this Agreement, with or without cause, upon ninety (90) days written notice to the other party.

4. a) OWNER shall provide lighting, sweeping, and snow removal with respect to the Commuter Parking Area; provided, however, that this obligation shall be fulfilled consistent with OWNER's existing practices at the Plaza, and that no additional obligations are undertaken by OWNER pursuant to this Section 4.

b) OWNER shall submit to the COUNTY paid invoices evidencing the repaving improvements made within the Commuter Parking Area. The COUNTY shall reimburse OWNER for said expenses not to exceed \$61,000 in total payment. Such reimbursement shall be submitted in two installments. The first installment of \$30,500 will be provided to OWNER within thirty (30) days after the COUNTY's receipt of paid paving invoices. The second installment shall be provided to OWNER within thirty (30) days after the COUNTY's receipt of OWNER's invoice of \$30,500, to be submitted on or after July 1, 2019. In the event that OWNER terminates this agreement prior to such time that the construction of the Springfield CBC Commuter Garage is complete and open to the public, the OWNER shall repay the entirety of the COUNTY's total repaving reimbursement to OWNER. Upon the termination of this Agreement, the COUNTY shall leave said parking spaces in good condition, normal wear and tear excepted.

5. The COUNTY shall provide, maintain, and repair appropriate signage for the Plaza to direct commuters to the Commuter Parking Area (the location and installation of such signage to be subject to OWNER's prior written approval). The COUNTY may install any such commuter parking signs in the Commuter Parking Area (subject to OWNER's prior approval). The COUNTY shall maintain and repair any signage installed under this Section 5 to OWNER's reasonable satisfaction.

6. The COUNTY shall obtain and keep in force throughout the duration of this Agreement a Commercial General Liability insurance policy with a limit of \$1,000,000 per occurrence and in the aggregate. Claims, suits or actions brought on account of any injury or damage sustained to any person, or to the property of any person, while utilizing the Commuter Parking Area and as a direct result of utilizing the Commuter Parking Area, should be directed to:

Claims Manager, Risk Management Division  
County of Fairfax  
12000 Government Center Parkway, Suite 215  
Fairfax, Virginia 22035-5511

The liability insurance policy shall name OWNER and Rappaport Management Company as additional insureds and shall provide that cancellation cannot occur without thirty (30) days' prior written notice to the additional insureds from the insurance company. The COUNTY shall provide to OWNER a Certificate of Insurance evidencing the required coverage upon renewal of the insurance policy. It is expressly agreed and understood that the COUNTY does not agree to indemnify or hold harmless OWNER for or against any claim brought by any party against OWNER or Rappaport Management Company.

7. OWNER shall monitor and enforce all parking regulations concerning where and when commuter parking shall

be permitted in the Commuter Parking Area, consistent with this Agreement and OWNER's general practices regarding parking in the Plaza. Parking by commuters in the Commuter Parking Area shall be permitted only in clearly identified spaces (consistent with Section 4 herein), between the hours of 5 a.m. and 8 p.m., Monday through Friday. These spaces shall be available for use by other visitors to the Plaza at all other times.

8. The COUNTY shall be permitted to include the availability of the Commuter Parking Area in its promotional literature about commuter parking lots located in Fairfax County.

9. All requirements for funding by the COUNTY under this Agreement, including the COUNTY's covenants to provide insurance as set forth in Section 6 above, are subject to annual appropriations by the Fairfax County Board of Supervisors. In the event that such appropriations for the COUNTY to provide insurance as set forth in Section 6 above are not made, OWNER may terminate this Agreement immediately upon five (5) calendar days' written notice to the COUNTY. The COUNTY will provide the OWNER with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, the County's failure to provide such notice will not extend this Agreement into a fiscal year in which sufficient funds have not been appropriated.

10. Nothing herein shall vest any rights in any third parties.

11. Nothing herein shall give rise to any personal liability on the part of any official, employee, or agent of the COUNTY.

12. Nothing herein shall be construed as waiving a party's right to pursue breach of contract remedies, whether for monetary damages, interest and/or injunctive relief, against the breaching party for breach of this Agreement. However, neither party will be held liable for any speculative, consequential, or punitive damages for any such breach of contract.

13. Nothing herein shall be construed by the parties or any third party as a waiver of the sovereign immunity of the County of Fairfax.

14. All notices under this Agreement shall be sent to the following addresses:

To COUNTY:

Mr. Tom Biesiadny, Director  
County of Fairfax Department of Transportation  
4050 Legato Road, Suite 400  
Fairfax, Virginia 22033-2895

To OWNER:

Springfield Plaza LLC  
c/o Rappaport Management Company  
8405 Greensboro Drive, 8th Floor  
McLean, Virginia 22102-5121

15. Nothing contained in this Agreement shall be construed or interpreted as creating anything other than a lease; that is, this Agreement shall not be construed or interpreted as creating any-property rights in the Plaza and/or the Commuter Parking Area at Springfield Plaza.

16. This Agreement may not be modified except by a written instrument duly executed by the parties hereto.

17. If any provision of this Agreement shall be invalid or unenforceable to any extent, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18. This Agreement shall be governed and construed in all respects as between OWNER and COUNTY, in accordance with the laws of the Commonwealth of Virginia, without regard to conflict of law principles. This

Agreement is also subject to and conditioned upon compliance with all applicable state and local building codes and zoning requirements.

19. This Agreement shall not be construed as limiting or affecting the legal authorities of the parties, or as requiring the parties to perform beyond their respective legal authorities.

**IN WITNESS WHEREOF**, the parties hereto intending to be legally bound have executed this Deed of Lease under their respective seals as of the day and year first above written.

**WITNESS:**

**OWNER:**  
SPRINGFIELD PLAZA, LLC

By: Springfield Plaza Limited Partnership,  
its sole member

By: The Corby Corporation, a General Partner

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Constance Tompkins, President

By: Dodge Springfield Plaza, Inc., a General Partner

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
John T. Beaty Jr., President

**WITNESS:**

**COUNTY:**  
BOARD OF SUPERVISORS OF FAIRFAX COUNTY

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Tom Biesiadny, Director  
Department of Transportation



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ACTION - 4

Authorization of Fall 2019 School Bond Referendum

ISSUE:

The Board of Supervisors approval of a Fairfax County Public Schools bond referendum totaling \$360,000,000, as requested by the School Board, and adoption of the enclosed resolution requesting the Circuit Court to order a referendum on November 5, 2019, on the issuance of such bonds. A schedule of events is included as Attachment 1.

RECOMMENDATION:

The County Executive recommends that the Board adopt the enclosed resolution (Attachment 2) directing the County Attorney to petition the Circuit Court to order a school bond referendum on November 5, 2019.

TIMING:

Board authorization is requested on June 25, 2019, to provide sufficient time to obtain a court order and prepare for the referendum. Attachment 1 is the proposed fall 2019 bond referendum schedule of events. Staff will return to the Board with a Board Item on July 30, 2019, for authorization to print and distribute an explanatory County bond referendum statement (known as the "Plain English Statement").

BACKGROUND:

On May 9, 2019, the Fairfax County School Board adopted a resolution for a school bond referendum in the amount of \$360,000,000 (Attachment 3). Details of the projects expected to be funded are included in Attachment 4. The School Board sizes the referendum to include the full cost of new construction and renovation projects with spending anticipated to occur over the course of a multi-year period. The referendum and bond sales have been accounted for within the FY 2020 – FY 2024 Adopted Capital Improvement Program (With Future Fiscal Years to FY 2029) as approved by the Board of Supervisors on April 30, 2019.

In Virginia, a referendum can be put on the ballot for consideration by the voters only if the referendum is ordered by the court. The attached resolution directs the County Attorney to provide a certified copy of the adopted Resolution to the Circuit Court and to petition it to order the referendum on the question as stated in Section 1 of the resolution. The law requires the Court to enter the order if the request is found to be "in proper order." Upon entry of the order, the Clerk of Court is required to send copies to the State Board of Elections. The Fairfax County Electoral Board and General Registrar



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will then prepare the ballots in time to make them available to voters beginning with absentee voting on September 20, 2019.

FISCAL IMPACT:

The school bond sales will be maintained in the annual amount of \$180 million as part of the County's annual General Obligation bond sale. Future debt service payments have been incorporated into the County's long term debt ratio projections, and are referenced in the FY 2020 - FY 2024 Adopted Capital Improvement Program (With Future Fiscal Years to FY 2029).

ENCLOSED DOCUMENTS:

Attachment 1 – Schedule of Events

Attachment 2 – Board of Supervisors Resolution Requesting an Order for a

Referendum on the Issuance of Bonds in the Amount of \$360,000,000 for Schools

Attachment 3 – Resolution Adopted by the School Board on May 9, 2019 Requesting a Bond Referendum

Attachment 4 – School 2019 Bond Referendum Project List

STAFF:

Bryan J. Hill, County Executive

Joseph Mondoro, Chief Financial Officer

Dr. Scott Brabrand, Superintendent, Fairfax County Public Schools (FCPS)

Jeffrey Platenberg, Assistant Superintendent for Facilities and Transportation Services,  
FCPS

Joseph LaHait, Debt Manager, Department of Management and Budget

ASSIGNED COUNSEL:

Erin C. Ward, Deputy County Attorney, Office of the County Attorney

Martin Desjardins, Assistant County Attorney, Office of the County Attorney

**Proposed Schedule of Events  
Fall 2019 Bond Referendum – Schools**

<b>Date</b>	<b>Item</b>
March 21, 2019	Budget Committee review of FY 2020 - FY 2024 Capital Improvement Program
April 30, 2019	FY 2020 Budget Markup & Approval of the FY 2020 - FY 2024 Capital Improvement Program
May 7, 2019	FY 2020 Budget Adoption
May 9, 2019	Fairfax County School Board Adopts School Bond Referendum Resolution
June 25, 2019	Board of Supervisors Adopts School Bond Referendum Resolution
NLT July 5, 2019	Petition filed with Fairfax County Circuit Court for School Bond Referendum
July 30, 2019	Board of Supervisors Approval of Explanatory Bond Referendum Statement for School Bonds (Plain Language Explanation)
August 1, 2019 (est.)	Circuit Court orders School Bond Referendum
September 20, 2019	Absentee voting begins (required 45 days prior to election)
September 20, 2019	Publication of notice of election
November 5, 2019	Election Day; referendum held
November 12, 2019 (est.)	Referendum results certified by the County Electoral Board by this date

**Resolution to Request the Fairfax County Circuit Court to Order an Election on the Question of Whether Fairfax County, Virginia, Should be Authorized to Contract a Debt, Borrow Money, and Issue Bonds in the Maximum Aggregate Principal Amount of \$360,000,000 to Finance the Cost of School Improvements**

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 June \_\_, 2019, at which meeting a quorum was present and voting, the following resolution was adopted:

**WHEREAS**, Virginia Code § 15.2-2640 provides that before the governing body of a county can adopt a resolution asking the circuit court to order an election on the question of contracting debt and issuing bonds for school purposes, the local school board must, by resolution, request the governing body of the county to take such action; and

**WHEREAS**, on May 9, 2019, the Fairfax County School Board (the “School Board”) adopted a resolution requesting the Board of Supervisors of Fairfax County, Virginia, to adopt a resolution asking the Fairfax County Circuit Court to order an election on the question of contracting a debt, borrowing money, and issuing capital improvement bonds of Fairfax County, Virginia, in the maximum aggregate principal amount of \$360,000,000 for the purposes of providing funds, in addition to funds from school bonds previously authorized, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system; and

**WHEREAS**, the School Board has provided a certified copy of that resolution to the Clerk of the Board of Supervisors; and

**WHEREAS**, the Board of Supervisors concurs in the determinations and the request of the School Board as set forth in its resolution; and

**WHEREAS**, Virginia Code §§ 15.2-2610, 15.2-2611, and 24.2-684 provide the Fairfax County Circuit Court with the authority to issue an order for the conduct of an election; now, therefore,

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

**Section 1.** That the Circuit Court of Fairfax County, Virginia, is hereby requested to order a referendum on November 5, 2019, on the following question:

Shall Fairfax County, Virginia, contract a debt, borrow money, and issue capital improvement bonds in the maximum aggregate principal amount of \$360,000,000 for the purposes of providing funds, in addition to funds from school bonds previously authorized, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system?

**Section 2.** That the County Attorney is hereby directed to provide the Fairfax County Circuit Court with a certified copy of this resolution and the resolution of the School Board, which was adopted on May 9, 2019, and to petition the Fairfax County Circuit Court for an order to conduct such a referendum as a special election in conjunction with the general election on November 5, 2019.

**Section 3.** That the members, officers, legal counsel, agents and employees of the Board, and the County are hereby authorized and directed to do all acts and things required of them under Virginia law to ensure that the referendum will be held as a special election in conjunction with the general election on November 5, 2019.

Given under my hand on this \_\_\_\_\_ day of \_\_\_\_ 2019

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Catherine A. Chianese  
Clerk to the Board of Supervisors  
County of Fairfax, Virginia

**FAIRFAX COUNTY SCHOOL BOARD  
BOND REFERENDUM RESOLUTION**

\_\_\_\_\_, 2019

**RESOLUTION REQUESTING THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, TO ASK THE CIRCUIT COURT FOR THE COUNTY TO ORDER AN ELECTION ON THE QUESTION OF CONTRACTING A DEBT, BORROWING MONEY AND ISSUING CAPITAL IMPROVEMENT BONDS OF THE COUNTY IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$360,000,000 FOR THE PURPOSE OF PROVIDING FUNDS, WITH ANY OTHER AVAILABLE FUNDS, TO FINANCE THE COSTS OF IMPROVEMENTS FOR THE SCHOOL SYSTEM.**

**WHEREAS**, the Fairfax County School Board of Fairfax County, Virginia, has determined that certain school improvements should be financed 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 School Board has determined that, for the purpose of providing funds to pay the cost of such public school improvements and the cost of such public school property, Fairfax County should contract a debt, borrow money and issue bonds in the aggregate principal amount of \$360,000,000; and

**BE IT RESOLVED** by the School Board that:

Section 1. The Board of Supervisors of Fairfax County, Virginia, is hereby requested to ask the Circuit Court of Fairfax County, Virginia, to order an election on the question of contracting a debt, borrowing money, and issuing capital improvement bonds of Fairfax County, Virginia, in the maximum aggregate principal amount of \$360,000,000 for the purposes of providing funds, in addition to funds from school bonds previously authorized, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system.

Section 2. The Board of Supervisors is hereby advised that it is the desire of the School Board that the proposed referendum be scheduled for November 5, 2019.

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 of Fairfax County, Virginia.

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

(SEAL)

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Ilene D. Muhlberg  
Clerk, Fairfax County School Board

**Fairfax County Public Schools  
Proposed 2019 School Bond Referendum**

**NEW CONSTRUCTION**

Fairfax Oakton Area ES (construction)	\$35,330,490.00
Silver Line ES (planning)	\$2,007,500.00

**New Construction Subtotal: \$37,337,990.00**

**CAPACITY ENHANCEMENT**

Modular Building Relocation	\$2,000,000.00
West Potomac HS Addition (construction)	\$22,298,143.00
Justice HS Addition (construction)	\$14,595,641.00
Madison HS Addition (construction)	\$19,543,731.00

**Capacity Enhancement Subtotal: \$58,437,515.00**

**RENOVATIONS****Elementary School Renovation:**

Hybla Valley ES (construction)	\$27,302,053.00
Washington Mill ES (construction)	\$28,727,060.00
Braddock ES (construction)	\$33,039,232.00
Fox Mill ES (construction)	\$28,379,862.00
Oak Hill ES (construction)	\$33,497,669.00
Wakefield Forest ES (planning)	\$1,172,318.00
Louise Archer ES (planning)	\$1,728,657.00
Crossfield ES (planning)	\$1,416,325.00
Mosby Woods ES (planning)	\$1,717,009.00
Bonnie Brae ES (planning)	\$1,615,034.00

**Elementary School Renovation Subtotal: \$158,595,219.00**

**Middle School Renovation:**

Cooper MS (construction)	\$49,660,553.00
Frost MS (construction)	\$53,468,723.00

**Middle School Renovation Subtotal: \$103,129,276.00**

**PROJECT SUBTOTAL: \$357,500,000.00**

**BOND COST: \$2,500,000.00**

**REFERENDUM TOTAL: \$360,000,000.00**

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ACTION - 5

Approval of the Consolidated Community Funding Advisory Committee  
Recommendations for the FY 2021 and FY 2022 Funding Categories for the  
Consolidated Community Funding Pool

ISSUE:

Board of Supervisors' approval of the FY 2021 and FY 2022 funding categories for the Consolidated Community Funding Pool (CCFP), as recommended by the Consolidated Community Funding Advisory Committee (CCFAC).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the FY 2021 and FY 2022 funding categories for the CCFP as recommended by the CCFAC.

TIMING:

The decision on the categories for CCFP funding is requested in June to allow staff time to prepare the next Request for Proposals for the CCFP, for release in the fall of 2019.

BACKGROUND:

The Board of Supervisors has charged the CCFAC with the responsibility for overseeing the CCFP. As part of that responsibility, the CCFAC recommends funding categories for the funding pool for each two-year cycle. Throughout the CCFP's history, the CCFAC has strategically adjusted the categories to meet the County's changing needs and to recognize the changing nature of community-based providers.

During each funding cycle review, the CCFAC utilizes a consistent process for gathering community and Board input, and also analyzes current data and trends. To prepare for the FY 2021 – FY 2022 cycle, staff and the CCFAC used an intentional community engagement approach, including both online and in-person strategies, to reach diverse groups. The same questions were used across strategies and input was sought on the funding categories, as well as identifying emerging needs.

- Community Engagement Efforts

In-person engagement sessions were facilitated by staff from Neighborhood and Community Services (NCS) at locations throughout the County. Participants included community members, clients using services, nonprofit partners, County staff, the faith



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community and members of various Boards, Authorities and Commissions. The public had multiple opportunities to comment on the CCFP funding categories and health and human service needs, during several CCFAC meetings. Paper surveys were available at public libraries and community centers. Translation services were used where needed. An online survey was developed with the assistance of the Office of Public Affairs (OPA). The County's social media tools and other social networking platforms, like Nextdoor, were used to promote and advertise in-person sessions and the online survey.

- Board of Supervisors Input

The Board reviewed the draft documents outlining the CCFP funding categories, outcome statements, service examples and community feedback at two Health, Housing and Human Services (HHHS) Committee meetings (February 15, 2019 and May 14, 2019). Board members provided feedback and suggestions to inform updates to the draft funding categories document.

- CCFAC

The CCFAC, and a smaller CCFAC subcommittee, developed and reviewed the drafts, discussing and updating based on new feedback received from the community and the Board. This ongoing process, through the fall of 2018 and winter of 2019, resulted in the CCFAC approving a final draft to share with the BOS at the May 14, 2019 HHHS meeting.

Three changes were agreed upon: 1) the addition of a "food and nutrition" category to encompass a more holistic view of needs within the County's food system; 2) updating the language to use "categories" instead of "priorities", recognizing that each area is equally important and all have been identified as priorities by the Board and the community; and 3) development of an "overarching statement" indicating all categories are meant to be inclusive, equitable and reduce those factors that could pose barriers to participation.

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

The CCFAC believes these outcome-focused categories support current Board initiatives, encompass the One Fairfax policy and support health and human services system initiatives. Collectively they help strengthen efforts in the community and reflect a critical continuum of stability, connectedness, well-being and self-sufficiency opportunities based on the need, condition and potential among those being served.

The table below outlines the recommended funding categories for FY 2021 and FY 2022, including their respective outcome statements and service examples.

<b>Overarching Statement</b>	
<p>These categories were identified as needs and are aligned with health and human services determinants. Each outcome statement focuses on a broad community definition and specifically includes all individuals and families, income levels, abilities, and ages. <b><i>Where appropriate, providing transportation, high quality and affordable childcare, linguistically and culturally appropriate services and/or other resources that remove barriers and allow participation, may be included in all seven categories.</i></b></p>	

<b>Category</b>	<b>Outcome Statement and Service Examples (may include some of the following examples, but are not limited to)</b>
<p><b>FINANCIAL STABILITY</b>  <b>(Financial Assistance to Financial Empowerment)</b></p>	<p>To have the ability to possess and maintain sufficient income to consistently meet their basic needs – with no or minimal financial assistance or subsidies from private or public organizations.</p> <ul style="list-style-type: none"> <li>• Financial literacy/management training and counseling to foresee and prevent financial crises</li> <li>• Utility payments</li> <li>• Rental assistance</li> <li>• Financial counseling</li> <li>• Financial asset formation</li> <li>• Affordable, accessible, quality childcare for family members transitioning into the workforce</li> <li>• Legal Services</li> </ul>

<p style="text-align: center;"><b>FOOD AND NUTRITION</b></p>	<p>To have reliable and consistent access to sufficient, affordable and nutritious food. To have access to information and education about healthy and nutritious food and the opportunity to develop the knowledge and resources to practice healthy eating.</p> <ul style="list-style-type: none"> <li>• Nutrition education programs</li> <li>• Emergency and/or supplemental food programs</li> <li>• Farmers markets, food co-ops, mobile markets, neighborhood distribution sites, community gardens</li> <li>• Food provision programs that offer case management services towards self-sufficiency</li> </ul>
<p style="text-align: center;"><b>HEALTH</b></p>	<p>To have access to primary, specialty, oral, behavioral, and long-term health care, particularly prevention services. To develop the knowledge and resources to practice healthy behaviors and to take action to prevent and manage disease and adverse health conditions.</p> <ul style="list-style-type: none"> <li>• Healthcare affordability and accessibility services, particularly oral and behavioral services</li> <li>• Health fairs and health screening clinics, dental clinics, inoculations, nutrition education</li> <li>• Primary medical/dental services</li> <li>• Behavioral health services</li> </ul>
<p style="text-align: center;"><b>HOUSING</b></p>	<p>To have safe, stable, and accessible living accommodations along with other basic necessities. To have access to affordable, accessible housing with the supportive services necessary to live as independently as possible in a community setting.</p> <ul style="list-style-type: none"> <li>• Housing modifications for ADA accommodations, enable seniors to age in place and other housing rehabilitation projects</li> </ul>

	<ul style="list-style-type: none"> <li>• Provision of emergency shelter and/or supportive services to individuals and families, including youth, that are at risk of or experiencing homelessness</li> <li>• Services to support housing stability and to maximize tenants' ability to live independently (e.g., case management, mental health, alcohol and substance abuse, independent living, home health visits, vocational, health, furniture and other household goods, peer support and social activities)</li> <li>• Acquisition, preservation, rehabilitation, and construction of affordable, accessible, safe, healthy, and stable housing with accessible supportive social services</li> <li>• Services to assist individuals transitioning from institutional to home or community-based care</li> <li>• Programs and services that address eviction prevention or housing crisis</li> <li>• Services to assist individuals and families to locate housing, including opportunities for seniors and those with special needs</li> <li>• Acquisition, construction, and support of low-income workforce housing sufficient to meet job growth</li> </ul>
<p style="text-align: center;"><b>LITERACY/EDUCATIONAL DEVELOPMENT/ATTAINMENT</b></p>	<p>To have the ability to read, write, and communicate effectively in order to manage finances, and attain employment goals through academic and vocational achievement. To have access to quality childcare and education and supports to develop employment and independent living skills.</p> <ul style="list-style-type: none"> <li>• English proficiency services and/or instruction</li> <li>• Early childhood development services</li> <li>• Services that provide employment and training skills to effectively assist individuals with disabilities to live independently</li> </ul>

	<ul style="list-style-type: none"> <li>• Employment training/job skills/awareness of economic opportunities</li> <li>• Adult education</li> <li>• Supportive employment</li> <li>• Digital access and literacy programs</li> </ul>
<p><b>POSITIVE BEHAVIORS AND HEALTHY RELATIONSHIPS</b></p>	<p>To develop positive behaviors and healthy relationships that are safe and free from abuse, neglect and trauma and promote physical, emotional, mental, and social well-being.</p> <ul style="list-style-type: none"> <li>• Counseling services</li> <li>• Conflict resolution and anger management training and counseling</li> <li>• Youth-based prevention programs and services focusing on positive behaviors</li> <li>• Trauma recovery services</li> <li>• Behavioral health services</li> </ul>
<p><b>SUPPORT/COMMUNITY/SOCIAL NETWORKS</b></p>	<p>To have access to local services, including community-based transportation and childcare, and the ability to establish and maintain communal and social relationships.</p> <ul style="list-style-type: none"> <li>• Courses that teach language or culture to help groups interact positively</li> <li>• Mentoring programs</li> <li>• Language and cross-cultural assistance</li> <li>• Social environments for isolated individuals</li> <li>• Respite services to help caregivers</li> <li>• Affordable, accessible, quality childcare to help parents/guardians stay employed</li> <li>• Supportive programs for persons with disabilities</li> </ul>

**CCFAC Recommendation**

Based on the review and analysis of community input, supportive data, and health and human services outcome information, the CCFAC recommends that the Board of Supervisors approve the seven categories as shown above for FY 2021 and FY 2022.

FISCAL IMPACT:

None

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ENCLOSED DOCUMENTS:

None

STAFF:

Tisha Deeghan, Deputy County Executive

Christopher A. Leonard, Director, Neighborhood and Community Services

Thomas E. Fleetwood, Director, Housing and Community Development

Nannette M. Bowler, Director, Department of Family Services

ACTION – 6

Approval of Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report

ISSUE:

Board approval of the Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report.

RECOMMENDATION:

The County Executive recommends that the Board approve the Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report.

TIMING:

Board action is requested on June 25, 2019 to meet federal Head Start Performance Standards.

BACKGROUND:

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

**1. Policy Council Bylaws**

The Head Start Parent Policy Council provides a formal structure of shared governance through which parents can participate in policy making and other decisions about the program. The Bylaws of the Policy Council were developed based on the federal Head Start Performance Standards on program governance and outline the composition and selection criteria to ensure equal representation for all programs and that at least 51 percent of Policy Council members are parents of currently enrolled children, as required.

The Board of Supervisors most recently approved the Policy Council Bylaws on July 10, 2018. The Office of the County Attorney has reviewed the Bylaws and made one change to reflect the statutory definition of "meeting" which was revised last year in the Virginia Code. This is the only change made to the bylaws.

**2. Self-Assessment Report**

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

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 – Fairfax County Head Start/Early Head Start Policy Council Bylaws  
Attachment 2 – Fairfax County Head Start/Early Head Start 2019 Self-Assessment Report

STAFF:

Tisha Deeghan, Deputy County Executive  
Nannette M. Bowler, Director, Department of Family Services  
Anne-Marie D. Twohie, Director, Office for Children

ASSIGNED COUNSEL:

Daniel Robinson, Assistant County Attorney



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

**ARTICLE I. NAME**

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

**ARTICLE II. PURPOSE**

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

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

- A) Activities that support the active involvement of parents in supporting program operations, including policies to ensure Fairfax County Head Start/Early Head Start program is responsive to community and parent needs.
- B) Program recruitment, selection, and enrollment priorities.
- C) Applications for funding and amendments to applications for funding for Fairfax County Head Start/Early Head Start program.
- D) Budget planning for program expenditures, including policies for reimbursement and participation in policy council activities.
- E) Bylaws for the operation of the policy council.
- F) Program and personnel decisions regarding the recommendation of hiring program staff.
- G) Ongoing monitoring results, data on school readiness goals and status reports of program operations.
- H) Developing procedures for how members of the Policy Council will be elected.
- I) Recommendations on the selection of delegate agencies and the service areas for such agencies.

**ARTICLE III. MEMBERSHIP**

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

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

- Section 1. The Fairfax County Head Start/Early Head Start Policy Council shall consist of six (6) parent representatives from the grantee program and six (6) parent representatives from each of the delegate programs. The parent representatives must have children currently enrolled in the Head Start /Early Head Start program. The grantee program includes Greater Mount Vernon Community Head Start (GMVCHS), Family Child Care (FCC) Partnership and EHS Expansion programs. The delegate programs are Fairfax County Public Schools (FCPS) and Higher Horizons (HiHo). In addition to the parent representatives, there must also be at least two (2) community representatives, who must be residents of/or employed in Fairfax County. All program options must be represented.
- Section 2. Parent representatives of currently enrolled children shall be elected to the Policy Council at the grantee and delegate program level by the program's respective policy or parent committee.
- Section 3. Community representatives may include representation from other child care programs, neighborhood community groups (public and private), higher education institutions, program boards, and community or professional organizations which have a concern for children and families in the Head Start/Early Head Start Program and can contribute to the direction of the program. Community representatives are nominated by the Head Start Division Director and the Policy Council Executive Committee and must be elected by parent representatives of the Council to serve.
- Section 4. Voting members must resign from the Policy Council if they or an immediate family member (as defined by Virginia Code § 2.2-3101) become employed, temporarily (for sixty (60) days or more) or permanently, by the Fairfax County Head Start/Early Head Start Program. Voting members may substitute occasionally (as defined by each program) in the Fairfax County Head Start/Early Head Start Program.
- Section 5. Policy Council members shall be elected to serve a one (1) year term and may not serve more than three (3) years. Members may voluntarily terminate their membership at any time by giving written notice to the Council. The respective policy or parent committee will be responsible for recruiting and electing a new member to the Council within one month of resignation or termination of the member. In the event of termination or resignation of a community representative, the Head Start Director and the Policy Council Chairperson will

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

recruit a replacement. Election of a new community representative shall take place within one month of resignation or termination of the member.

- Section 6. Any member who misses two (2) consecutive meetings without notifying the Office for Children Head Start Program Administrative Office, neglects responsibility, and/or abuses the privilege of office may be terminated by the Policy Council with a majority vote of the quorum. Written notification will be sent to the terminated member under signature of the Policy Council Chairperson.

**ARTICLE IV. MEETINGS**

- Section 1. Fairfax County Head Start/Early Head Start Policy Council meetings shall be held on the fourth (4<sup>th</sup>) Thursday of each month with dinner being served at 6:00 p.m. and call to order at 6:30 p.m. If the fourth (4<sup>th</sup>) Thursday is a legal holiday, the meeting may be rescheduled to the third Thursday of the month.

- Section 2. All meetings shall be conducted in compliance with the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 – 2.2-3714 (“VFOIA”), and except for closed sessions, all meetings shall be open to the public. Pursuant to Virginia Code § 2.2-3701, “meeting” or “meetings” means the meetings including work sessions, when sitting physically, or through ~~telephonic or video equipment~~ electronic communication means pursuant to ~~§ 2.2-3708 or § 2.2-3708.1~~ § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. As required by VFOIA, the public will be given notice of the date, time, and location of the meetings at least three working days before each Policy Council meeting, except in case of an emergency. Notice, reasonable under the circumstances of emergency meetings, shall be given contemporaneously with the notice provided to members. The Head Start administrative staff and/or Chairperson will provide the information to the County’s Office of Public Affairs so that it can provide the public notice. All meetings shall be held in places that are accessible to persons with disabilities, and all meetings shall be conducted in public buildings whenever practical.

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

Copies of meeting agendas and other materials that are given to members shall be made available to the public at the same time, unless VFOIA allows otherwise.

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

Attachment 1

Anyone may photograph, film, or record meetings, so long as they do not interfere with any of the proceedings.

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

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

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

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

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

**ARTICLE V. OFFICERS**

Section 1. The Officers of the Policy Council shall be: Chairperson, Vice-Chairperson, Secretary, Treasurer, and Parliamentarian. These officers shall perform the duties prescribed by the Federal Head Start Performance Standards and the Head Start Act, by these Bylaws and by the current Roberts Rules of Order, adopted by the Policy Council.

Section 2. Election of officers will take place at the December meeting. Members can nominate themselves or be nominated by another Policy Council member.

Section 3. The officers shall serve a one (1) year election term or until their successors are elected. Their term of office shall begin at the close of the Council meeting at which they are elected.

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

Attachment 1

Section 4. No member shall hold more than one (1) office at a time, and no member shall be eligible to serve more than three (3) terms.

Section 5. Should the Chair position become vacant, the Vice-Chairperson shall become the Chairperson for the remainder of the term. The Council shall elect a replacement for Vice-Chairperson at its next regular meeting to serve the balance of the term.

In the absence of the Chairperson and Vice-Chairperson, responsibilities of the Chair are assumed by the Treasurer and the Parliamentarian will maintain order. The Policy Council Secretary continues to record minutes.

Section 6. The duties of officers are as follows:

- 1) Chairperson – Presides at all Policy Council and Executive Committee meetings; may act as a spokesperson for the Council in events concerning the Head Start program.
- 2) Vice-Chairperson – Assumes the duties of the Chairperson in the absence of the Policy Council Chairperson; performs other duties as assigned by the Chairperson.
- 3) Secretary – Records minutes of the Policy Council meetings with assistance from grantee staff; makes the appropriate corrections to meeting minutes as directed; compiles and keeps current list of all voting members and records their attendance; keeps on file all minutes of the Policy Council; reads minutes and other correspondence at meetings, calls members about absence from meetings, reminds members about meetings and training and tabulates votes.
- 4) Treasurer – Maintains the Council’s financial records, prepares Treasurer’s report and balances the checkbook; serves on the Budget Subcommittee; prepares for signature and distributes reimbursements, stipends, and payment of invoices; coordinates out-of-town travel funds for Policy Council members, who would be assisted by the grantee staff.
- 5) Parliamentarian – Keeps order during the meetings in accordance with the Policy Council Bylaws and in accordance with the current edition of Roberts’ Rules of Order.

**ARTICLE VI. COMMITTEES**

Section 1. Executive Committee. Officers of the Policy Council shall constitute the Executive Committee. The Executive Officers will meet one week prior to the regular Policy Council meetings on an as-needed basis. The purpose for meeting is to establish agenda items and agree upon recommendations to present to the full Policy Council of items needing approval/disapproval. Meetings of the Executive

**FAIRFAX COUNTY OFFICE FOR CHILDREN**  
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Committee are public meetings and shall comply with VFOIA, including the meeting notice requirements set forth in Article IV, Sections 2 and 3.

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

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

**ARTICLE VII. GRIEVANCES**

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

**ARTICLE VIII. PARLIAMENTARY AUTHORITY**

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

**ARTICLE IX. AMENDMENT OF BYLAWS**

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

Section 2. The Bylaws may be amended at any regular meeting of the Policy Council or at a special meeting called for such purpose by majority vote of the Council members present, provided that representatives from each delegate agency are present and voting.

Section 3. Amendments to the Bylaws will be presented to the Fairfax County Board of Supervisors for approval, and will become effective upon approval by the Board of Supervisors.

**ARTICLE X. VOTING**

**FAIRFAX COUNTY OFFICE FOR CHILDREN**  
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**BYLAWS**

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

**ARTICLE XI. TRAINING**

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

**ARTICLE XII. ACTIONS**

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

**ARTICLE XIII. STIPENDS**

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



## PROGRAM SELF-ASSESSMENT SUMMARY 2019

Fairfax County Head Start/Early Head Start program conducted its required annual self-assessment during February, 2019. Annual self-assessment of programs is a requirement of the Head Start Program Performance Standards 45 CFR 1302.102(b)(2)(i). All Fairfax County Head Start/Early Head Start programs, including those operated directly by Fairfax County Office for Children—Greater Mount Vernon Community Head Start (GMVCHS) center—and those operated contractually by family child care programs and by delegate agencies—Higher Horizons Day Care Center, Inc. and Fairfax County Public Schools (FCPS)—and all options (i.e., center-based, home-based, family child care and child care partnerships) were reviewed using a locally designed protocol based upon the Head Start Focus Area 2 Monitoring Protocol. Parents and community stakeholders were involved in this process by being interviewed about their experience as well as helping to conduct interviews for each service area. Each service area also completed “data tours” and file reviews. The self-assessment supports the continuous improvement of program plans and service delivery, providing an opportunity for engaging parents and community stakeholders. The following is a brief summary of each service area.

**PROGRAM DESIGN AND MANAGEMENT** - Program Governance, Planning, Communication, Record-keeping and Reporting, Ongoing Monitoring, Human Resources, Organizational Structure, Facilities, Materials, Equipment and Transportation

### *Service area found in compliance.*

There are sound management systems in place that meet or exceed federal standards for Planning, Communication, Record-keeping and Reporting, Ongoing Monitoring, Organizational Structure, Facilities and Materials.

### **Areas to Strengthen:**

- Support quality transportation services by procuring services of a vendor through a Request for Proposal in Spring, 2019.
- In the area of Program Governance, representation to the Policy Council was low during 2018. It has been remedied, and new representatives have been elected to serve.
- Ongoing planning in data collection, analysis, and outcomes reporting to support continuous quality improvement.
- Strengthen communications and reporting throughout all programs and service areas.

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

### *Service area found in compliance.*

There are sound fiscal systems in place that meet or exceed federal standards for financial reporting, accounting records, internal control, budget control, compliance with cost principles, cash management and administrative cost. Monthly desk reviews and quarterly fiscal monitoring systems provide a strong system of controls to ensure that delegate agencies are using HS/EHS grant funds in compliance with federal rules and regulations. Fairfax County Government’s ability to leverage several funding sources in addition to federal funding in support of the Head Start/Early Head Start and Child Care Partnership & Expansion Programs continues to be a fiscal strength and highlight of the overall program.

### **Areas to Strengthen:**

The grantee will complete additional cost allocation training and provide technical assistance to support delegates. The grantee will also seek and recommend external training to support the delegate programs.



## Fairfax County Head Start/Early Head Start Program Self-Assessment Summary 2019

**ERSEA - Eligibility, Recruitment, Selection, Enrollment and Attendance (ERSEA)**

**Area of non-compliance:** Family Child Care option was under-enrolled since October 2017.

Eligibility files were reviewed across all programs and options and were in compliance. Programs are following the procedures detailed in the Eligibility Guidelines and programs' own policies and procedures manuals. For each eligibility record, a cover sheet includes eligibility category, date of intake interview, annual income, and required signatures. Recruitment efforts continue to be strong, as evidenced by parents learning about the program through various methods – word of mouth, flyers, and referrals from other related programs (WIC, Infant & Toddler Connection).

**Areas to Strengthen:**

The Family Child Care option remains under-enrolled and is under an action plan with the Regional Office. Program is considering an enrollment reduction by 20 slots in Family Child Care and has requested to reprogram funds to be able to enroll families who meet EHS eligibility but not the State Subsidy requirements.

**CHILD DEVELOPMENT - Individualization, Disabilities Services, Curriculum and Assessment****Service area found in compliance.**

Observed warm, nurturing, and supportive interactions between educators and children. Learning environments were supportive of children's learning; they were well organized, not overly stimulating, and had age-appropriate materials. Teachers and providers were able to express understanding of children's development and implementation of the curriculum. The observations and interviews provided evidence that teachers and providers are using data for planning. There was also evidence of instructional supports, especially in language modeling.

Classrooms were observed running smoothly and efficiently; teachers are providing effective strategies for classroom organization. Teachers and providers are providing individualized care for children and demonstrating positive inclusive practices.

**Areas to Strengthen:**

- Ensure that teachers and providers are receiving sufficient professional development in Early Childhood Education, Creative Curriculum, and Teaching Strategies GOLD.
- Provide more professional development and coaching around instructional support, to help increase teacher and provider support for children's higher-level thinking.
- Provide additional supports for children who are dual language learners, particularly for infants and toddlers.
- Strengthen curriculum fidelity and improve the use of data reports for teachers, providers, and administrators.

**FAMILY AND COMMUNITY ENGAGEMENT - Family Partnership Building, Parent Involvement, Community and Child Care Partnerships****Service area found in compliance.**

Programs are providing intentional and individualized family engagement services. The programs offer multiple family engagement opportunities including participation in parent meetings, trainings, and Policy Council, volunteering in classrooms and attending program events. Engagement of families in the program and their child's education starts at the time of enrollment in the program. Family Service staff shared their vast knowledge of county and community resources routinely with families and had a clear understanding of their role as a family service worker. Families shared a seamless and supportive approach to services for children with Individual Family Service Plans (IFSPs) and Individualized Education Programs (IEPs).

Strengthening parent-child relationships and parenting skills are supported through the programs' implementation of parenting curricula this program year. Higher Horizons and Greater Mount Vernon are using the research-based *Ready Rosie* parenting curriculum. Fairfax County Public Schools are using a locally designed curriculum based on the researched and evidence-based *Mind in the Making* (Executive Functions).

**FAMILY AND COMMUNITY ENGAGEMENT** *(continued)***Areas to Strengthen:**

- Family Service staff will improve ongoing documentation regarding family's progress towards goals.
- County-wide consistency in documentation is needed by family service staff; a County-wide training is being developed.

**HEALTH & SAFETY** - Child health status and care, follow-ups, child nutrition, mental health, safety practices***Service area found in compliance.***

All programs conduct daily and regular Health and Safety classroom/site visits. This program year, at 45 days all Head Start and Early Head Start classrooms and FCC homes were 100 percent compliant with OHS Health and Safety screening. All children in all programs receive ongoing monitoring of health requirements and support in receiving follow-up care. Programs that serve pregnant women provide strong evidence-based curriculum and health, nutrition, and community resources. All children receive USDA-compliant, healthy and diverse menus that are customized by age and individual nutrition needs. Dental health compliance continues to improve each program year due to effective monitoring, comprehensive dental education and care, and strong partnerships with community dental providers. All programs have regular access to mental health consultants who provide consultation for children, staff, and families. Greater Mt. Vernon Community HS/EHS has strong collaboration among staff regarding Health, Nutrition, and Family Services. Children in the Family Child Care option received individualized care through provider partners and strong relationships are formed through daily contact in the provider home. FCPS has a team approach for enrollment appointments and as needed for other health and nutrition services. At Higher Horizons, on-site kitchen operations are very efficient and proficient at managing allergies and menu changes.

**Areas to Strengthen:**

- Increase timeliness of follow-ups related to health screenings and needed treatments.
- Strengthen collaboration with community partners to increase awareness of existing resources to address food insecurity.
- Increase resources related to mental health services for all programs.

ACTION - 7

Approval of a Memorandum of Agreement with Dominion Energy Technologies, Inc. for the Fairfax County Connected Autonomous Vehicle Demonstration Project

ISSUE:

Board of Supervisors' approval of a Memorandum of Agreement (MOA) with Dominion Energy Technologies, Inc. for the implementation of the Fairfax County Connected Autonomous Vehicle Demonstration Project.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve and authorize the Director of the Fairfax County Department of Transportation (FCDOT) to execute, a Memorandum of Agreement (MOA) with Dominion Energy Technologies, Inc. (Dominion), substantially in the form of Attachment 1, for the implementation of the Fairfax County Connected Autonomous Vehicle Demonstration Project.

TIMING:

The Board should act on this item on June 25, 2019, so that FCDOT and Dominion can proceed with project implementation.

BACKGROUND:

Over the past year, the County has convened a series of community events aimed at exploring transportation technologies within the County through the Smart Communities initiatives, with representatives from the Virginia Tech Transportation Institute (VTTI), the Virginia Transportation Research Council (VTRC), the Office of Innovation at the Virginia Department of Transportation (VDOT), Dominion, and the Department of Rail and Public Transportation (DRPT). Much of this effort has been focused on the policy ramifications these new transportation technologies will have on local responsibilities, such as urban design, public infrastructure, mobility, and land use regulations.

Fairfax County is uniquely positioned to leverage its resources and assets in the fast-emerging field of Smart Communities. Through participating in Smart Community events, County and Dominion staff determined that our common objectives could be advanced by working together on a demonstration innovation project. By pursuing a Connected Autonomous Vehicle (CAV) Demonstration Project, the County, along with VDOT's Office of Innovation, VTTI, VTRC, and other interested stakeholders, hopes to demonstrate the viability of CAV technology in the County, including as a first- and last-mile mobility solution. The County further expects that the lessons learned will help guide the implementation of future projects, serving as a model for how they can be

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structured, implemented and evaluated to best serve the interests of the County, its residents, businesses and public institutions. Ideally, the CAV Demonstration Project will also position the County as a national leader and innovator in Smart Community initiatives, establishing a better understanding of urban transportation design and its importance in integrating technology in public spaces and civic infrastructure.

On January 22, 2019, the Board approved and authorized FCDOT to apply for and accept grant funding from DRPT's Fiscal Year 2020 Project Demonstration Program for the Fairfax County CAV Demonstration Project.

The County and Dominion are entering into an MOA to develop and implement the CAV Demonstration Project, which will further explore and assess the potential benefits, impacts, and opportunities associated with new Smart Community utility and transportation technologies.

Under this MOA, the County's responsibilities will be to provide planning for and oversight over all CAV Demonstration Project-related activities, determine and provide any additional infrastructure that is needed along the route, arrange for the storage of the shuttle, and arrange for the shuttle demonstration and scheduled operations. The County will be identifying a shuttle operator through either the selected autonomous shuttle manufacturers' approved list of shuttle operators, or through a third-party operator that is familiar with the operation of autonomous shuttles.

Dominion will be responsible for procuring the shuttle through a lease or purchase, coordinating the provision of electrical charging infrastructure, and paying all taxes associated with providing the shuttle. Dominion will be issuing a Request for Proposals (RFP) to autonomous vehicle manufacturers and will seek input from the County during this process.

The County and Dominion will coordinate to (1) develop a community outreach strategy, (2) develop a communications plan for shuttle debut and ongoing operations, and (3) secure state and local vehicle registration and inspections. The parties will also coordinate with the shuttle operator to secure necessary authorizations from the National Highway Traffic Safety Administration and receive data analysis and evaluation.

FISCAL IMPACT:

There is no impact to the General Fund with this action. However, on January 22, 2019, the Board approved \$50,000 from the Economic Development Support fund as local matching funds for the DRPT grant. This MOA obligates the County to pay the operating costs of the demonstration project. The County's obligation does not exceed the \$50,000 from the Economic Development Support fund.

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ENCLOSED DOCUMENTS:

Attachment 1: Memorandum of Agreement between Fairfax County Department of Transportation and Dominion Energy Technologies, Inc.

STAFF:

Rachel Flynn, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Gregg Steverson, Chief, Site Analysis and Transportation Planning Division, FCDOT  
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT  
Dwayne Pelfrey, Chief, Transit Services Division, FCDOT  
Brent Riddle, Sr., Transportation Planner, Coordination and Funding Division, FCDOT  
Leonard Wolfenstein, Section Chief, Transportation Planning Section, FCDOT  
Eta Nahapetian, Economic Initiatives Coordinator, Office of the County Executive  
Sean Schweitzer, Transportation Planner, Transportation Planning Section, FCDOT

ASSIGNED COUNSEL:

Susan Timoner, Assistant County Attorney

**FAIRFAX COUNTY CONNECTED AUTONOMOUS VEHICLE  
DEMONSTRATION PROJECT  
MEMORANDUM OF AGREEMENT**

This Fairfax County Connected Autonomous Vehicle Demonstration Project Memorandum of Agreement (the “MOA”) is made this \_\_\_\_ day of June, 2019 (the “Effective Date”), between the Board of Supervisors of Fairfax County, Virginia (the “County”) and Dominion Energy Technologies, Inc. (“Dominion”), which is a wholly owned indirect subsidiary of Dominion Energy, Inc. The County and Dominion may be referred to individually as a “Party” or collectively as the “Parties”.

Whereas, Fairfax County, with its access to an extensive amount of technology-focused resources and assets, is uniquely positioned to be a leader in the field of Smart Communities, which is broadly defined as geographic areas that use information and communication technologies to increase operational efficiency, share information with the public, and improve both the quality of government services and citizen welfare; and

Whereas, over the past year, Fairfax County has convened a series of community events focused on Smart Communities and new transportation technologies, including emerging technologies in the area of connected and autonomous vehicles; and

Whereas, the County desires to launch a pilot program known as the Fairfax County Connected Autonomous Vehicle Demonstration Project (the “CAV Demonstration Project”) as a first-mile, last-mile mobility shared-ride shuttle service, using a connected autonomous vehicle to shuttle the public between a transit center and a residential mixed-use development; and

Whereas, Dominion, with its experience with innovative technology projects desires to explore new technologies and growth opportunities to help its customers by responding to their priorities for affordable, clean and reliable energy; and

Whereas, Dominion desires to procure an electric autonomous shuttle vehicle (the “Shuttle” or “CAV”) for use by the County in the CAV Demonstration Project; and

Whereas, Dominion desires to provide its expertise to support the design and installation of the needed electrical charging infrastructure for the CAV Demonstration Project; and

Whereas, the Parties desire to measure the economic, transportation, public safety, environmental, and quality of life benefits associated with the CAV Demonstration Project; and

Whereas, the Parties intend by this MOA to establish a mutually beneficial relationship regarding the CAV Demonstration Project.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties set forth their agreement as follows:

## 1. PURPOSE

The County and Dominion are entering into this MOA to develop and implement the CAV Demonstration Project, which will further explore and assess the potential benefits, impacts, and opportunities associated with new smart utility and transportation technologies. The Parties believe that electric vehicles, including the envisioned CAV Demonstration Project, will play a major role in a lower-emissions transportation future in the County and across the Commonwealth of Virginia. The CAV Demonstration Project will be used by the Parties to evaluate the operational and economic viability of an autonomous shuttle as a first- and last-mile mobility solution, a business generator, and a public space activator, as well as evaluate the opportunities of autonomous vehicles and their impact on mobility to improve transportation, logistics, and energy systems for all customers.

## 2. TERM

- 2.1 This MOA will be in effect beginning on the Effective Date, and will remain in effect until a final report on the CAV Demonstration Project is issued, unless sooner terminated as described in Article 3 below, or as otherwise extended as mutually agreed to in writing by the Parties.
- 2.2 The Parties intend that the duration of the CAV Demonstration Period will be for one year from the date that the Shuttle begins operations with members of the public as passengers (the "CAV Demonstration Period"). If the County determines that there is insufficient funding for the continued operation of the CAV Demonstration Project, Dominion may elect to fund the shortfall amount to ensure operation through the one-year term.

## 3. TERMINATION AND DEFAULT

- 3.1 Should any of the following occur, the Parties may terminate this MOA prior to the end of the term by giving written notice to the other Party:
  - (a) The County does not receive grant funding in the amount of at least \$200,000 from the Virginia Department of Rail and Public Transportation ("DRPT").
  - (b) Dominion is unable to procure a shuttle that meets the requirements of the request for proposals ("RFP"), the terms of which will be agreed upon by both the County and Dominion.
  - (c) The Parties are unable to secure any necessary rights of way, infrastructure, secured Shuttle storage, reasonable terms and conditions from third parties for the County's operation of the shuttle, or any other element necessary for the operation or maintenance of the CAV Demonstration Project as described below.

- (d) By written agreement of both Parties.
- 3.2 If either Party defaults on any of its material obligations under the MOA, and the default continues for 20 business days after written notice specifying the default, the non-defaulting Party may, by serving notice in writing to defaulting Party, terminate this MOA and declare it null and void, and seek the remedies described in Sections 3.4, 3.5, and 3.6 below.
- 3.3 Material obligation is defined as one or more terms of this Agreement, which term is significant and the failure to pursue results in either economic harm or harm to a Party's name or reputation in the community. The following specific requirements from Section 4 below are considered material obligations: 4.1(h), 4.1(j), and the first eight words of 4.1(k), all subject to Section 3.1(a); the first six words of 4.1(n); 4.2(b), subject to Section 3.1(b); 4.2(c); and 4.2(d).
- 3.4 The non-defaulting Party's right to seek damages for a breach of this MOA is limited to direct damages only, and to the maximum extent permitted by applicable law. Neither Party will be liable for a breach under this MOA for any indirect, incidental, special, or consequential damages. This limitation of liability will not apply to liability arising from: (a) personal injury or death; or (b) willful misconduct or gross negligence on the part of either Party.
- 3.5 If the County defaults on any of its material obligations under the MOA, Dominion may seek damages under Section 3.4, which damages may include the cost of any Shuttle lease payments due for the Shuttle after the default event occurs, but may not include the cost of the Shuttle if purchased by Dominion or the lease payments made prior to the default event. In the event of the County's default, Dominion may also take immediate possession of the Shuttle. Dominion's right to seek lease payments due after the default event and its right to take immediate possession of the Shuttle are applicable only if the default by the County prevents the Shuttle from being used for this CAV Demonstration Project.
- 3.6 If Dominion defaults on any of its material obligations under the MOA, the County may seek damages under Section 3.4. In addition, if Dominion defaults on its obligation to deliver the Shuttle under Section 4.2(b) below, in addition to seeking damages, the County may seek enforcement of this MOA by a decree of specific performance or injunctive relief requiring Dominion to fulfill its obligations under Section 4.2(b).

#### **4. ROLES AND RESPONSIBILITIES OF THE PARTIES**

Throughout the duration of the MOA, each Party will be responsible for the activities described in subsections 4.1, 4.2, and 4.3 below.

##### **4.1 County Responsibilities**

- (a) Provide planning and oversight of all CAV Demonstration-related activities.
- (b) Coordinate regular meetings/communications between the County and Dominion.



- (c) Coordinate Shuttle route planning.
- (d) Serve as the lead Party to implement all communications, outreach, and marketing plans mutually developed under this MOA, including arranging any public events related to the CAV Demonstration Project.
- (e) Coordinate any necessary work to all intersections and signaling communications on the Shuttle route required for permitting.
- (f) Determine need for any additional route infrastructure.
- (g) Provide or coordinate all necessary testing of the route.
- (h) Secure permission, as may be required, to operate the Shuttle on public and private rights-of-way.
- (i) Provide or coordinate provision of Shuttle stop facilities and signage.
- (j) Arrange for the storage of the Shuttle and the provision of electric service to the storage site.
- (k) Arrange for the Shuttle demonstration and scheduled operations, including contracting with a third party (that could be the Shuttle provider) to operate the Shuttle (the "Shuttle Operator").
- (l) Secure from the Shuttle Operator an operations plan that includes safety requirements, service levels, and contingency plans, which is agreeable to both Parties.
- (m) Prepare or coordinate preparation of reports under Section 7.
- (n) Comply with all DRPT grant requirements (see Attachment \_\_\_\_). The Parties acknowledge that the County is responsible for compliance with the funding and reporting requirements as a DRPT grant recipient. Dominion agrees to cooperate with the County and DRPT to the extent reasonably requested.

#### 4.2 Dominion Responsibilities

- (a) Prepare RFP for Shuttle procurement, with input from the County and with terms that are agreeable to both Parties.
- (b) Solicit bids, procure, and deliver the Shuttle, with County participation in interviews with RFP respondents.
- (c) Pay all taxes (sales, use, property, business) associated with providing the Shuttle.
- (d) Serve as primary interface with Shuttle provider and coordinate interface between County and Shuttle provider as needed.
- (e) Coordinate provision of electrical charging infrastructure.
- (f) Obtain shuttle warranties pursuant to Section 11.

- (g) Provide or coordinate provision of staff training on the technical operation of the Shuttle.

#### 4.3 Joint Responsibilities

- (a) Develop community outreach strategy.
- (b) Develop communications plan for Shuttle debut and ongoing operations.
- (c) Coordinate with the Shuttle Operator to secure the necessary authorizations from the National Highway Traffic Safety Administration regarding use of an autonomous vehicle on public roads (49 CFR Part 555).
- (d) Provide data analysis and evaluation, including qualitative and quantitative benefits, of the CAV Demonstration Project pursuant to Section 7.
- (e) Secure state and local vehicle registration and inspections, as needed.
- (f) Determine location and scope of each Party's logo and name on the Shuttle, with each Party having the right to equal area on the exterior of the Shuttle and all promotional materials for use of its logo and name.

### 5. COMMUNICATIONS

- 5.1 The Parties will jointly develop and implement a communication plan, a marketing plan, and branding plan, which plans may be modified as necessary throughout the term of this Agreement.
- 5.2 The communication plan will track the progress of the CAV Demonstration Project from preparation through the issuance of the final report and true-up activities between the Parties as described in this MOA and will identify CAV Demonstration Project timelines, outreach activities, and channels of communication between the Parties.
- 5.3 The communication plan will also require the Parties to meet periodically, as necessary, to review progress and develop or amend strategies to effectively carry out the activities, roles, and responsibilities outlined in this MOA.

### 6. ROUTE

The County is responsible for developing a route or routes that would be appropriate for the CAV Demonstration Project. Currently, the County is considering a loop between the Dunn Loring-Merrifield Metrorail Station and the Mosaic District. The Parties intend that the Shuttle will operate along a 25-mph speed limit corridor, in mixed traffic with signalized intersections, and bicycle and pedestrian traffic. The County will determine the best times for Shuttle operation, taking into consideration factors such as current transit options, the desire to maximize use of the Shuttle, and the desire to minimize travel times. The County will work to finalize the route, determine possible alternative routes, and make adjustments to the route during the CAV Demonstration Period as needed. The County will seek input from Dominion, the Shuttle provider, and the Shuttle Operator with regard to all decisions described in this Section.

## 7. REPORTS

- 7.1 The Parties anticipate receiving interim written reports and a final comprehensive written report from the Shuttle provider or the Shuttle Operator or both describing the observations made by the Shuttle Operator during the CAV Demonstration Project, including Shuttle performance under various environmental conditions, Shuttle interaction with obstructions, other vehicles, pedestrians and bicycles/scooters, and feedback from passengers and the public via various surveys. The Parties also anticipate the preparation and delivery of an overall CAV Demonstration Project final report (“Final Report”) by a third party.
- 7.2 The Parties will continue working to determine what additional information each desires to receive from the Shuttle provider and Shuttle Operator, which will be included in the RFP. This additional information may include:
- Energy consumption information and analysis
  - Performance data and access to data
  - Shuttle reliability
  - Safety systems reliability
  - Usage data
  - Privacy and cybersecurity data
  - Passenger utilization
  - Shuttle reliability/service call reports

## 8. REVENUE FROM OPERATIONS

No external advertising will be utilized on the Shuttle during the CAV Demonstration Period. If the Parties mutually agree to accept external advertising or other forms of revenue during the CAV Demonstration Period, the revenue proceeds will be split equally between the Parties.

## 9. CONFIDENTIAL INFORMATION

- 9.1 For purposes of this Agreement, the term “Confidential Information” means each Party’s proprietary and confidential information in any medium, provided the Party seeking confidentiality states that the information being provided is proprietary or confidential upon submission of the information, identifies the information for which the protection is sought (including marking any document or other communication as “confidential”), and states the reason why protection is necessary.
- 9.2 The Parties will use a reasonable degree of care to avoid disclosure or dissemination of the other party’s Confidential Information. Except as described in Section 9.4 below, access to Confidential Information will be limited to those persons to whom disclosure is reasonably necessary for performance under this MOA.

- 9.3 Dominion will retain confidential market bid information obtained from CAV shuttle providers and treat it as confidential for the purposes of the CAV Demonstration Project.
- 9.4 The Parties will not release any Confidential Information to any parties outside of this MOA except to third parties subject to similar confidentiality restrictions as agreed to between the Parties, or as subject to the requirements of the Virginia Freedom of Information Act, any applicable state and federal law, court order, subpoena, or other validly issued administrative or judicial notice or order.
- 9.5 Each Party will promptly notify the other Party of any unauthorized release of the other Party's Confidential Information of which said Party may become aware.

## **10. RESPONSIBILITY FOR SAFETY, INJURIES, OR DAMAGE AND INSURANCE**

- 10.1 Each Party will procure and maintain insurance or self-insurance as per Attachment A ("Insurance Required of County") and Attachment B ("Insurance Required of Dominion").
- 10.2 It is understood that such insurance will not be construed to create a limit of either Party's liability with respect to its obligations under this MOA.
- 10.3 Each Party will provide the other parties with written evidence of such insurance (or financial information that describes the amounts available under any self-insurance facility) upon request.
- 10.4 Each party will provide any other party with written notice at least 30 days prior to the cancellation, non-renewal or material change in such insurance or self-insurance which materially adversely affects the rights of the other party. If such party does not obtain replacement insurance or take other measures that allow it to provide comparable coverage within such 15-day period, the other party will have the right to terminate this Agreement effective at the end of such 15-day period without notice or any additional waiting periods. Each Party is solely responsible for the safety and protection of its employees, agents, servants, contractors, and subcontractors, and for the safety and protection of the employees, agents, and servants of its contractors, subcontractors and sub-lessees.
- 10.5 Neither Party will be responsible to the other Party for losses or claims that result solely from the errors, omissions, or negligent acts of the other Party, its officers, employees, volunteers or agents. Nothing in this MOA may be deemed an expressed or implied waiver of the County's sovereign immunity.

## **11. EQUIPMENT MAINTENANCE/WARRANTY**

- 11.1 The CAV will have turnkey maintenance, with the Shuttle provider or other contracted party responsible for all maintenance during the CAV Demonstration Period.

- 11.2 The Shuttle provider RFP will require that the Shuttle provider provide to the Parties a comprehensive warranty, covering all aspects of the Shuttle including but not limited to batteries, battery capacity, defects in material, defects in workmanship, labor, parts, vehicle systems, and software. The term of the warranty must be for the CAV Demonstration Period.

## **12. ACCESSIBILITY**

The Shuttle and the CAV Demonstration Project will meet all applicable requirements of the Americans with Disabilities Act (“ADA”). If there is no acceptable shuttle that can accommodate people with disabilities, ADA compliance will be available through redundancy with current Fairfax Connector buses and routes or Fastran.

## **13. CONFLICT RESOLUTION**

If a dispute arises under this MOA, the Parties will meet and confer to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. The Director of the Fairfax County Department of Transportation and the Vice President of Innovation for Dominion are authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via this meet and confer dispute resolution method, it will be presented to the Parties’ respective governing bodies if required for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either Party is free to pursue whatever remedies it may have under the terms of Article 3 above.

## **14. MISCELLANEOUS**

- 14.1 Each Party pledges in good faith to go forward with this MOA and to further the goals and purposes of this MOA, subject to its terms and conditions.
- 14.2 To the extent required by the law of the Commonwealth of Virginia, any and all of the County’s financial obligations under this MOA are subject to annual appropriations by the Fairfax County Board of Supervisors.
- 14.3 Nothing in this MOA may be construed to waive the sovereign immunity of the County.
- 14.4 This MOA may not be assigned by either Party unless express written consent is given by the other Party.
- 14.5 The Parties may only modify this MOA in writing and the modified MOA must be signed by each Party.
- 14.6 This MOA in no way restricts either of the Parties from participating in any activity with other public or private agencies, organizations, or individuals.
- 14.7 This MOA will be construed under and enforced in accordance with the laws of the Commonwealth of Virginia without regard to conflict of laws principles or statutes.

- 14.8 This MOA contains the final and entire agreement between the Parties with regard to the CAV Demonstration Project and replaces any previously entered into agreements. The Parties are not bound by any terms, conditions, statements, or representations, oral or written, not contained in this MOA.
- 14.9 Nothing in this MOA may be construed as authority for either Party to make commitments that will bind the other Party beyond the scope of this MOA.
- 14.10 This MOA is not intended to and does not confer upon any other person or business entity, other than the Parties, any rights or remedies with respect to the subject matter of this MOA.
- 14.11 Nothing in this MOA imposes any personal liability on the Parties' employees, directors, agents, attorneys, successors, or assigns when acting in their official capacity.
- 14.12 This MOA may be executed in counterparts, and all executed counterparts will constitute the same document. Signatures delivered by electronic mail will be deemed originals.

## 15. PRIMARY CONTACTS

The Parties desire that the work under this MOA be carried out in the most efficient manner possible. The Parties will designate individuals to serve as primary contacts between the Parties and will notify the other Party in writing of any subsequent changes to the primary contact. To the maximum extent possible and unless otherwise approved by the other Party, all significant communications between the Parties will be made through the primary contacts.

The designated primary contacts for the County are:

Eta Nahapetian  
Economic Initiatives Coordinator  
Office of the County Executive, Fairfax County  
12000 Government Center Pkwy., Suite 552  
Fairfax, VA 22035  
703-324-4320  
Eta.Nahapetian@fairfaxcounty.gov

Dwayne Pelfrey  
Transit Service Division Chief  
Fairfax County Department of Transportation  
4050 Legato Road  
Fairfax, VA 22033-2895  
703-877-5609  
Dwayne.Pelfrey@fairfaxcounty.gov

The designated primary contact for Dominion is:

Emil Avram  
Vice President - Innovation  
Dominion Energy Technologies, Inc.  
707 East Main Street, 20th floor  
Richmond, VA 23219  
(804) 771-4150  
emil.avram@dominionenergy.com

[Signatures on the following page]

In WITNESS WHEREOF, the Parties have caused this MOA to be executed by their authorized representatives.

Board of Supervisors of Fairfax County, Virginia

\_\_\_\_\_

\_\_\_\_\_

Date

Dominion Energy Technologies, Inc.

\_\_\_\_\_

\_\_\_\_\_

Date



## Attachment A – Insurance Required of County

During the term of this MOA, County shall obtain and maintain, and require any applicable subcontractor (but not including Shuttle Operator) to obtain and maintain, with responsible insurance carriers with a Best's Insurance Reports rate of "A" or better and a financial size category of "VII" or higher, the policies of insurance described below. In addition, the County will determine the necessary insurance requirements to be provided by the Shuttle Operator, after consultation with and input by Dominion.

- (i) Worker's Compensation insurance in the state or states where services related to the MOA are to be performed or in any other state where the employee performing the services is normally employed;
- (ii) Employer's Liability insurance with a total limit of at least five hundred thousand dollars (\$500,000) per accident for bodily injury by accident and five hundred thousand dollars (\$500,000) per employee for bodily injury by disease;
- (iii) Automobile Liability insurance covering bodily injury and property damage with a total limit of at least one million dollars (\$1,000,000) per accident, which will cover liability arising out of any auto (including owned, hired and non-owned autos and including autonomous vehicles); and
- (iv) Commercial General Liability ("CGL") insurance with a total limit of at least one million dollars (\$1,000,000) per occurrence (occurrence form policy) for bodily injury, property damage and personal injury. County shall maintain the completed operations liability insurance for at least three (3) years following completion of the CAV Demonstration Project

(a) Umbrella Policy. The amount of coverage required may be satisfied, at County's option, through a separate excess umbrella liability policy together with lower limit primary underlying insurance.

(b) Certificates of Insurance. No later than thirty (30) days prior to CAV Demonstration Project, County shall provide certificates of insurance to Dominion from County's and each subcontractor's insurers, certifying that County's and subcontractor's insurance coverage is in the form and amount required by this MOA. Failure of Dominion to demand certificate of insurance or other evidence of full compliance with these insurance requirements or failure of Dominion to identify a deficiency from evidence that is provided will not be construed as a waiver of County's obligation to maintain such insurance and will in no way relieve or limit County's obligations and liabilities under this or any other provisions of this MOA.

(c) Insurance No Limit to Liability. Unless otherwise expressly stated, the Parties agree that any requirement for insurance imposed upon County or subcontractors by this MOA is not intended nor shall it be construed as any limit of liability of County under this MOA. Nothing herein shall be deemed an expressed or implied waiver of the sovereign immunity of the County.

(d) Self-Insurance. Notwithstanding the foregoing, County may self-insure to meet the requirements for the insurance requirements herein.

## Attachment B – Insurance Required of Dominion

During the term of this MOA, Dominion shall obtain and maintain, and require any applicable subcontractor to obtain and maintain, with responsible insurance carriers with a Best's Insurance Reports rate of "A" or better and a financial size category of "VII" or higher, the policies of insurance described below.

- (i) Worker's Compensation insurance in the state or states where services related to the MOA are to be performed or in any other state where the employee performing the services is normally employed;
- (ii) Employer's Liability insurance with a total limit of at least five hundred thousand dollars (\$500,000) per accident for bodily injury by accident and five hundred thousand dollars (\$500,000) per employee for bodily injury by disease;
- (iii) Automobile Liability insurance covering bodily injury and property damage with a total limit of at least one million dollars (\$1,000,000) per accident, which will cover liability arising out of any auto (including owned, hired and non-owned autos and including autonomous vehicles); and
- (iv) Commercial General Liability ("CGL") insurance with a total limit of at least one million dollars (\$1,000,000) per occurrence (occurrence form policy) for bodily injury, property damage and personal injury. Dominion shall maintain the completed operations liability insurance for at least three (3) years following completion of the CAV Demonstration Project

(a) Umbrella Policy. The amount of coverage required may be satisfied, at Dominion's option, through a separate excess umbrella liability policy together with lower limit primary underlying insurance.

(b) Certificates of Insurance. No later than thirty (30) days prior to CAV Demonstration Project, Dominion shall provide certificates of insurance to County from Dominion's and each subcontractor's insurers, certifying that Dominion's and subcontractor's insurance coverage is in the form and amount required by this MOA. Failure of County to demand certificate of insurance or other evidence of full compliance with these insurance requirements or failure of County to identify a deficiency from evidence that is provided will not be construed as a waiver of Dominion's obligation to maintain such insurance and will in no way relieve or limit Dominion's obligations and liabilities under this or any other provisions of this MOA.

(c) Insurance No Limit to Liability. Unless otherwise expressly stated, the Parties agree that any requirement for insurance imposed upon Dominion or subcontractors by this MOA is not intended nor shall it be construed as any limit of liability of Dominion under this MOA.

(d) Self-Insurance. Notwithstanding the foregoing, Dominion may self-insure to meet the requirements for the insurance requirements herein.

Board Agenda Item  
June 25, 2019

ACTION - 8

Approval of and Authorization to Execute a Project Administration Agreement with the Virginia Department of Transportation, for the Implementation of the I-66 Median Widening at Route 29 (Sully District)

ISSUE:

Board of Supervisors' approval of, and authorization for, the Director of the Department of Transportation to execute a Project Administration Agreement (PAA) with the Virginia Department of Transportation (VDOT), substantially in the form of Attachment 2, for the implementation of I-66 Median Widening at Route 29 project.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve a resolution (Attachment 1), authorizing the Director of the Department of Transportation to execute a PAA with VDOT substantially in the form of Attachment 2, for the completion of this project.

TIMING:

The Board should act on this item on June 25, 2019, so that VDOT can continue project implementation.

BACKGROUND:

On May 16, 2017, the Board endorsed several projects for I-66 Concession Fee funding consideration. The I-66 Median Widening at Route 29 was one of those projects recommended for \$40 million in funding, and subsequently approved. The Northern Virginia Transportation Authority (NVTA), and Commonwealth Transportation Board (CTB) approved I-66 Concession Fee funded projects on July 13, 2017, and December 6, 2017, respectively. The I-66 Median Widening at Route 29 project was approved for funding.

The I-66 Widening over Route 29 was one of the 15 projects recommended by the NVTA and approved by the CTB to improve traffic conditions in the I-66 Outside the Beltway (OTB) corridor and make use of the I-66 Concession Fee funding provided by the I-66 Express Mobility Partners.

Board Agenda Item  
June 25, 2019

The purpose of this project is to provide a wider median along I-66 in the Centreville area from west of Route 28 through the Route 29 interchange to physically accommodate a future WMATA Orange Line extension with minimal disruption to the Express Lanes and I-66 in the future. To accomplish this, the I-66 overpasses above Route 29 will need to be rebuilt, lengthened, and raised to address clearance issues. Route 29 will be widened to provide three lanes, as well as parallel pedestrian facilities in each direction beneath the bridges. Should these improvements not be done in conjunction with the I-66 OTB, the Orange Line extension would still be possible, but improvements associated with this project would come at a much higher, inflated cost.

Since the County originally applied for funding for this project, the cost estimate has increased by \$17.5 million for a revised total of \$57.5 million. The increase in cost accounts for the complexity of the design, which includes demolishing and rebuilding all the substructure as well as the superstructure of the existing bridge over Route 29, leading to traffic closures and detours further increasing the footprint of the project.

Implementation of this project by VDOT allows for the capitalization of existing construction efforts associated with I-66. Fairfax County identified the need for this project ahead of the Transform I-66 project, but it will be more efficient for VDOT to implement this project with the Transform I-66 project, rather than the County constructing it as a stand-alone project.

As stated above, I-66 Concession funding in the amount of \$40 million was approved for this project by the CTB in December 2017. And, on June 4, 2019, the Board approved an additional \$17.5 million for the Project from various sources as follows:

- \$8,050,736 in I-66 Concession Fee fund transfers from the following projects:
  - \$3,400,000 from Poplar Tree Road Bridge Widening. Funds available due to project cost decrease.
  - \$1,500,000 from Jermantown Road Bridge Widening. Funds available due to project cost decrease.
  - \$1,036,871 from Route 29 Widening Phase I (Pickwick Road to Buckleys Gate Drive). Funds available due to project cost decrease.
  - \$2,113,865 from Route 29 Widening Phase II (Union Mill Road to Buckleys Gate Drive).
    - Since Fairfax Center Area Road Funds can be used on Route 29 Widening Phase II, and not on the I-66 Median Widening, \$2,113,865 in Fairfax Center Area Road Funds, located in Fund 30040 (Contributed Roadway Improvements) will be used to offset this transfer.
- \$9,449,264 in Fund 40010 (County and Regional Transportation Projects) construction reserve.

Board Agenda Item  
June 25, 2019

FISCAL IMPACT:

The Project Administration Agreement is a reverse funding agreement in which the County will provide the Commonwealth the County's share of the project which totals \$17.5 million. Staff has identified funding in Fund 40010 (County and Regional Transportation Projects) construction reserve to satisfy \$9.45 million of the County share, and \$8.05 million in I-66 Concession Fee reallocations will satisfy the balance. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

- Attachment 1: Resolution Authorizing the Execution of a Project Administration Agreement with the Virginia Department of Transportation
- Attachment 2: Project Administration Agreement (including Related Appendices) with the Virginia Department of Transportation

STAFF:

Rachel Flynn, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division (CPTED), FCDOT  
Yuqing Xiong, Transportation Planner, CPTED, FCDOT  
Martha Coello, Senior Transportation Planner, Special Projects, FCDOT  
Todd Wigglesworth, Chief, Coordination and Funding Division (CFD), FCDOT  
Ray Johnson, Chief, Funding Section, 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, June 25, 2019, 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  
I-66 Median Widening at Route 29  
PROJECT

**WHEREAS**, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation (VDOT) to establish a project(s), if not already established, in the County of Fairfax.

**NOW, THEREFORE, BE IT RESOLVED**, that the County of Fairfax requests the Commonwealth Transportation Board to establish a project(s), if not already established, for the implementation of the I-66 Median Widening at Route 29 (Project).

**BE IT FURTHER RESOLVED THAT**, the County of Fairfax hereby agrees to provide its share of the local contributions, in accordance with the Project Administration Agreement (“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 VDOT.

Adopted this 25th day of June 2019, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

**VDOT ADMINISTERED – LOCALLY FUNDED  
PROJECT ADMINISTRATION AGREEMENT**

Attachment 2

FAIRFAX COUNTY  
PROJECT NUMBER 0066-029-410 UPC 112778

THIS AGREEMENT, made and executed in triplicate on this the \_\_\_\_ day  
of \_\_\_\_\_, 2019, between the COMMONWEALTH OF  
VIRGINIA DEPARTMENT OF TRANSPORTATION, hereinafter referred  
to as the "DEPARTMENT" and the COUNTY OF FAIRFAX, hereinafter  
referred to as the "COUNTY."

WITNESSETH

WHEREAS, the COUNTY has expressed its desire to have the DEPARTMENT administer the work as described in Appendix B, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds as shown in Appendix A have all been allocated by the COUNTY to finance the project; and

WHEREAS, the COUNTY has requested that the DEPARTMENT design and construct this project in accordance with the scope of work described in Appendix B, and the DEPARTMENT has agreed to perform such work; and

WHEREAS, both parties have concurred in the DEPARTMENT's administration of the project identified in this Agreement and its associated Appendices A and B in accordance with applicable federal, state, and local law and regulations; and

WHEREAS, the County's governing body has, by resolution, which is attached hereto, authorized its designee to execute this Agreement; and

WHEREAS, Section 33.2-338 of the Code of Virginia authorizes both the DEPARTMENT and the COUNTY 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 DEPARTMENT shall:
1. Complete said work as identified in Appendix B, advancing such diligently, and all work shall be completed in accordance with the schedule established by both parties.
  2. Perform or have performed, and remit all payments for, all preliminary engineering, right-of-way acquisition, construction, contract administration, and inspection services activities for the project(s) as required.

3. Provide a summary of project expenditures to the COUNTY for charges of actual DEPARTMENT cost.
  4. Notify the COUNTY of additional project expenses resulting from unanticipated circumstances and provide detailed estimates of additional costs associated with those circumstances. The DEPARTMENT will make all efforts to contact the COUNTY prior to performing those activities.
  5. Return any unexpended funds to the COUNTY no later than 90 days after the project(s) have been completed and final expenses have been paid in full.
- B. The COUNTY shall:
1. Provide funds to the Department for Preliminary Engineering (PE), Right of Way (ROW) and/or Construction (CN) in accordance with the payment schedule outlined in Appendix A.
  2. Accept responsibility for any additional project costs resulting from unforeseeable circumstances, but only after concurrence of the COUNTY and modification of this Agreement.
- C. Funding by the COUNTY shall be subject to annual appropriation or other lawful appropriation by the Board of Supervisors.
- D. 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.
- E. 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 County 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



County 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.

- F. Nothing in this Agreement shall be construed as a waiver of the COUNTY's or the Commonwealth of Virginia's sovereign immunity.
- G. Should funding be insufficient and county funds be unavailable, both parties will review all available options for moving the project forward, including but not limited to, halting work until additional funds are allocated, revising the project scope to conform to available funds, or cancelling the project.
- H. Should the project be cancelled as a result of the lack of funding by the COUNTY, the COUNTY shall be responsible for any costs, claims and liabilities associated with the early termination of any construction contract(s) issued pursuant to this agreement.
- I. This Agreement may be terminated by either party upon 60 days advance written notice. Eligible expenses incurred through the date of termination shall be reimbursed to the DEPARTMENT subject to the limitations established in this Agreement.

THE COUNTY 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 upon 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:**

_____	_____
	Date
_____	_____
Typed or Printed Name of Signatory	Date
_____	_____
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 112778)  
Appendix-B (UPC 112778)

**VDOT Administered, Locally Funded Appendix A**

Date: DRAFT 5/10/2019

Project Number: 0066-029-410 UPC: 112778 CFDA# N/A Locality: Fairfax County

Project Location ZIP+4: 22030-6066	Locality DUNS # 074837626	Locality Address (incl ZIP+4): 4050 Legato Road, Suite 400 Fairfax, VA 22033-2867
<b>Project Narrative</b>		
Scope: Provide a wider median in Centreville to accommodate the future WMATA Orange Line extension to Centreville. To be constructed by the Transform 66 PPTA (Transform 66 concession funds)		
From: W. of Route 28		
To: Route 29		
Locality Project Manager Contact info:		
Department Project Coordinator Contact Info: Harinderbir Warraich PHONE: (571) 459-2362 EMAIL: hs.warraich@vdot.virginia.gov		

Project Estimates	
Phase	Estimated Project Costs
Preliminary Engineering	\$0
Right of Way & Utilities	\$0
Construction	\$57,500,000
<b>Total Estimated Cost</b>	<b>\$57,500,000</b>

Project Cost				
Phase	Project Allocations	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount
Preliminary Engineering				
Total PE				\$0
Right of Way & Utilities				
Total RW				\$0
Construction	\$48,050,736	Concession Funds	0%	\$0
	\$9,449,264	Local Funds	100%	\$9,449,264
				\$0
Total CN	\$0			\$9,449,264
<b>Total Estimated Cost</b>	<b>\$57,500,000</b>			<b>\$9,449,264</b>

<b>Total Maximum Reimbursement / Payment by Locality to VDOT</b>	<b>\$17,500,000</b>
--	---------------------

Project Financing				
Concession Funds	Local Funds			Aggregate Allocations
\$48,050,736	\$9,449,264			\$57,500,000

Payment Schedule			
FY 2019			
\$17,500,000			

Program and Project Specific Funding Requirements
<ul style="list-style-type: none"> <li>This is a limited funds project. The locality shall be responsible for any additional funding in excess of \$40,000,000.</li> <li>All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.</li> <li>VDOT has billed the LOCALITY \$0 for this project as of 4/1/2019.</li> <li>VDOT has received \$0 from the LOCALITY for this project as of 4/1/2019.</li> <li>The LOCALITY shall make one lump sum payment to VDOT in the amount of \$9,449,264 no later than 60 days after execution of this agreement/appendix.</li> </ul>

This attachment is certified and made an official attachment to this document by the parties to this agreement

\_\_\_\_\_  
Authorized Locality Official and Date

\_\_\_\_\_  
Authorized VDOT Official and Date

\_\_\_\_\_  
Typed or printed name of person signing

\_\_\_\_\_  
Typed or printed name of person signing

**Appendix B**

**Project Number:** 0066-029-410 (UPC 112778 ) **Locality:** Fairfax County

<b>Project Scope</b>	
<b>Work Description:</b>	<b>Provide a wider median in Centreville to accommodate the future WMATA Orange Line Extension to Centreville. To be constructed by the Transform 66 PPTA (Transform 66 concession funds)</b>
<b>From:</b>	<b>W. of Route 28</b>
<b>To:</b>	<b>Route 29</b>
Locality Project Manager Contact Info: Department Project Coordinator Contact Info: Harinderbir Warraich    PHONE: (571) 459-2362    EMAIL: hs.warraich@vdot.virginia.gov	

<b>Detailed Scope of Services</b>
<p>Re-design and re-construct the existing I-66 and Route 29 interchange to accommodate future transit spacing (minimum 42 feet) in the median of I-66 including, but not limited to:</p> <ol style="list-style-type: none"> <li>a. Reconstruction of the I-66 bridges over Route 29 with minimum 16' clearance</li> <li>b. Accommodation of Route 29 future widening as mutually agreed between the Parties (see attached Appendix C)</li> <li>c. Realignment of I-66 EB/WB to accommodate the future transit spacing in the median of I-66</li> <li>d. Designation and relocation of Utilities as necessary</li> <li>e. Acquisition of any required ROW</li> </ol>

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This attachment is certified and made an official attachment to this document by the parties of this agreement

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Authorized Locality Official and date

---

Typed or printed name of person signing

---

Residency Administrator/PE Manager/District Construction Engineer  
 Recommendation and date

---

Typed or printed name of person signing

Board Agenda Item  
June 25, 2019

ACTION - 9

Approval of the Consumer Protection Commission Recommendation on the Application of King Cab Company, Inc. Regarding a Transfer of Control

ISSUE:

Board approval of the Consumer Protection Commission recommendation to approve the requested transfer of control of L&Z Transportation, Inc. d/b/a White Top Cab of Fairfax to King Cab Company, Inc.

RECOMMENDATION:

The County Executive recommends that the Board approve the Consumer Protection Commission recommendation to approve the requested transfer of control.

TIMING:

Board action is requested on June 25, 2019, so that the Director of the Department of Cable and Consumer Services can reassign the taxicab certificates from L&Z Transportation, Inc. to King Cab Company, Inc. in compliance with Fairfax County Code Section 84.1-2-7.

BACKGROUND:

Currently, four taxicab companies hold certificates to operate 368 taxicabs throughout Fairfax County. One of these companies, L&Z Transportation, Inc. d/b/a White Top Cab of Fairfax (White Top), has been providing service in Fairfax County since 1994, and is authorized to operate a total of 53 taxicabs in the County.

On February 28, 2019, the Department of Cable and Consumer Services (DCCS) received an application from King Cab Company, Inc. (King Cab) requesting approval of the transfer of control from White Top to King Cab. Following receipt of the application, the Director granted interim operating authority, in the best interest of serving the riding public, until such time as the Board takes action on the application.

King Cab's application and supplemental responses and materials address the factors set forth in County Code Section 84.1-2-6(b), that the Consumer Protection Commission (CPC) must consider before making its recommendation to the Board pursuant to County Code Section 84.1-2-10(e).

Board Agenda Item  
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On April 16, 2019, the Department briefed the CPC on the application and requested approval to advertise a public hearing to be held during the CPC meeting on Tuesday, May 21, 2019. The CPC voted unanimously to advertise the public hearing.

On May 21, 2019, the CPC held the public hearing on the application from King Cab, including a presentation by the Applicant. During the public hearing staff reviewed the application and presented its findings. Following questions and deliberation, the CPC voted unanimously to recommend that the Board approve the requested transfer of control. This action will grant King Cab operating authority in Fairfax County.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Fairfax County Code Section 84.1-2-6(b) and Section 84.1-2-10  
Attachment 2 – Staff Report to the Consumer Protection Commission on the Application of King Cab Company, Inc.

STAFF:

Joseph M. Mondoro, Chief Financial Officer  
Michael S. Liberman, Director, Department of Cable and Consumer Services  
Rebecca L. Makely, Director, Consumer Services Division, DCCS

ASSIGNED COUNSEL:

John W. Burton, Assistant County Attorney, Office of the County Attorney

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

Section 84.1-2-6. - Public hearing; requirements; regulations.

- (b) The Commission will, upon holding public hearings and after such further investigation as it may deem advisable, make recommendations to the Board the allocation of taxicab certificates among the certificate applicants, which have been designated by the Board for the given year. If an applicant meets the burden of proof for excess certificates as set forth in Section 84.1-2-5, the Consumer Protection Commission may recommend to the Board additional allocations. In making its recommendations, the Commission will consider the following:
- (1) Current and potential levels of usage of taxicab and other passenger transportation services in the Fairfax County market;
  - (2) Areas of the County to be served, and the applicant's ability to provide service on a 24-hour basis in those areas;
  - (3) The kind, class, fuel efficiency, and other characteristics of the vehicles to be used;
  - (4) The adequacy of the applicant's proposed dispatch and communications systems, and the applicant's ability to manage and support those systems;
  - (5) The financial status of the applicant and its effect on permanence and quality of service, as demonstrated by the applicant's ability to provide, maintain, and operate the number of vehicles proposed in accordance with the service proposed in the application;
  - (6) The character, business experience and proposed business plan of the applicant, including the applicant's plans regarding driver recruitment and retention;
  - (7) The investigative report of the Director and the applications of the applicants.
- (c) All parties will have the right to present comments when the Commission holds public hearings to investigate the public convenience and necessity of applied for certificates.

(4-00-84.1; 56-08-84.1; 39-16-84.1.)

Attachment 1 – Fairfax County Code Section 84.1-2-6(b) and Section 84.1-2-10

Section 84.1-2-10. - Sale or transfer of the operating company.

- (a) In the event of an agreement to sell or otherwise transfer control of a certificate holder, including, but not limited to, any form of lease-purchase or other long-term arrangement, the certificate holder must notify the Department of the agreement as soon as practicable, including the identity of the transferee or transferees and anticipated date on which control will transfer. Notification does not relieve the certificate holder of its obligations under Chapter 84.1. A transferee may not provide taxicab service in Fairfax County until authorized to do so on an interim basis by the Director or on a permanent basis by the Board.
- (b) Each transferee must submit an application for an operator's certificate to the Director to establish its ability to provide taxicab services consistent with requirements of this chapter. Failure to do so, as herein required, may lead to certificate revocation. That application will be made upon forms provided and in the format requested by the Department, and completed as required by Section 84.1-1-1(b).
- (c) A transferee that has submitted an application for an operator's certificate (hereinafter applicant) may request interim authority to provide taxicab service until such time as the Board can act upon its application.
  - (1) A written request for interim authority shall be submitted by the applicant to the Director no earlier than the submission of the application required by Section 84.1-2-10(b). The request for interim authority may be granted by the Director based upon the information provided in the application.
  - (2) If the Director grants interim authority, the transferor may cancel its insurance after the applicant files acceptable proof of insurance, files all other required documents, and the Director has advised the transferee in writing that it is authorized to begin operations.
  - (3) A grant of interim authority shall terminate no later than the date on which the Board takes action on the application. The interim authority shall terminate if the application is withdrawn or if the Director determines that the applicant has not adequately responded to Director, Commission or Board inquiries regarding the application.
- (d) Following submission of the application required by Section 84.1-2-10(b), either the certificate holder or applicant may submit a written request to the Director for a stay of the 18-month period provided in Section 84.1-2-9(b) and (c). A stay shall be effective upon the Department's receipt of the written request and shall terminate no later than the date on which the Board takes action on the application. The stay shall terminate if the application is withdrawn or if the Director determines that the applicant has not adequately responded to Director, Commission or Board inquiries regarding the application.
- (e) The Commission will hold a public hearing on the application, as provided in Section 84.1-2-6. Upon holding public hearings and after such further investigation as it may



Attachment 1 – Fairfax County Code Section 84.1-2-6(b) and Section 84.1-2-10

deem advisable, the Commission will make recommendations to the Board. In making its recommendations to the Board, the Commission will consider the provisions of Section 84.1-2-6(b), excluding Section 84.1-2-6(b)(1).

- (f) Upon Board approval of the applicant's request for operating authority and award of taxicab certificates, the Director will reassign the taxicab certificates from the transferor to a transferee in compliance with Section 84.1-2-7.

(4-00-84.1; 56-08-84.1; 39-16-84.1.)

**Staff Report to the Consumer Protection Commission  
on the Application of King Cab Company, Inc.**



Department of Cable and Consumer Services  
Consumer Services Division  
May 7, 2019

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## **I. INTRODUCTION**

On February 28, 2019, the Department of Cable and Consumer Services (Department) received an application from King Cab Company, Inc. (King Cab) requesting approval of a November 26, 2018, sale of L&Z Transportation, Inc. d/b/a White Top Cab of Fairfax (L&Z) to sole shareholder and transferee Abdul Bassier Karim.

L&Z was first authorized to provide taxicab service in Fairfax County in 1994, when it was awarded 25 taxicab certificates. At the time of the sale, L&Z held 53 taxicab certificates. King Cab requested no change in the number of taxicab certificates as part of its application.

King Cab's application and supplemental materials have been reviewed pursuant to the requirements established in the Fairfax County Code.

## **II. APPLICABLE CODE PROVISIONS**

Fairfax County Code Section 84.1-2-10 governs the sale or transfer of any company holding taxicab certificates. Pursuant to Sec. 84.1-2-10(a), the certificate holder must notify the Department of the sale or transfer agreement as soon as practicable, including the identity of the transferee(s) and anticipated date on which control will transfer.

Under Sec. 84.1-2-10(b), the transferee – in this case, purchaser King Cab – is required to submit an application for an operator's certificate to the Director to establish its ability to provide taxicab services consistent with the requirements of Fairfax County Code Chapter 84.1. The application is to be made upon forms provided and in the format requested by the Department.

Section 84.1-2-10 does not provide standards for evaluating the application submitted by a transferee. Instead, the Department relies upon Section 84.1-2-6(b) for guidance in evaluating an applicant's ability to provide taxicab service consistent with the requirements of Chapter 84.1. This subsection lists seven factors to be considered when evaluating applications for operator certificates to provide taxicab service in Fairfax County.

The first factor, set forth in Sec. 84.1-2-6(b)(1), pertains to current and potential levels of usage of taxicab and other passenger transportation services in the Fairfax County market. This factor, which involves an analysis of demand for taxicab service, is not considered when evaluating the sale of a taxicab operator and transfer of its taxicab certificates. Demand for service is assessed and considered only when evaluating requests for additional taxicab certificates.

## Attachment 2 - Staff Report to the Consumer Protection Commission on the Application of King Cab Company, Inc.

The remaining six factors of Sec. 84.1-2-6(b) are evaluated whether the applicant requests new certificates or, as in this case, requests approval to acquire an operator's certificate and that operator's existing taxicab certificates. These factors are:

- (1) Areas of the County to be served, and the applicant's ability to provide service on a 24-hour basis in those areas;
- (2) The kind, class, fuel efficiency, and other characteristics of the vehicles to be used;
- (3) The adequacy of the applicant's proposed dispatch and communications systems, and the applicant's ability to manage and support those systems;
- (4) The financial status of the applicant and its effect on permanence and quality of service, as demonstrated by the applicant's ability to provide, maintain, and operate the number of vehicles proposed in accordance with the service proposed in the application;
- (5) The character, business experience and proposed business plan of the applicant, including the applicant's plans regarding driver recruitment and retention;
- (6) The investigative report of the Director and the applications of the applicants.

### III. KING CAB'S APPLICATION AND CHRONOLOGY

#### ***A. Application***

The purpose of the application process is to assess an applicant's ability to provide taxicab service consistent with the requirements of Chapter 84.1. The Department, therefore, has structured the application form to provide the information and documentation necessary to address the criteria of Section 84.1-2-6(b)(2)-(7).

King Cab submitted its application on February 28, 2019. While King Cab responded to all application questions, King Cab did not provide all required documentation at the time of submission. Examples of missing documentation included a certified copy of the executed Articles of Incorporation and proof of insurance for all White Top taxicabs.

#### ***B. Chronology***

On November 26, 2018, King Cab Company, Inc. acquired L&Z Transportation, Inc. d/b/a White Top Cab of Fairfax. Despite the requirement under Sec. 84.1-2-10(a) to notify the Department of this transaction, L&Z did not do so.

On January 16, 2019, King Cab notified the Department by email that it had acquired L&Z and that the company's vehicles were now being operated as King Cab Company, Inc. d/b/a White Top of Fairfax (White Top).

On February 4, 2019, the Department directed King Cab to submit an application for an operator's certificate to establish its ability to provide taxicab services consistent with

Attachment 2 - Staff Report to the Consumer Protection Commission on the  
Application of King Cab Company, Inc.

requirements of Fairfax County Code Chapter 84.1. King Cab was directed to submit that application, including proof of insurance of all vehicles, no later than February 28, 2019. The company was informed that the Department was granting interim authority subject to timely receipt of a complete application.

King Cab's application was submitted by its attorney, Ms. Amanda Hayes with Redmon, Peyton & Braswell LLP, on February 28, 2019. The application lacked a certified copy of the company's Articles of Incorporation and did not contain proof of insurance for any White Top vehicle. Ms. Hayes' transmittal indicated that the missing documentation would be forwarded upon her receipt of it.

On February 28, 2019, the same date that it received King Cab's application, the Department notified King Cab and its attorneys of the missing documentation, as well as the company's failure to timely pay its 2019 Annual Taxicab Certificate Invoice which was due on January 29, 2019. King Cab was instructed to provide proof of insurance by March 1, 2019, and notified that any vehicle for which it failed to timely provide such proof would be deemed to be in violation of Sec. 84.1-2-11(a), regarding insurance requirements, and could not be operated in Fairfax County.

From March 1 through March 15, 2019, the Department worked with King Cab to clarify the status of White Top's 53 taxicab certificates. Specifically, the Department:

- obtained insurance documentation for 38 active White Top cabs;
- confirmed that 12 certificates were vacant – that is, not assigned to any vehicle or driver – and suspended these certificates pursuant to Sec. 84.1-2-11(c) for lack of insurance coverage, subject to receipt of satisfactory documentation; and
- suspended the remaining three (3) taxicabs for failure to provide proof of insurance coverage and/or non-compliance with county inspection requirements. [7, 20, 53]

On March 12, 2019, King Cab provided a copy of the company's certified Articles of Incorporation in support of its application.

On April 16, 2019, the Department requested that King Cab respond to Requests for Further Information (RFI) regarding its application. King Cab submitted its responses and documentation on April 16, 2019. King Cab's response included:

- submission of insurance certificate for cab #17 and
- notification that cab #3 had been vacant since April 2, 2019.

On April 16, 2019, the Department notified King Cab that the certificate associated with taxicab #3, due to its current vacancy, was thereby suspended for failure to maintain proper insurance pursuant to Sec. 84.1-2-12(a)(4), and the suspension would remain for as long as the required amount of insurance was not in effect.

Attachment 2 - Staff Report to the Consumer Protection Commission on the  
Application of King Cab Company, Inc.

On April 16, 2019, the Department briefed the CPC on the pending application and requested approval to advertise a public hearing to be held during the Consumer Protection Commission meeting on Tuesday, May 21, 2019. The CPC voted unanimously to advertise the public hearing.

#### IV. ISSUES FOR COMMISSION CONSIDERATION

***A. Section 84.1-2-6(b)(2): Areas of the County to be served, and the applicant's ability to provide service on a 24-hour basis in those areas***

In evaluating applications for authority to provide taxicab service, Section 84.1-2-6(b)(2) directs the CPC to consider the areas of the county to be served, and the applicant's ability to provide service on a 24-hour basis in those areas.

Historically, L&Z's operations focused on the southern part of Fairfax County. However, King Cab states that it will offer 24-hour service to all Fairfax County residents. (Response, Q.10) Neither King Cab's application nor its Business Plan, provided as Exhibit 17, explains how the company will provide service on a 24-hour basis as proposed. For example, the company provided no information on how it plans to ensure the availability of owner-operators to respond to calls for service, particularly in slower periods. In lieu of details, the company's Business Plan offers only a general discussion of its planned staffing, provided in its entirety below:

*King Cab Company will have a dispatch staff at headquarters. Initially, the size of the company may only require one or two individuals at a time to work the dispatch system. Over time, if the company grows, we will reassess the need for additional staff. The work day will be broken up into two or three shifts. Each shift will be manned by different staff members. Abdul Karim will oversee these operations and occasionally assist with the dispatch duties. After the merger, there will be a total of seven people on staff including Mr. Karim. (Exhibit 17, p.2)*

***B. Section 84.1-2-6(b)(3): The kind, class, fuel efficiency, and other characteristics of the vehicles to be used***

King Cab proposes no change in the kind, class, fuel efficiency, and other characteristics of the White Top vehicles used in providing taxicab service in Fairfax County. King Cab states in its application that the makes and models of its vehicles vary, but that each has a model year of 2011 or more recent. Regarding fuel efficiency, the company describes these vehicles as "a combination of gas and hybrid/fuel efficient cars with an estimated miles per gallon of 20-50." (Response, Q.21)

King Cab states that the entire White Top Cab fleet consists of owner-operated vehicles. White Top owner-operators are responsible for all aspects of vehicle operation, including insurance, maintenance and repairs, and cleanliness. (Response, Q.14)

***C. Section 84.1-2-6(b)(4): The adequacy of the applicant's proposed dispatch and communications systems, and the applicant's ability to manage and support those systems***

According to King Cab's application, the applicant currently uses the Mobile Knowledge dispatch and metering system acquired from L&Z. (Response, Q.12) The elements of this system are described in both the response to Q.12 and in the company's Business Plan, provided as Exhibit 17. According to the company's Business Plan, the Mobile Knowledge dispatch system and L&Z's dispatch procedures are used by King Cab's current operations in the City of Alexandria and, following approvals, its operations in both the City of Alexandria and Fairfax County will use Mobile Knowledge as the central dispatch system.

Mr. Karim and King Cab have experience in the taxicab industry due to long-term operations in the City of Alexandria. The company's experience, however, has involved service that differs markedly from that required in Fairfax County. According to staff at the City of Alexandria's Transportation Division, the majority of King Cab's trips originate at Reagan National Airport, where its cabs wait in a queue to pick up arriving passengers. Generally taxicab trips in Fairfax County originate by dispatch, making dispatch an essential element of Fairfax County operations.

***D. Section 84.1-2-6(b)(5): The financial status of the applicant and its effect on permanence and quality of service, as demonstrated by the applicant's ability to provide, maintain, and operate the number of vehicles proposed in accordance with the service proposed in the application***

As part of its application, King Cab provided unaudited financial statements for years ending May 2017 and May 2018.<sup>1</sup> The financial statements appear to pertain to King Cab's City of Alexandria operations. Despite instruction in Q.25, King Cab did not provide: (1) a cash flow analysis; (2) notes to the financial statements; (3) explanations as to the extent to which the financial statements include estimated revenue and expense data; and/or (4) the derivation and source of estimates. King Cab provided pro forma statements for 2019 and 2020, but no explanatory materials.

The two balance sheets indicate that reported net income in the year ending May 2017 was <\$14,268> and \$8,385 in the year ending May 2018.

King Cab provided pro forma statements for 2019 and 2020. The pro forma statements show an approximate tripling in both revenues and expenses from May 2018 to 2020, as shown below:

---

<sup>1</sup> Staff's financial evaluation of applicants for taxicab certificates historically has included financial ratio analysis, including calculations of profitability, liquidity and debt management ratios. Consistent with prior practice, staff did not conduct such an analysis in this case because King Cab is not seeking additional certificates.



Attachment 2 - Staff Report to the Consumer Protection Commission on the  
Application of King Cab Company, Inc.

- Gross profit is reported in 2017 and 2018 as \$171,659 and \$158,465, respectively. Gross profit is projected to be \$504,000 in 2019 and \$537,600 in 2020.
- Total expenses is reported in 2017 and 2018 as \$136,004 and \$150,081, respectively. Total expenses is projected to be \$489,262 in 2019 and \$495,263 in 2020.

Changes in both revenues and expenses suggest that the pro forma statements may be premised on King Cab's combined Fairfax County and City of Alexandria taxicab operations. However, because King Cab offered no explanation, the basis for these increases cannot be determined or evaluated.

King Cab's pro forma projections may include anticipated revenue from contract services, given the company's stated interest in pursuing contracts with "county businesses, law offices, government agencies, and organizations that cater to disabled citizens." (Response, Q.10) However, because King Cab did not explain the basis for its projections, this cannot be conclusively determined and the company's projections of its Fairfax County contract business, if any, evaluated. In June 2016, L&Z entered into a five-year contract with Fairfax County Public Schools (FCPS) and Fairfax County agencies, ending June 30, 2021, with an option for three one-year renewal periods. According to the county's Transparency webpage, pursuant to this contract White Top received on average just over \$21,000 per year from county agencies over the last several years: \$23,524 (2019), \$22,167 (2018), and \$18,157 (2017). The FCPS Transparency webpages show no payments to White Top over this same period.

Finally, King Cab did not specify the amount of cash funds available to it, although it did provide copies of certain business and personal bank documents. Exhibit 19 includes a net worth figure, but incomplete supporting documentation for that figure. In addition, while Exhibit 19 states that no outstanding "personal debt exists," neither the exhibit nor the application addresses any outstanding company debt.

***E. Section 84.1-2-6(b)(6): The character, business experience and proposed business plan of the applicant, including the applicant's plans regarding driver recruitment and retention***

King Cab, which has been in operation over 40 years, was acquired by Mr. Karim in 2002. Since then, Mr. Karim has managed King Cab's daily operations and staff, overseen marketing and advertising strategies, and assisted in dispatch service. Mr. Karim also has experience owning or managing other businesses.

King Cab provided as Exhibit 17 a two-page Business Plan regarding its proposed Fairfax County operations. The Business Plan includes five sections entitled: (1) Executive Summary; (2) Company Background; (3) Marketing and Advertising; (4) Office and General Equipment Costs; and (5) Staff. The plan discusses at a very high level King Cab's prior successes and its goals for the future, including the possible merger of King Cab and White Top operations. (Exhibit 17, p.1)

One of the biggest challenges that King Cab likely will face is driver recruitment and retention. As of the date of this report, 13 of White Top's 53 taxicab certificates – about 25 percent – are currently vacant. Vacant certificates cannot be used to provide service to the community and do not generate revenue for the taxicab operator. Despite this challenge, King Cab's Business Plan states: "Our objective is to provide a company that will be amicable in many ways, so additional drivers will look to join the company in the future." (Exhibit 17, p.1) King Cab provided a somewhat fuller answer in response to Q.24, which asks the applicant to discuss its plans "for maximizing certificate utilization, including the applicant's plans for recruiting and retaining drivers." King Cab's response identifies competitive stand dues, a one-time referral incentive for existing drivers, and the distribution of flyers as actions it may take to attract more interest from potential drivers.

***F. Section 84.1-2-6(b)(7): The investigative report of the Director and the applications of the applicants***

The Department has no record of open or pending complaints against White Top. Further, the Department's Regulation and Licensing Branch indicates that no criminal information was received that would reflect negatively on Mr. Karim.

**V. FINDINGS AND RECOMMENDATIONS**

King Cab's application and supplemental responses and materials address the factors of Section 84.1-2-6(b), which have been deemed relevant in the evaluation of an application involving the sale of a company holding Fairfax County taxicab certificates and the transfer of its certificates. Specifically, following its review and evaluation, staff finds that:

***A. Areas of the County to be served and the applicant's ability to provide service on a 24-hour basis in those areas***

King Cab states that it will provide taxicab service throughout the county. The Department expects the company to continue its historical focus on the southern part of Fairfax County, including the Route 1 corridor.

***B. The kind, class, fuel efficiency, and other characteristics of the vehicles to be used***

The company's vehicles comply with Fairfax County Code requirements, including those pertaining to permissible age and mileage.

***C. The adequacy of the applicant's proposed dispatch and communications systems, and the applicant's ability to manage and support those systems***

King Cab's Mobile Knowledge dispatch system was used by transferor L&Z and was adequate to provide service to the L&Z fleet.

***D. The financial status of the applicant and its effect on permanence and quality of service, as demonstrated by the applicant's ability to provide, maintain, and operate the number of vehicles proposed in accordance with the service proposed in the application***

King Cab's unaudited financial statements show a history of limited profitability. Both its unaudited financial statements and pro forma statements lack supporting explanations and include inconsistent entries.

***E. The character, business experience and proposed business plan of the applicant, including applicant's plans regarding driver recruitment and retention***

King Cab has a proven record of providing quality taxicab service to customers in the City of Alexandria and has been providing taxicab service to Fairfax County, on an interim basis, since November 2018.

***F. The investigative report of the Director and the applications of the applicants***

The Department's investigative report did not disclose any information that would reflect negatively on Mr. Karim.

Board Agenda Item  
June 25, 2019

ACTION - 10

Approval of the Consumer Protection Commission Recommendation on the Number of Taxicab Certificates to be Authorized in 2019

ISSUE:

Board approval of the Consumer Protection Commission recommendation that no additional taxicab certificates be made available to be issued in 2019.

RECOMMENDATION:

The County Executive recommends that the Board approve the Consumer Protection Commission recommendation that no additional taxicab certificates be made available to be issued in 2019.

TIMING:

Board action is requested on June 25, 2019, so that the number of authorized taxicab certificates will be established prior to the June 30, 2019, deadline for submission of applications for taxicab certificates.

BACKGROUND:

Fairfax County Code Section 84.1-2-5 provides that in each odd-numbered year the Board will determine the number of taxicab certificates that are available to be issued to operators (the "biennial determination"). This code section is provided in Attachment 1.

In May 2019, staff completed the Taxicab Demand Formula and Analysis (Attachment 2). This formula calculates the weighted growth over time in criteria that contribute to demand for taxicab service, specifically: (1) average trips per certificate (45%); (2) mass transit and tourism composite (30%); (3) population (20%); and (4) percent of households without a vehicle (5%).

The results of the 2019 demand analysis yield a total weighted change of -24.12 percent, indicating a decline in demand and that no additional certificates are needed.

Declining demand for taxicab service was first observed in the 2015 biennial determination, and was evident in the 2017 biennial determination analysis as well.

Board Agenda Item  
June 25, 2019

In an April 16, 2018, memorandum to the Board staff notified the Board that the County's taxicab market was experiencing a period of unprecedented contraction due to widespread customer acceptance of transportation network companies (TNCs) such as Uber and Lyft. The memorandum noted that as of April 2018, the County's fleet size had dropped from 654 to 453 taxicabs due to operators' relinquishment of 201 taxicab certificates. Since that April 2018 memorandum, operators have relinquished an additional 85 certificates, bringing the current Fairfax County taxicab fleet to 368 vehicles.

TNC vehicles are no longer required to register with the Virginia Department of Motor Vehicles so the current number of TNCs operating in Fairfax County is unknown. However, as of December 31, 2016, there were nearly 16,000 active TNC registrations in Fairfax County compared to a Fairfax County taxicab fleet of 654 vehicles in 2016.

On May 21, 2019, staff presented its 2019 biennial determination analysis to the Consumer Protection Commission (CPC). Following the staff presentation and questions, the CPC voted unanimously to recommend to the Board that no additional taxicab certificates be made available to be issued in 2019.

FISCAL IMPACT:  
None

ENCLOSED DOCUMENTS:  
Attachment 1 – Fairfax County Code Section 84.1-2-5  
Attachment 2 – 2019 Taxicab Biennial Determination Demand Formula

STAFF:  
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Rebecca L. Makely, Director, Consumer Services Division, DCCS

ASSIGNED COUNSEL:  
John W. Burton, Assistant County Attorney, Office of the County Attorney

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

Section 84.1-2-5. - Establishment of public convenience and necessity; burden of applicant.

- (a) The number of certificates that are available to be issued on a biennial basis, will be determined by the Board, based on public convenience and necessity, after considering any appropriate recommendations submitted by the Commission or the Director and such other information as the Board chooses to consider. That number will be reviewed and established by resolution of the Board after May 1 of each odd numbered year, but the Board reserves the right to revise that number by subsequent resolution as the Board deems appropriate. The burden will be upon the applicant to establish the existence of all facts and statements within the applicant's application and to provide such other information as is required or requested pursuant to this Chapter.
- (b) If the applicant applies for certificates in excess of the number determined by the Board, based on public convenience and necessity, the burden of proof for the excess certificates shifts to the applicant. The applicant will then have the burden of establishing that public welfare will be enhanced by the award of the certificates of public convenience and necessity requested in the application. The applicant will be required to provide factual documented evidence indicating the demand and establishing public welfare.

(4-00-84.1; 56-08-84.1.)

Attachment 2 – 2019 Taxicab Biennial Determination Demand Formula

	<b>Taxicab Demand Analysis Criteria</b>	<b>Percent Change</b>	<b>Formula Weight</b>	<b>Weighted Change</b>
1	Average Trips per Certificate Growth Rate	-56.97%	45%	-25.64%
2	Mass Transit and Tourism Composite Growth Rate	2.75%	30%	0.83%
3	Population Growth Rate	3.22%	20%	0.64%
4	Percent Households without a Vehicle	0.99%	5%	0.05%
	<b>Total Weighted Change</b>		<b>100%</b>	<b>-24.12%</b>

<b>2019 Demand Formula Analysis</b>	<b>Demand</b>
Certificates Renewed in 2019	368
<b>Total Weighted Change</b>	<b>-24.12%</b>
<b>Reduction in Certificates</b>	<b>-88.74</b>
<b>Estimated Demand for Taxicab Certificates</b>	<b>279</b>

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June 25, 2019

ACTION - 11

Approval of and Authorization to Execute a Project Administration Agreement with the Virginia Department of Transportation for the Implementation of I-66 Outside the Beltway Trails (Sully District)

ISSUE:

Board of Supervisors' approval of, and authorization for, the Director of the Department of Transportation to execute a Project Administration Agreement (PAA) with the Virginia Department of Transportation (VDOT), substantially in the form of Attachment 2, for the implementation of the Braddock Road and Walney Road Improvements, and Compton Road Shared Use Path (under I-66 bridge) projects. Funding authority in the amount of \$5,225,000 is requested to support this agreement.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve \$5,225,000 in funding for these projects, and approve a resolution, substantially in the form of Attachment 1, authorizing the Director of the Department of Transportation to execute a PAA with VDOT substantially in the form of Attachment 2, for the completion of the Braddock Road and Walney Road Improvements, and Compton Road Shared Use Path projects.

TIMING:

The Board should act on this item on June 25, 2019, so that VDOT can begin implementation of the projects.

BACKGROUND:

The Transform 66 project plans to complete a parallel trail along the I-66 highway corridor as part of the implementation of Express Lanes Outside the Beltway. In areas where the highway right-of-way is limited and the trail cannot be accommodated, portions of the trail will continue along the street network or park property, until it can be reconnected to the trail located in highway right-of-way.

Compton Road Shared Use Path

The Compton Road segment is one such connection that will provide a shared use path connection from the Cub Run Stream Valley Trail to the Bull Run Events Center entrance. As part of the Transform 66 project, Express Mobility Partners (EMP), the



Board Agenda Item  
June 25, 2019

private concessionaire, will modify the I-66 Bridge over Compton Road and construct a ten-foot shared use path underneath the bridge, at a total cost of \$1,075,000. VDOT will construct the remaining portions of the ten-foot shared use path north and south of the bridge along the east side of Compton Road.

Implementation of this project by VDOT allows for the trail to capitalize upon existing construction efforts associated with I-66 and meets the County's already identified need to provide pedestrian and bicycle connections along Compton Road. Fairfax County identified the need for this project as part of the Transportation Priorities Plan approved in January 2014. However, it will be more efficient for VDOT to implement this project with the Express Lanes, rather than the County constructing it as a stand-alone project.

Braddock Road and Walney Road Improvements

This proposed segment includes approximately 3,800 feet of new shared use path along Braddock Road and Walney Road, from Newton Patent Drive over the new Route 28 bridge connecting to the eastern part of E. C. Lawrence Park.

The 2014 Fairfax County Bicycle Master Plan recommends bike lanes along Braddock Road as well as a shared use path along Braddock Road and through E.C. Lawrence Park. As part of the Transform 66 project, EMP will construct the bridge structure over Route 28 to connect Braddock Road and Walney Road. It will be more cost effective to have the shared use path constructed along with the new bridge structure. As such, the inclusion of trail facilities with the bridge structure will be assigned to EMP as a change order.

This 3,800 feet shared use path will greatly benefit the pedestrians and bicyclists with direct connection between east and west sides of E.C. Lawrence Park, which is also an essential segment to the entire cross county bicycle and pedestrian network planned as part of the Transform 66 project and in keeping with County plans and recommendations. The total cost for this project is \$4,150,000.

FISCAL IMPACT:

The PAA is a reverse funding agreement in which the County will provide the Commonwealth the County's share of the project which totals \$5,225,000. Staff has identified funding in Fund 40010 (County and Regional Transportation Projects) construction reserve to meet the County's share. Design work will begin immediately after agreement execution. There is no impact to the General Fund.

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June 25, 2019

ENCLOSED DOCUMENTS:

- Attachment 1: Resolution Authorizing the Execution of a Project Administration Agreement with the Virginia Department of Transportation
- Attachment 2: Project Administration Agreement (including Related Appendices) with the Virginia Department of Transportation for the Braddock Road and Walney Road Improvements, and Compton Road Shared Use Path (under I-66 bridge) projects

STAFF:

Rachel Flynn, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Todd Minnix, Chief, Transportation Design Division, FCDOT  
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division (CPTED), FCDOT  
Chris Wells, Senior Transportation Planner, CPTED, FCDOT  
Martha Coello, Senior Transportation Planner, Special Projects, FCDOT  
Lauren Delmare, Transportation Planner, CPTED, FCDOT  
Todd Wigglesworth, Chief, Coordination and Funding Division (CFD), FCDOT  
Ray Johnson, Chief, Funding Section, CFD, FCDOT  
Christina Farrar, 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, June 25, 2019, 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  
I-66 Outside the Beltway Trails  
PROJECTS

**WHEREAS**, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation (VDOT) to establish a project(s), if not already established, in the County of Fairfax.

**NOW, THEREFORE, BE IT RESOLVED**, that the County of Fairfax requests the Commonwealth Transportation Board to establish a project(s), if not already established, for the implementation of the: Braddock Road and Walney Road Improvements, and Compton Road Shared Use Path/Under I-66 Bridge (“Projects”).

**BE IT FURTHER RESOLVED THAT**, the County of Fairfax hereby agrees to provide its share of the local contributions, in accordance with the Project Administration Agreement (“PAA”, attached) and associated financial documents (Appendix As), 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 Projects to be administered by VDOT.

Adopted this 25th day of June 2019, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

**VDOT ADMINISTERED – LOCALLY FUNDED  
PROJECT ADMINISTRATION AGREEMENT**

FAIRFAX COUNTY

PROJECT NUMBER 9999-029-460      UPC T22691 & T22866

THIS AGREEMENT, made and executed in triplicate on this the \_\_\_\_ day  
of \_\_\_\_\_, 2019, between the COMMONWEALTH OF  
VIRGINIA DEPARTMENT OF TRANSPORTATION, hereinafter referred  
to as the "DEPARTMENT" and the COUNTY OF FAIRFAX, hereinafter  
referred to as the "COUNTY."

WITNESSETH

WHEREAS, the COUNTY has expressed its desire to have the DEPARTMENT administer the work as described in Appendix B, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds as shown in Appendix A have all been allocated by the COUNTY to finance the project; and

WHEREAS, the COUNTY has requested that the DEPARTMENT design and construct this project in accordance with the scope of work described in Appendix B, and the DEPARTMENT has agreed to perform such work; and

WHEREAS, both parties have concurred in the DEPARTMENT's administration of the project identified in this Agreement and its associated Appendices A and B in accordance with applicable federal, state, and local law and regulations; and

WHEREAS, the County's governing body has, by resolution, which is attached hereto, authorized its designee to execute this Agreement; and

WHEREAS, Section 33.2-338 of the Code of Virginia authorizes both the DEPARTMENT and the COUNTY 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 DEPARTMENT shall:
1.     Complete said work as identified in Appendix B, advancing such diligently, and all work shall be completed in accordance with the schedule established by both parties.
  2.     Perform or have performed, and remit all payments for, all preliminary engineering, right-of-way acquisition, construction, contract administration, and inspection services activities for the project(s) as required.

3. Provide a summary of project expenditures to the COUNTY for charges of actual DEPARTMENT cost.
  4. Notify the COUNTY of additional project expenses resulting from unanticipated circumstances and provide detailed estimates of additional costs associated with those circumstances. The DEPARTMENT will make all efforts to contact the COUNTY prior to performing those activities.
  5. Return any unexpended funds to the COUNTY no later than 90 days after the project(s) have been completed and final expenses have been paid in full.
- B. The COUNTY shall:
1. Provide funds to the Department for Preliminary Engineering (PE), Right of Way (ROW) and/or Construction (CN) in accordance with the payment schedule outlined in Appendix A
  2. Accept responsibility for any additional project costs resulting from unforeseeable circumstances, but only after concurrence of the COUNTY and modification of this Agreement.
- C. Funding by the COUNTY shall be subject to annual appropriation or other lawful appropriation by the Board of Supervisors.
- D. 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.
- E. 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 County 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

County 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.

- F. Nothing in this Agreement shall be construed as a waiver of the COUNTY's or the Commonwealth of Virginia's sovereign immunity.
- G. Should funding be insufficient and county funds be unavailable, both parties will review all available options for moving the project forward, including but not limited to, halting work until additional funds are allocated, revising the project scope to conform to available funds, or cancelling the project.
- H. Should the project be cancelled as a result of the lack of funding by the COUNTY, the COUNTY shall be responsible for any costs, claims and liabilities associated with the early termination of any construction contract(s) issued pursuant to this agreement.
- I. This Agreement may be terminated by either party upon 60 days advance written notice. Eligible expenses incurred through the date of termination shall be reimbursed to the DEPARTMENT subject to the limitations established in this Agreement.

THE COUNTY 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 upon 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:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or Printed Name of Signatory Date

\_\_\_\_\_  
Signature of Witness Date

NOTE: The official signing for the COUNTY must attach a certified copy of his or her authority to execute this Agreement.

**COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:**

\_\_\_\_\_  
Chief of Policy Date  
Commonwealth of Virginia  
Department of Transportation

\_\_\_\_\_  
Signature of Witness Date

- Attachments: Appendix A (UPC T22691)  
Appendix A (UPC T22866)  
Appendix B (UPC T22691)  
Appendix B (UPC T22866)

**Appendix B**

**Project Number:** (UPC T22691)

**Locality:** Fairfax County

<b>Project Scope</b>	
<b>Work Description:</b>	Construct 10' shared use paths along north side of Walney Rd from Rte 28 to EC Lawrence Park, along north side of Braddock Rd from Rte 28 to Newton Patent Dr
<b>From:</b>	Approx. 2800 ft west of Rte 28 along Braddock Rd
<b>To:</b>	Approx. 1000 ft east of Rte 28 along Walney Rd
Locality Project Manager Contact Info: Lauren Delmare 703-877-5781 lauren.delmare@fairfaxcounty.gov Department Project Coordinator Contact Info: Harinderbir Warraich 571-459-2362 hs.warraich@vdot.virginia.gov	

<b>Detailed Scope of Services</b>
<p>This project will provide an approximate total of 3,800 ft of 10' shared use path on either side of Route 28 –approximately 1,000 ft on Walney Rd. and approximately 2,800 ft on Braddock Rd.</p>

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This attachment is certified and made an official attachment to this document by the parties of this agreement

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Authorized Locality Official and date

---

Typed or printed name of person signing

---

Residency Administrator/PE Manager/District Construction Engineer Recommendation and date

---

Typed or printed name of person signing



**Appendix B**

**Project Number:** (UPC T22866)

**Locality:** Fairfax County

<b>Project Scope</b>	
<b>Work Description:</b>	Construct 10' shared use paths along Compton Road under the I-66 bridge.
<b>From:</b>	Approx. 50 ft south of I-66 Bridge
<b>To:</b>	Approx. 100 ft north of I-66 Bridge
Locality Project Manager Contact Info:    Lauren Delmare    703-877-5781    lauren.delmare@fairfaxcounty.gov Department Project Coordinator Contact Info: Harinderbir Warraich    571-459-2362    hs.warraich@vdot.virginia.gov	

<b>Detailed Scope of Services</b>
<p>This project will provide approximately 300' of a 10' shared-use path (SUP), underneath the I-66 Bridge. In order to construct the SUP, retaining walls will be constructed to hold back the slope underneath the bridge.</p>

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This attachment is certified and made an official attachment to this document by the parties of this agreement

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Authorized Locality Official and date

---

Typed or printed name of person signing

---

Residency Administrator/PE Manager/District Construction Engineer  
 Recommendation and date

---

Typed or printed name of person signing

**VDOT Administered, Locally Funded Appendix A**

Date: **DRAFT 4/3/2019**

Project Number: 9999-029-460 UPC: T22691 CFDA# 20.205 Locality: Fairfax County

Project Location ZIP+4: 20151-2306	Locality DUNS # 074837626	Locality Address: 4050 Legato Rd, Suite 400 Fairfax, VA 22033-2867
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**Project Narrative**

Scope: Construct 10' shared use paths along north side of Walney Rd from Rte 28 to EC Lawrence Park and along north side of Braddock Rd from Rte 28 to Newton Patent Dr.

From: **Approx. 2800 ft west of Rte 28 along Braddock Rd**

To: **Approx. 1000 ft east of Rte 28 along Walney Rd**

Locality Project Manager Contact info: Lauren Delmare 703-877-5781 lauren.delmare@fairfaxcounty.gov

Department Project Coordinator Contact Info: Harinderbir Warraich 571-459-2362 hs.warraich@vdot.virginia.gov

**Project Estimates**

Phase	Estimated Project Costs
Preliminary Engineering	\$640,000
Right of Way & Utilities	\$0
Construction	\$3,510,000
<b>Total Estimated Cost</b>	<b>\$4,150,000</b>

**Project Cost**

Phase	Project Allocations	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount
Preliminary Engineering	\$640,000	Local Funds	100%	\$640,000
				\$0
<b>Total PE</b>	<b>\$640,000</b>			<b>\$640,000</b>
Right of Way & Utilities				
<b>Total RW</b>				<b>\$0</b>
Construction	\$3,510,000	Local Funds	100%	\$3,510,000
				\$0
<b>Total CN</b>	<b>\$3,510,000</b>			<b>\$3,510,000</b>
<b>Total Estimated Cost</b>	<b>\$4,150,000</b>			<b>\$4,150,000</b>

**Total Maximum Reimbursement / Payment by Locality to VDOT**

**\$4,150,000**

**Project Financing**

Local Funds				Aggregate Allocations
\$4,150,000				\$4,150,000

**Payment Schedule**

FY 2020			
\$4,150,000			

**Program and Project Specific Funding Requirements**

- This is a limited funds project. The locality shall be responsible all funding of \$5,225,000 and or any additional costs required.
- All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.
- VDOT has billed the LOCALITY \$0 for this project as of 4/1/2019.
- VDOT has received \$0 from the LOCALITY for this project as of 4/1/2019.
- The LOCALITY shall make one lump sum payment to VDOT in the amount of \$4,150,000 no later than 60 days after execution of this agreement/appendix.

This attachment is certified and made an official attachment to this document by the parties to this agreement

\_\_\_\_\_  
Authorized Locality Official and Date

\_\_\_\_\_  
Authorized VDOT Official and Date

\_\_\_\_\_  
Typed or printed name of person signing

\_\_\_\_\_  
Typed or printed name of person signing

Revised: August 13, 2018

**VDOT Administered, Locally Funded Appendix A**

Date: **DRAFT 4/15/2019**

Project Number: 9999-029-460 UPC: T22866 CFDA# 20.205 Locality: Fairfax County

Project Location ZIP+4: 20151-2306	Locality DUNS # 074837626	Locality Address: 4050 Legato Rd, Suite 400 Fairfax, VA 22033-2867
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**Project Narrative**

Scope: Construct 10' shared use paths along Compton Road under the I-66 bridge and retaining walls to hold back the slope under the bridge.

From: **Approx. 50 ft south of I-66 Bridge**

To: **Approx. 100 ft north of I-66 Bridge**

Locality Project Manager Contact info: Lauren Delmare 703-877-5781 lauren.delmare@fairfaxcounty.gov

Department Project Coordinator Contact Info: Harinderbir Warraich 571-459-2362 hs.warraich@vdot.virginia.gov

**Project Estimates**

Phase	Estimated Project Costs
Preliminary Engineering	\$109,000
Right of Way & Utilities	\$0
Construction	\$966,000
<b>Total Estimated Cost</b>	<b>\$1,075,000</b>

**Project Cost**

Phase	Project Allocations	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount
Preliminary Engineering	\$109,000	Local Funds	100%	\$109,000
				\$0
<b>Total PE</b>	<b>\$109,000</b>			<b>\$109,000</b>
Right of Way & Utilities				\$0
<b>Total RW</b>				<b>\$0</b>
Construction	\$966,000	Local Funds	100%	\$966,000
				\$0
<b>Total CN</b>	<b>\$966,000</b>			<b>\$966,000</b>
<b>Total Estimated Cost</b>	<b>\$1,075,000</b>			<b>\$1,075,000</b>

**Total Maximum Reimbursement / Payment by Locality to VDOT**

**\$1,075,000**

**Project Financing**

Local Funds				Aggregate Allocations
\$1,075,000				\$1,075,000

**Payment Schedule**

FY 2020			
\$1,075,000			

**Program and Project Specific Funding Requirements**

- This is a limited funds project. The locality shall be responsible all funding of \$5,225,000 and or any additional costs required.
- All local funds included on this appendix have been formally committed by the local government's board or council resolution subject to appropriation.
- VDOT has billed the LOCALITY \$0 for this project as of 4/1/2019.
- VDOT has received \$0 from the LOCALITY for this project as of 4/1/2019.
- The LOCALITY shall make one lump sum payment to VDOT in the amount of \$1,075,000 no later than 60 days after execution of this agreement/appendix.

This attachment is certified and made an official attachment to this document by the parties to this agreement

Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Typed or printed name of person signing

Revised: August 13, 2018

Board Agenda Item  
June 25, 2019

ACTION - 12

Approval of Project Agreements Between the Virginia Department of Rail and Public Transportation (DRPT) and Fairfax County for Fiscal Year (FY) 2019 Transit Assistance Grant Funds

ISSUE:

Approval for the Director of the Department of Transportation to sign three Project Agreements with DRPT to enable the County's receipt of FY 2019 transit capital assistance.

RECOMMENDATION:

The County Executive recommends that the Board authorize the Director of the Department of Transportation to sign three Project Agreements between DRPT and Fairfax County, in substantial form as those attached, for FY 2019 transit capital assistance (Attachments 1 through 3).

TIMING:

The Board of Supervisors should act on this item on June 25, 2019, so that DRPT can release FY 2019 transit capital funding to Fairfax County.

BACKGROUND:

For more than 30 years, the state disbursed state transit assistance to the Northern Virginia jurisdictions through the Northern Virginia Transportation Commission (NVTC). Pursuant to the Code of Virginia, NVTC uses a Subsidy Allocation Model (SAM) to distribute regional transit funding among the jurisdictions.

In 2012, Fairfax County and DRPT entered into a Master Agreement for the Use of Commonwealth Transportation Funds (the Master Agreement), which provides the basis for which the County receives numerous transportation project grant funds. NVTC acts as Fairfax County's agent for WMATA regional agreements. This procedural action reduces the number of project agreements that Fairfax County is required to process.

On November 20, 2018, the Board authorized the Director of the Department of Transportation to sign seven Project Agreements between DRPT and Fairfax County for part of the FY 2019 transit operating and capital assistance. Capital project agreements for three additional projects were still under discussion and were not included in the Board's authorization. The agreements were for the following projects:

Board Agenda Item  
June 25, 2019

- Design and Construction of the Innovation Center Metrorail Parking Garage
- Design and Construction of the Herndon Metrorail Parking Garage
- Purchase Computer Software and Hardware

Negotiations are now complete, and the parties are prepared to advance the three remaining capital project agreements (Attachments 1 through 3).

FISCAL IMPACT:

The three attached agreements provide the County with \$10,047,000 for approved Fairfax County Transit Capital Projects. Transit capital funding from the Commonwealth is provided on a reimbursement basis after the purchase and/or project is complete. These revenues are included in Fund 30000 (Metro Operations and Construction) and Fund 40000 (County Transit Systems). There is no General Fund impact.

ENCLOSED DOCUMENTS:

Attachment 1 – Project Grant # 73019-42: Design and Construction of the Innovation Center Metrorail Parking Garage

Attachment 2 – Project Grant # 73019-43: Design and Construction of the Herndon Metrorail Parking Garage

Attachment 3 – Project Grant # 73019-48: Purchase Computer Software and Hardware

STAFF:

Rachel Flynn, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Noelle Dominguez, Chief, Coordination Section, FCDOT

Malcolm Watson, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Robert M. Falconi, Assistant County Attorney

**Project Agreement for Use of  
Commonwealth Transportation Funds  
Fiscal Year 2019  
Six Year Improvement Program Approved Project  
Grant Number 73019-42**

This Project Agreement (“Agreement”), effective July 1, 2018, by and between the Commonwealth of Virginia Department of Rail and Public Transportation (“Department”) and Fairfax County (“Grantee”) (collectively, the “Parties”), is for the provision of funding the design and construction of the Innovation Center Metrorail parking garage (“Project”).

WHEREAS, on February 1, 2018, the Northern Virginia Transportation Commission, on behalf of the Grantee, submitted an application to the Department for funding for the Project in the Fiscal Year 2019 Six Year Improvement Program from the Capital Assistance Program; and

WHEREAS, the Department has approved funding for the Project; and

WHEREAS, on June 20, 2018, the Commonwealth Transportation Board (“CTB”) allocated funding for the Project; and

WHEREAS, the Parties wish to define the extent of the Project, the responsibilities of each Party, the manner of performing the necessary Work, the method and time of payment, and to set out additional conditions associated with the Project.

NOW, THEREFORE, in consideration of the covenants and agreements set forth, and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

**ARTICLE 1. SCOPE OF WORK, TERM AND BUDGET**

1. The Work to be performed by the Grantee under the terms of this Agreement is as follows:
  - a. Design and construction of the Innovation Center Metrorail parking garage.
2. The Department agrees to provide funding as detailed below:
  - a. State grant funding in the amount of \$5,950,000 for the Project approved in the Fiscal Year 2019 Six Year Improvement Program. Details concerning this funding are contained in Appendix 1, which is attached and made a part of this Agreement.
3. The Agreement may be amended only prior to the Project Expiration Date identified in Appendix 1 and upon written agreement of the Parties.
4. The Grantee acknowledges that state grant funding for this grant is subject to appropriation by the General Assembly of Virginia and allocation by the CTB.

**ARTICLE 2. INCORPORATION OF MASTER AGREEMENT  
FOR USE OF COMMONWEALTH FUNDS**

The Parties agree to incorporate the Master Agreement for Use of Commonwealth Transportation Funds, dated May 30, 2012, as if set out in full herein.

*This space intentionally left blank*

IN TESTIMONY THEREOF, the Department and the Grantee have caused this Agreement to be executed, each by their duly authorized officers, all as of the day, month, and year first written.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

By: \_\_\_\_\_  
Director

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

By: \_\_\_\_\_

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

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



**Appendix 1**

**Grantee: Fairfax County**

**Project: Design and Construction of the Innovation Center Metrorail Parking Garage**

**Capital Assistance Program Project Agreement**

**Project Number: 73019-42**

**Project Start Date: July 1, 2018**

**Project Expiration Date: June 30, 2020**

<b>Fund Code</b>		<b>Item Amount</b>
478	Grant Amount (State share of Project cost - 34%)	\$ 5,950,000
1400	Local expense (share of Project cost - 66%)	\$11,550,000
	Total Project Expense	\$17,500,000

In no event shall this grant exceed \$5,950,000.

**Project Agreement for Use of  
Commonwealth Transportation Funds  
Fiscal Year 2019  
Six Year Improvement Program Approved Project  
Grant Number 73019-43**

This Project Agreement (“Agreement”), effective July 1, 2018, by and between the Commonwealth of Virginia Department of Rail and Public Transportation (“Department”) and Fairfax County (“Grantee”) (collectively, the “Parties”), is for the provision of funding the design and construction of the Herndon Metrorail parking garage (“Project”).

WHEREAS, on February 1, 2018, the Northern Virginia Transportation Commission, on behalf of the Grantee, submitted an application to the Department for funding for the Project in the Fiscal Year 2019 Six Year Improvement Program from the Capital Assistance Program; and

WHEREAS, the Department has approved funding for the Project; and

WHEREAS, on June 20, 2018, the Commonwealth Transportation Board (“CTB”) allocated funding for the Project; and

WHEREAS, the Parties wish to define the extent of the Project, the responsibilities of each Party, the manner of performing the necessary Work, the method and time of payment, and to set out additional conditions associated with the Project.

NOW, THEREFORE, in consideration of the covenants and agreements set forth, and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

**ARTICLE 1. SCOPE OF WORK, TERM AND BUDGET**

1. The Work to be performed by the Grantee under the terms of this Agreement is as follows:
  - a. Design and construction of the Herndon Metrorail parking garage.
2. The Department agrees to provide funding as detailed below:
  - a. State grant funding in the amount of \$3,740,000 for the Project approved in the Fiscal Year 2019 Six Year Improvement Program. Details concerning this funding are contained in Appendix 1, which is attached and made a part of this Agreement.
3. The Agreement may be amended only prior to the Project Expiration Date identified in Appendix 1 and upon written agreement of the Parties.
4. The Grantee acknowledges that state grant funding for this grant is subject to appropriation by the General Assembly of Virginia and allocation by the CTB.

**ARTICLE 2. INCORPORATION OF MASTER AGREEMENT  
FOR USE OF COMMONWEALTH FUNDS**

The Parties agree to incorporate the Master Agreement for Use of Commonwealth Transportation Funds, dated May 30, 2012, as if set out in full herein.

*This space intentionally left blank*

IN TESTIMONY THEREOF, the Department and the Grantee have caused this Agreement to be executed, each by their duly authorized officers, all as of the day, month, and year first written.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

By: \_\_\_\_\_  
Director

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

By: \_\_\_\_\_

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

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

**Appendix 1**

**Grantee: Fairfax County**

**Project: Design and Construction of the Herndon Metrorail Parking Garage**

**Capital Assistance Program Project Agreement**

**Project Number: 73019-43**

**Project Start Date: July 1, 2018**

**Project Expiration Date: June 30, 2020**

<b>Fund Code</b>		<b>Item Amount</b>
478	Grant Amount (State share of Project cost - 34%)	\$ 3,740,000
1400	Local expense (share of Project cost - 66%)	\$ 7,260,000
	Total Project Expense	\$11,000,000

In no event shall this grant exceed \$3,740,000.

**Project Agreement for Use of  
Commonwealth Transportation Funds  
Fiscal Year 2019  
Six Year Improvement Program Approved Project  
Grant Number 73019-48**

This Project Agreement (“Agreement”), effective July 1, 2018, by and between the Commonwealth of Virginia Department of Rail and Public Transportation (“Department”) and Fairfax County (“Grantee”) (collectively, the “Parties”), is for the provision of funding the purchase of computer software and hardware (“Project”).

WHEREAS, on February 1, 2018, the Northern Virginia Transportation Commission, on behalf of the Grantee, submitted an application to the Department for funding for the Project in the Fiscal Year 2019 Six Year Improvement Program from the Capital Assistance Program; and

WHEREAS, the Department has approved funding for the Project; and

WHEREAS, on June 20, 2018, the Commonwealth Transportation Board (“CTB”) allocated funding for the Project; and

WHEREAS, the Parties wish to define the extent of the Project, the responsibilities of each Party, the manner of performing the necessary Work, the method and time of payment, and to set out additional conditions associated with the Project.

NOW, THEREFORE, in consideration of the covenants and agreements set forth, and other good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

**ARTICLE 1. SCOPE OF WORK, TERM AND BUDGET**

1. The Work to be performed by the Grantee under the terms of this Agreement is as follows:
  - a. Purchase of computer software and hardware.
2. The Department agrees to provide funding as detailed below:
  - a. State grant funding in the amount of \$357,000 for the Project approved in the Fiscal Year 2019 Six Year Improvement Program. Details concerning this funding are contained in Appendix 1, which is attached and made a part of this Agreement.
3. The Agreement may be amended only prior to the Project Expiration Date identified in Appendix 1 and upon written agreement of the Parties.
4. The Grantee acknowledges that state grant funding for this grant is subject to appropriation by the General Assembly of Virginia and allocation by the CTB.

**ARTICLE 2. INCORPORATION OF MASTER AGREEMENT  
FOR USE OF COMMONWEALTH FUNDS**

The Parties agree to incorporate the Master Agreement for Use of Commonwealth Transportation Funds, dated May 30, 2012, as if set out in full herein.

*This space intentionally left blank*

IN TESTIMONY THEREOF, the Department and the Grantee have caused this Agreement to be executed, each by their duly authorized officers, all as of the day, month, and year first written.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

By: \_\_\_\_\_  
Director

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

By: \_\_\_\_\_

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

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



**Appendix 1**

**Grantee: Fairfax County**

**Project: Purchase Computer Software and Hardware**

**Capital Assistance Program Project Agreement**

**Project Number: 73019-48**

**Project Start Date: July 1, 2018**

**Project Expiration Date: June 30, 2020**

<b>Fund Code</b>		<b>Item Amount</b>
477	Grant Amount (State share of Project cost - 17%)	\$ 357,000
1400	Local expense (share of Project cost - 83%)	\$1,743,000
	Total Project Expense	\$2,100,000

In no event shall this grant exceed \$357,000

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ACTION - 13

Authorization for the Department of Transportation to Apply for Funding and Endorsement for the United States Department of Transportation's FY2019 Better Utilizing Investments to Leverage Development Discretionary Grant Program (Lee and Mount Vernon Districts)

ISSUE:

Board of Supervisors authorization is requested for the Fairfax County Department of Transportation (FCDOT) to apply for funding from the U.S. Department of Transportation (USDOT) FY 2019 Better Utilizing Investments to Leverage Development (BUILD) Discretionary Grant Program. Funding of \$25.0 million will be requested for the Richmond Highway Bus Rapid Transit Project. The required Local Cash Match is \$6.25 million and will be met in Fund 40010, County and Regional Transportation Projects. No new General Fund resources are required. If the County is awarded funding, staff will submit another item to accept the award and execute the agreement. The project requires a project endorsement resolution (Attachment 1) from the local governing body; therefore, Board approval of Attachment 1 is also requested.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize FCDOT to apply for funding in the amount of \$25.0 million through the FY 2019 BUILD Discretionary Grant Program and to adopt the project endorsement resolution.

TIMING:

Board approval is requested on June 25, 2019, to meet the submission deadline of July 15, 2019.

BACKGROUND:

On April 23, 2019, USDOT issued a Notice of Funding Opportunity for the FY 2019 BUILD discretionary grant program. The BUILD Discretionary Grant Program has replaced the Transportation Investment Generating Economic Recovery (TIGER) discretionary grant program.

BUILD Discretionary Grant Program applications will be evaluated based on the following merit criteria: safety, state of good repair, economic competitiveness, environmental sustainability, innovation, and partnership. Eligible projects include, but are not limited to:

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- (1) Highway, bridge, or other road projects;
- (2) public transportation projects;
- (3) passenger and freight rail transportation projects;
- (4) port infrastructure investments (including inland port infrastructure and land ports of entry); and
- (5) intermodal projects.

The FY 2019 Consolidated Appropriations Act appropriated \$900 million to be awarded by the USDOT for the BUILD Discretionary Grant Program. The FY 2019 BUILD grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant local or regional impact. The FY 2019 Consolidated Appropriations Act requires that FY 2019 BUILD funds are only available for obligation through September 30, 2021. All FY 2019 BUILD funds must be expended by September 30, 2026.

Formal Board authorization is requested for FCDOT to apply for FY 2019 BUILD Discretionary Grant Program funds. FCDOT staff reviewed criteria for awarding BUILD funding and recommends applying for the Richmond Highway Bus Rapid Transit Project, previously approved by the Board in the Transportation Priorities Plan on January 28, 2014. FCDOT will be seeking the maximum grant award of \$25.0 million. The following is a brief description of the project:

The Richmond Highway Bus Rapid Transit (BRT) project includes median running BRT from the Huntington Metrorail Station to Fort Belvoir. This multi-modal project will include: nine new transit stations; 6.5-foot cycle track for cyclists; six-foot sidewalk; and, accommodate automobiles and other motorized vehicles. The project will also include Intelligent Transportation System improvements to facilitate BRT service, e.g., transit signal priority and signal pre-emption for emergency vehicles.

In May 2015, the Fairfax County Board of Supervisors endorsed Phases 1 and 2 as the preferred transit alternative, which implements median running BRT from the Huntington Metrorail Station area to Fort Belvoir. The County is working with a Project Management Consultant (PMC) team that is helping with the delivery of the first two phases of the project including BRT design, environmental compliance, funding strategy. The project is currently under design and continuing with NEPA work.

The total project estimate is \$730.0 million. To date, the County has secured approximately \$300.0 million to support this project. FCDOT will continue to pursue additional grant awards to support the remaining funding needed for this project. If no additional grant funding is received, it is anticipated that NVTAs 70% funding will be used to complete the project. No additional General Fund resources will be requested.

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FISCAL IMPACT:

Grant funding of \$25.0 million is being requested from USDOT for the Richmond Highway BRT project. The total required Local Cash Match requirement of \$6.25 million has been identified in Fund 40010, County and Regional Transportation Projects. No new General Fund resources are required. If funding is awarded, staff will submit another item to accept the award and the appropriation will be requested in Fund 50000, Federal-State Grant Fund as part of a quarterly review.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution of Endorsement of Pursuit of FY2019 United States Department of Transportation BUILD Discretionary Grant Programs

STAFF:

Rachel Flynn, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT  
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT  
Ray Johnson, Chief, Funding Section, Coordination and Funding Division, FCDOT  
Brent Riddle, Sr. Transportation Planner, Coordination and Funding Division, 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, June 25, 2019, at which meeting a quorum was present and voting, the following resolution was adopted:

### **RESOLUTION**

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby approves the submission to the United States Department of Transportation FY2019 Better Utilizing Investments to Leverage Development (BUILD) Discretionary Grant Funding Program for the Richmond Highway Bus Rapid Transit (BRT) project in an amount not to exceed \$25,000,000.

Adopted this 25<sup>th</sup> day of June 2019, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

ACTION - 14

Approval of and Authorization to Execute Standard Project Agreements with the Northern Virginia Transportation Authority, for the Implementation of Multiple Fairfax County Transportation Projects (Braddock, Lee, Mount Vernon, and Springfield Districts)

ISSUE:

Board of Supervisors' authorization for the Director of the Fairfax County Department of Transportation (FCDOT) to sign Standard Project Agreements (SPAs) with the Northern Virginia Transportation Authority (NVTA), substantially in the form of Attachments 2, 3, 4, and 5, to secure NVTA FY2018-2023 Six Year Program (SYP) funding for the implementation of:

1. Fairfax County Parkway Widening from Ox Road (Route 123) to north of Lee Highway (Route 29), and Interchange Improvements at Popes Head Road,
2. Rolling Road Widening from Old Keene Mill Road to Hunter Village Drive,
3. Richmond Highway Widening from Napper Road to Mount Vernon Highway/Jeff Todd Way, and
4. Frontier Drive Extension and Intersection Improvements.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve a resolution, substantially in the form of Attachment 1, authorizing the Director of the Fairfax County Department of Transportation to execute SPAs with NVTA, substantially in the form of Attachments 2, 3, 4, and 5, for \$230,111,000 in NVTA FY2018-2023 SYP funding to support four roadway projects in Fairfax County.

TIMING:

The Board of Supervisors should act on this item on June 25, 2019, so that NVTA can begin to release program funding to the Virginia Department of Transportation (VDOT) for the continued implementation of the projects.

BACKGROUND:

All of these projects were included in the Board's Transportation Priorities Plan approved on January 28, 2014. Staff continues to advance these projects by identifying needed funds and securing project funding agreements.

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To facilitate the implementation of the regionally funded projects, NVTA and jurisdictional staff developed an SPA to govern the terms and conditions associated with the funding that NVTA approves for these regional projects. The SPA is based on requirements of HB 2313, but the SPA also includes practical provisions associated with the implementation of the law and standard contract language. A specific project agreement must be executed for each project approved by NVTA. County staff was extensively involved in drafting this SPA, and in tailoring it for these projects.

The SPA provides that the County will:

- Perform work in accordance with all applicable federal, state, and local laws and regulations, the SPA and the Project Description Sheet;
- Perform or have performed all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisition as required by the SPA and necessary to complete the project;
- Update project cash flow requirements periodically;
- Provide requests for payment consistent with the approved cash flow for a project on standard requisition forms;
- Notify NVTA's Executive Director of any additional project costs resulting from unanticipated circumstances. NVTA will decide whether to fund these additional costs, but only in accordance with NVTA's project selection process;
- Release or return any unexpended funds to NVTA no later than 90 days following final payment to contractors;
- Certify that any matching funds required for the project have been secured;
- Reimburse NVTA (with interest) for any funds misapplied or not used in accordance with the statutes governing NVTA's revenues;
- Certify that the County will use the project for its intended purpose for the duration of its useful life or reimburse NVTA for the residual value of the asset based on its depreciated value;
- Acknowledge that NVTA will not be responsible for operating or maintaining the project upon completion;
- Obtain all necessary permits or permissions necessary for constructing and/or operating the project;
- Comply with all applicable federal and state funding requirements, if such other sources are used to fund the project;
- Certify that it has adhered to all applicable laws and regulations, as well as the requirements of the agreement.

The SPA provides that NVTA will:

- Provide funding for the project on a reimbursement basis, as outlined in the project agreement, project budget and cash flow as originally or subsequently approved;
- Assign a project coordinator to monitor the project to ensure compliance with the agreement and review payment requisitions;
- Make project payments within 20 days, if the payment requisition is sufficient;
- Notify the County of reasons a payment requisition is declined;
- Consider additional payment requests recommended by the Executive Director and the Finance Committee;
- Conduct periodic reviews of the project to ensure that it remains in compliance with the agreed-upon project scope;
- Advise the County in writing of any misused or misapplied funding and make recommendations to NVTA's Finance Committee, if the issue(s) is not resolved, and withhold additional funding for the project until final resolution of the matter.
- Secure reimbursement from the County (with interest) of any misused or misapplied funding;
- Make guidelines available to assist with complying with the terms of the agreement.

On December 5, 2017, the Board approved staff's recommended project submissions for NVTA consideration for the FY2018-2023 SYP. On June 14, 2018, NVTA approved its FY2018-2023 SYP, which included \$230,111,000 in regional funding for the Fairfax County projects shown below. Staff seeks Board approval of agreements for the following projects:

**Fairfax County Parkway Widening (Route 123 to Route 29) and Interchange Improvement at Popes Head Road**

This project will provide for the widening of the Fairfax County Parkway from a four-lane to six-lane facility. The project will improve bicycle and pedestrian amenities by upgrading roadway crossings and providing a continuous bicycle and pedestrian facility for the length of the project. The intersections within the project corridor are being modified to improve access management and improve traffic operations. The current Total Project Estimate (TPE) is \$194.5 million, \$64.3 million for the interchange, and \$130.2 million for widening. These estimates are subject to change, as VDOT is currently reviewing them. Table 1 below shows the funding summary for the widening and interchange projects combined.



Table 1

Revised Total Project Estimate	\$194,503,070
Secured Funding to Date	\$ 81,388,370
Funding Approval Requested June 25, 2019	\$ 67,000,000
Balance Needed	\$ 46,114,700

The \$67 million approved by NVTA for FY2018-2023 can be used on both the widening and the interchange at Popes Head Road, and will fully fund the interchange with the remaining balance being used for the widening. FCDOT will pursue funding from all eligible and available sources to address the \$46.1 million funding gap.

As VDOT is the administering agency for project, Fairfax County entered into a project administration agreement approved by the Board September 22, 2015, for the widening portion of the project. This agreement was amended February 14, 2017, to include all \$20 million in NVTA regional funding, and an additional \$4.33 million in local funds to begin preliminary engineering on the interchange at Popes Head Road. Staff will return to the Board to further amend the project agreement.

**Rolling Road Widening (Old Keene Mill Road to Hunter Village Drive)**

The project will widen Rolling Road from a two-lane to a four-lane roadway with curb and gutter (Phases I and II) and is estimated to cost \$88.3 million. The project includes an asphalt shared-use path on the west side, a concrete sidewalk on the east side, turn lanes at intersecting streets, and preservation of existing on-street parking where possible. If determined to be cost-effective according to federal criteria, noise barriers may be constructed after investigation of potential locations. This project is intended to relieve the congested conditions that regularly occur during hours of peak usage, accommodate future increases in traffic, and improve safety along the corridor. In addition to the new lanes and pedestrian facilities, improvements will be made to both vertical and horizontal curves. Table 2 below shows the funding summary for the project.

Table 2

Revised Total Project Estimate	\$88,304,883
Secured Funding to Date	\$43,473,128
Funding Approval Requested June 25, 2019	\$11,111,000
Balance Needed	\$33,720,755

The \$11.1 million approved by NVTA for FY2018-2023 can be used to fund right-of-way acquisition and construction of the project. FCDOT will pursue funding from all eligible and available sources to address the \$33.7 million funding gap.

As VDOT is the administering agency for project, Fairfax County entered into a project administration agreement executed November 2, 2015. At that time, the project was fully funded through several sources of revenue, and the total project estimate was \$35.2 million. Staff will return to the Board to request approval to amend the current VDOT agreement.

**Richmond Highway Widening (Sherwood Hall Lane to Mount Vernon Highway/Jeff Todd Way)**

The Richmond Highway Widening project provides multimodal improvements including roadway widening along the approximately three-mile section of Richmond Highway between Mount Vernon Memorial Highway/Jeff Todd Way and Sherwood Hall Lane (previously Napper Road). This project increases the number of through travel lanes from four to six lanes. In addition, it provides a median reservation for future Bus Rapid Transit (BRT), intersection improvements, the replacement of three bridges, secure pedestrian crossings, as well as off-road bicycle paths and sidewalks on both sides of the road.

The northern limits of the project have been extended from Napper Road to Sherwood Hall Lane to more accurately reflect the current design. Table 3 below shows the funding summary for the project.

Table 3

Revised Total Project Estimate	\$372,000,000
Secured Funding to Date	\$ 61,364,000
Funding Approval Requested June 25, 2019	\$127,000,000
Balance Needed	\$183,636,000

The \$127 million approved by NVTA for FY2018-2023 can be used to fund design, right-of-way acquisition, and construction of the project. FCDOT will pursue funding from all eligible and available sources to address the \$183.6 million funding gap.

As VDOT is the administering agency for project, Fairfax County entered into a project administration agreement executed November 2, 2015, which included \$1 million in NVTA regional funds, and \$9 million in federal Regional Surface Transportation Program (RSTP) funding. Staff will return to the Board later to request approval to amend the current VDOT agreement.

**Frontier Drive Extension and Intersection Improvements**

This project will provide a 1.27-mile extension of Frontier Drive from its current terminus at the Franconia-Springfield Transportation Center to Loisdale Road, through the Springfield Industrial Park, generally along the existing Springfield Center Drive

alignment. The project includes intersection and circulatory roadway improvements, interchange modification at the Franconia-Springfield Parkway and bicycle/pedestrian improvements. The total project estimate at the time of FY2018-2023 application submission was \$116.07 million. Table 4 below shows the funding summary for the project.

Table 4

Revised Total Project Estimate	\$140,000,000
Secured Funding to Date	\$ 10,000,000
Funding Approval Requested June 25, 2019	\$ 25,000,000
Balance Needed	\$105,000,000

The proposed agreement with NVTA secures the \$25 million in FY2018-2023 regional funds, \$10 million (\$2 million in NVTA FY2015-2016 regional funds, and \$8 million in local funds), and \$105 million in funds from sources to be determined. FCDOT will pursue funding from all eligible and available sources to address this funding gap. The revised total project cost consistent with the most recent round of Smart Scale application is \$140 million. Staff plans to return to the Board to request approval to amend the current VDOT agreement.

FISCAL IMPACT:

Fairfax County will oversee and authorize an additional \$230,111,000 in NVTA FY2018-2023 SYP funding. These funds will flow directly from NVTA to VDOT on a reimbursement basis to support the implementation of the projects above. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

- Attachment 1: Resolution to Execute Standard Project Agreements with the Northern Virginia Transportation Authority
- Attachment 2: Standard Project Agreement with Related Appendices, with the Northern Virginia Transportation Authority for the Fairfax County Parkway Widening (Route 123 to Route 29) and Interchange Improvement at Popes Head Road
- Attachment 3: Standard Project Agreement with Related Appendices, with the Northern Virginia Transportation Authority for the Rolling Road Widening (Old Keene Mill Road to approximately Hunter Village Drive)
- Attachment 4: Standard Project Agreement with Related Appendices, with the Northern Virginia Transportation Authority for the Richmond Highway Widening (Sherwood Hall Lane to Mount Vernon Highway/Jeff Todd Way)
- Attachment 5: Standard Project Agreement with Related Appendices, with the Northern Virginia Transportation Authority for the Frontier Drive Extension and Intersection Improvements

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STAFF:

Rachel Flynn, Deputy County Executive

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

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

Todd Minnix, Chief, Transportation Design Division, FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Joe LaHait, Debt Coordinator, Department of Management and Budget

Noelle Dominguez, Chief, Coordination Section, FCDOT

Ray Johnson, Chief, Funding Section, 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, June 25, 2019, 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, Standard Project Agreements with the Northern Virginia Transportation Authority (NVTA) for funding of the following projects:

- Fairfax County Parkway Widening from Ox Road (Route 123) to north of Lee Highway (Route 29), and Interchange improvements at Popes Head Road (NVTA Project ID 2018-016-2) in the amount of \$67,000,000.
- Rolling Road Widening from Hunter Village Drive to Old Keene Mill Road (NVTA Project ID 2018-014-1) in the amount of \$11,111,000.
- Route 1 Widening from Mount Vernon Memorial Highway to Napper Road (NVTA Project ID 2018-006-1) in the amount of \$127,000,000.
- Frontier Drive Extension and Intersection Improvements (NVTA Project ID 2018-009-1) in the amount of \$25,000,000.

These projects will be administered by the Virginia Department of Transportation.

Adopted this 25<sup>th</sup> day of June 2019, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

**Standard Project Agreement for Funding and Administration  
between  
Northern Virginia Transportation Authority  
and  
Fairfax County**  
\_\_\_\_\_  
**(Recipient Entity)**

Project Name: Fairfax County Parkway Widening Ox Road to Lee Highway, Including a grade-separate

NVTA Project Number: \_\_\_\_\_

This Standard Project Agreement for Funding and Administration ("this Agreement") is made and executed in duplicate on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, as between the Northern Virginia Transportation Authority ("NVTA") and \_\_\_\_\_ Fairfax County ("Recipient Entity").

**WITNESSETH**

WHEREAS, NVTA is a political subdivision of the Commonwealth of Virginia created by the Northern Virginia Transportation Authority Act ("the NVTA Act"), Chapter 25 of Title 33.2 of the Code of Virginia, as amended;

WHEREAS, Section 33.2-2500(4) of the Code of Virginia authorizes NVTA to enter into project agreements with certain statutorily designated entities for the provision of transportation facilities and services to the area embraced by NVTA;

WHEREAS, Section 33.2-2509 of the Code of Virginia authorizes NVTA to use funds from a fund established pursuant to that Code section (the "NVTA Fund") in order to assist in the financing, in whole or in part, of certain regional transportation projects in accordance with Code Section 33.2-2510;

WHEREAS, the NVTA Fund provides for the deposit therein of certain dedicated revenues and other funds appropriated by the Virginia General Assembly;

WHEREAS, Section 33.2-2510 of the Code of Virginia authorizes the use of funds from the NVTA Fund and the use of proceeds from NVTA debt issuances ("NVTA Bond Proceeds") to be used by NVTA solely for transportation purposes benefitting those counties and cities embraced by NVTA;

WHEREAS, the Project set forth and described on Appendix A to this Agreement ("the Project") satisfies the requirements of Virginia Code Section 33.2-2510;

Revised: July 28, 2015

WHEREAS, the Project is to be financed, as described in Appendix B, in whole or in part, by funds from the NVTA Fund and/or from NVTA Bond Proceeds, is located within a locality embraced by NVTA's geographical borders, or is located in an adjacent locality, but only to the extent that any such extension is an insubstantial part of the Project and is essential to the viability of the Project within the localities embraced by NVTA;

WHEREAS,           Fairfax County           formally requested that NVTA provide funding to the Project by timely submitting an application for NVTA funding in response to NVTA's call for projects;

WHEREAS, NVTA has reviewed           Fairfax County          's application for funding and has approved           Fairfax County          's administration and performance of the Project's described scope of work;

WHEREAS, based on the information provided by           Fairfax County          , NVTA has determined that the Project complies with all requirements of the NVTA Act related to the use of moneys identified in Virginia Code Sections 33.2-2510(A),(C)1 and all other applicable legal requirements;

WHEREAS, the funds to be provided by NVTA described in Appendix B have been duly authorized and directed by           Fairfax County           to finance the Project;

WHEREAS, NVTA agrees that           Fairfax County           will design and/or construct the Project or perform such other specific work for the Project and           Fairfax County           agrees that it will perform such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, both parties have concurred in the           Fairfax County          's administration, performance, and completion of the Project on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, NVTA's governing body and           Fairfax County          's governing body have each authorized that their respective designee(s) execute this agreement on their respective behalf(s) as evinced by copies of each such entity's clerk's minutes which are appended hereto as Appendix E;.

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. Recipient Entity's Obligations

Fairfax County shall:

1. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement.
2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Project Description Sheets attached to Appendix A and complies with Va. Code Ann. Sections 33.2-2510(A), (C)1.
3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisitions for the Project, as is required by this Agreement and that may be necessary for completion of the Project.
4. Not use the NVTA funds specified on Appendix B to pay any Project cost if the NVTA Act does not permit such Project cost to be paid with NVTA funds.
5. Recognize that, if the Project contains "multiple phases" (as such "multiple phases" are defined for the Project on Appendix A), for which NVTA will provide funding for such multiple phases (as set forth on Appendix B), NVTA may not provide funding to Fairfax County to advance the Project to the next phase until the current phase is completed. In any circumstance where Fairfax County seeks to advance a Project to the next phase using NVTA funds, Fairfax County shall submit a written request to NVTA's Executive Director explaining the need for NVTA's funding of an advanced phase. NVTA's Executive Director will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVTA's current and projected cash flow position and make a recommendation to NVTA whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit Fairfax County from providing its own funds to



advance a future phase of the Project and from requesting reimbursement from NVTA for having advance funded a future phase of the Project. However, Fairfax County further recognizes that NVTA's reimbursement to Fairfax County for having advance funded a Project phase will be dependent upon NVTA's cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.

6. Acknowledge that NVTA's Executive Director will periodically update NVTA's project cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Project. Fairfax County shall provide all information required by NVTA so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Project as described in Appendix B.
7. Provide to NVTA requests for payment consistent with Appendix B and the most recently approved NVTA cash flow estimates that include NVTA's standard payment requisition(s), containing detailed summaries of actual project costs incurred with supporting documentation as determined by NVTA and that certify all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement. If approved by NVTA, Fairfax County can expect to receive payment within twenty (20) days upon receipt by NVTA. Approved payments may be made by means of electronic transfer of funds from NVTA to or for the account of Fairfax County.
8. Promptly notify NVTA's Executive Director of any additional project costs resulting from unanticipated circumstances and provide to NVTA detailed estimates of additional costs associated with those circumstances. Fairfax County understands that it will be within NVTA's sole discretion whether to provide any additional funding to the Project in such circumstances and that NVTA will do so only in accordance with NVTA's approved Project Selection Process and upon formal action and approval by NVTA. Fairfax County shall timely provide to NVTA a

complete and accurate update to Appendix B, if NVTA approves funding of any additional Project costs for the Project under this Paragraph.

9. Release or return any unexpended funds to NVTA no later than 90 days after final payment has been made to the contractors.
10. Review and acknowledge the requirements of NVTA Resolution No. 14-08 adopted January 23, 2014; to wit that, if applicable to Fairfax County's Project: a) Prior to any NVTA funds being released for a project that may be part of a larger project, projects, or system undertaken with an extra-territorial funding partner, all such extra-territorial funding partners must commit to pay their appropriate, respective proportionate share or shares of the larger project or system cost commensurate with the benefits to each on a basis agreed upon by the NVTA member localities; b) any such funds released by NVTA for such project will be in addition to the funds that the NVTA member locality is to receive from or be credited with by the extra-territorial funding partner for the project or system; and c) there shall be no funding made available by NVTA until such time as all extra-territorial funding partners for such project or system pay or officially commit to fund their appropriate, respective proportionate shares of such large project or system commensurate with the benefits to each on a basis agreed upon with NVTA.
11. Should Fairfax County be required to provide matching funds in order to proceed or complete the funding necessary for the Project, Fairfax County shall certify to NVTA that all such matching funds have been either authorized and/or appropriated by Fairfax County's governing body or have been obtained through another, independent funding source;
12. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern Fairfax County and provide copies of any such financial records to NVTA, free of charge, upon request.

13. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern Fairfax County; and provide to NVTA copies of all such drawings and plans free of charge, upon request.
14. Reimburse NVTA for all NVTA funds (with interest earned at the rate earned by NVTA) that Fairfax County misapplied or used in contravention of Sections 33.2-2500 *et. seq.* of the Virginia Code ("the NVTA Act") Chapter 766 of the 2013 Virginia Acts of Assembly ("Chapter 766"), or any term or condition of this Agreement.
15. Name NVTA and its Bond Trustee or require that all Fairfax County's contractors name NVTA or its Bond Trustee as an additional insured on any insurance policy issued for the work to be performed by or on behalf of Fairfax County for the Project and present NVTA with satisfactory evidence thereof before any work on the Project commences or continues.
16. Give notice to NVTA that Fairfax County may use NVTA funds to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTA's in-house legal counsel) in connection with the work performed under this Agreement Fairfax County so as to ensure that no conflict of interest may arise from any such representation.
17. Provide certification to NVTA, that upon final payment to all contractors for the Project, Fairfax County will use the Project for its intended purposes for the duration of the Project's useful life. Under no circumstances will NVTA be considered responsible or obligated to operate and/or maintain the Project after its completion.
18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern Fairfax County.

19. Acknowledge that if the Project is being funded in whole or in part by NVTA Bond Proceeds, comply with the tax covenants attached as Appendix D.
20. Acknowledge that if Fairfax County expects and/or intends that the Project is to be submitted for acceptance by the Commonwealth into its system that Fairfax County agrees to comply with the Virginia Department of Transportation's ("VDOT's") "Standards, Requirements and Guidance."
21. Recognize that Fairfax County is solely responsible for obtaining all permits and permissions necessary to construct and/or operate the Project, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.
22. Recognize that if Fairfax County is funding the Project, in whole or in part, with federal and/or state funds, in addition to NVTA funds and/or NVTA Bond Proceeds that Fairfax County will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration Agreement and acknowledges that NVTA will not be a party or signatory to that Agreement; nor will NVTA have any obligation to comply with the requirements of that Agreement.
23. Provide a certification to NVTA no later than 90 days after final payment to the contractors that Fairfax County adhered to all applicable laws and regulations and all requirements of this Agreement.

**B. NVTA's Obligations**

NVTA shall:

- I. Provide to Fairfax County the funding authorized by NVTA for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s) on a reimbursement basis as set forth in this Agreement and as specified in the Project Budget and Cash Flow contained in

Appendix B to this Agreement or the most updated amendment thereto, as approved by NVTA.

2. Assign a Program Coordinator for the Project. NVTA's Program Coordinator will be responsible for monitoring the Project on behalf of NVTA so as to ensure compliance with this Agreement and all NVTA's requirements and with overseeing, managing, reviewing, and processing, in consultation with NVTA's Executive Director and its Chief Financial Officer ("CFO") , all payment requisitions submitted by           Fairfax County           for the Project. NVTA's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Project Scope of Work as set forth on Appendix A or to the Project Budget and Cash Flow as set forth on Appendix B.
  
3. Route to NVTA's assigned Program Coordinator all           Fairfax County          's payment requisitions, containing detailed summaries of actual Project costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTA for the Project. After submission to NVTA, NVTA's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's legal and documentary sufficiency. NVTA's Program Coordinator will then make a recommendation to the NVTA's CFO and Executive Director whether to authorize payment, refuse payment, or seek additional information from           Fairfax County          . If the payment requisition is sufficient as submitted, payment will be made within twenty (20) days from receipt. If the payment requisition is deemed insufficient, within twenty (20) days from receipt, NVTA's Program Coordinator will notify           Fairfax County           in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTA have been corrected. Under no circumstances will NVTA authorize payment for any work performed by or on behalf of           Fairfax County           that is not in conformity with the requirements of the NVTA Act, Chapter 766, or this Agreement.

4. Route all \_\_\_\_\_ Fairfax County \_\_\_\_\_'s supplemental requests for funding from NVTA under Paragraphs A.5 and A.8 of this Agreement to NVTA's Executive Director. NVTA's Executive Director will initially review those requests and all supporting documentation with NVTA's CFO. After such initial review, NVTA's Executive Director will make a recommendation to NVTA's Finance Committee for its independent consideration and review. NVTA's Finance Committee will thereafter make a recommendation on any such request to NVTA for final determination by NVTA.
5. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the NVTA Act, Chapter 766, and other applicable law. Such compliance reviews may entail review of \_\_\_\_\_ Fairfax County \_\_\_\_\_'s financial records for the Project and on -site inspections.
6. Acknowledge that if, as a result of NVTA's review of any payment requisition or of any NVTA compliance review, NVTA staff determines that \_\_\_\_\_ Fairfax County \_\_\_\_\_ has misused or misapplied any NVTA funds in derogation of this Agreement or in contravention of the NVTA Act, Chapter 766 or applicable law, NVTA staff will promptly advise NVTA's Executive Director and will advise \_\_\_\_\_ Fairfax County \_\_\_\_\_'s designated representative in writing. \_\_\_\_\_ Fairfax County \_\_\_\_\_ will thereafter have thirty (30) days to respond in writing to NVTA's initial findings. NVTA's staff will review \_\_\_\_\_ Fairfax County \_\_\_\_\_'s response and make a recommendation to NVTA's Finance Committee. NVTA's Finance Committee will thereafter conduct its own review of all submissions and make a recommendation to NVTA. Pending final resolution of the matter, NVTA will withhold further funding on the Project. If NVTA makes a final determination that \_\_\_\_\_ Fairfax County \_\_\_\_\_ has misused or misapplied funds in contravention of this Agreement, the NVTA Act, Chapter 766, or other applicable law, NVTA will cease further funding for the Project and will seek reimbursement from \_\_\_\_\_ Fairfax County \_\_\_\_\_ of all funds previously remitted by NVTA (with interest earned at the rate earned by NVTA) which were misapplied or misused by \_\_\_\_\_ Fairfax County \_\_\_\_\_. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

7. Make guidelines available to Fairfax County to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.
8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.
9. Be the sole determinant of the amount and source of NVTAs funds to be provided and allocated to the Project and the amounts of any NVTAs funds to be provided in excess of the amounts specified in Appendix B.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties.
2. Fairfax County may terminate this Agreement, for cause, in the event of a material breach by NVTAs of this Agreement. If so terminated, NVTAs shall pay for all Project costs incurred through the date of termination and all reasonable costs incurred by Fairfax County to terminate all Project related contracts. The Virginia General Assembly's failure to appropriate funds to NVTAs as described in paragraph F of this Agreement or repeal of the legislation establishing the NVTAs fund created pursuant to Chapter 766 shall not be considered material breaches of this Agreement by NVTAs. Before initiating any proceedings to terminate under this Paragraph, Fairfax County shall give NVTAs sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTAs an opportunity to investigate and cure any such alleged breach.
3. NVTAs may terminate this Agreement, for cause, resulting from Fairfax County's material breach of this Agreement. If so terminated, Fairfax County shall refund to NVTAs all funds NVTAs provided to Fairfax County for the Project (including interest earned at the rate earned by NVTAs). NVTAs will provide Fairfax County with sixty (60) days written notice that NVTAs is exercising its rights to terminate this Agreement and the reasons for termination. Prior to termination, Fairfax County may

request that NVTA excuse \_\_\_\_\_ Fairfax County \_\_\_\_\_ from refunding all funds NVTA provided to \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project based upon \_\_\_\_\_ Fairfax County \_\_\_\_\_'s substantial completion of the Project or severable portions thereof; and NVTA may, in its sole discretion, excuse \_\_\_\_\_ Fairfax County \_\_\_\_\_ from refunding all or a portion of the funds NVTA provided to \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project. No such request to be excused from refunding will be allowed where \_\_\_\_\_ Fairfax County \_\_\_\_\_ has either misused or misapplied NVTA funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, \_\_\_\_\_ Fairfax County \_\_\_\_\_ will release or return to NVTA all unexpended NVTA funds with interest earned at the rate earned by NVTA no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTA's Executive Director and \_\_\_\_\_ Fairfax County \_\_\_\_\_'s Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTA and to \_\_\_\_\_ Fairfax County \_\_\_\_\_'s governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. NVTA's Financial Interest in Project Assets

\_\_\_\_\_ Fairfax County \_\_\_\_\_ agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by NVTA under this Agreement ("Project Assets") for the designated transportation purposes of the Project under this Agreement and in accordance with applicable law throughout the useful life of each Project Asset. NVTA shall retain a financial interest in the value of each of the of the Project Assets, whether any such Project Asset may have depreciated or appreciated, throughout its respective useful life proportionate to the amount of the cost of the Project Asset funded by NVTA under this



Agreement. In the event that \_\_\_\_\_ Fairfax County \_\_\_\_\_ fails to use any of the Project Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, \_\_\_\_\_ Fairfax County \_\_\_\_\_ shall refund to NVTA with interest at the rate earned by NVTA the amount attributable to NVTA's proportionate financial interest in the value of said Project Asset. If \_\_\_\_\_ Fairfax County \_\_\_\_\_ refuses or fails to refund said monies to NVTA, NVTA may recover its proportionate financial interest from \_\_\_\_\_ Fairfax County \_\_\_\_\_ by pursuit of any remedies available to NVTA, including but not limited to NVTA's withholding of commensurate amounts from future distributions of NVTA funds to \_\_\_\_\_ Fairfax County \_\_\_\_\_.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by their respective governing bodies.
2. The parties acknowledge that all funding provided by NVTA pursuant to Chapter 766 is subject to appropriation by the Virginia General Assembly. The parties further acknowledge that: (i) the moneys allocated to the NVTA Fund pursuant to Va. Code Ann. Sections 58.1-638, 58.1-802.2, and 58.1-1742 and any other moneys that the General Assembly appropriates for deposit into the NVTA Fund are subject to appropriation by the General Assembly and (ii) NVTA's obligations under this Agreement are subject to such moneys being appropriated for deposit in the NVTA Fund by the General Assembly.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

- 1) to: NVTA, to the attention of its Executive Director;  
3040 Williams Drive, Suite 200  
Fairfax, VA 22031
- 2) to \_\_\_\_\_ Fairfax County \_\_\_\_\_, to the attention of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (address)

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

Fairfax County represents that it is not acting as a partner or agent of NVTA; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

This Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Authority

By: \_\_\_\_\_

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

\_\_\_\_\_ Fairfax County \_\_\_\_\_ (Name of Recipient Entity)

By: \_\_\_\_\_

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

## Appendix A – Narrative Description of Project (Attach Project Description Form)

NVTA Project Title: Fairfax County Parkway Widening Ox Road to Lee Highway, including a grade-separated interchange at the intersection of Popes Head Road

NVTA SPA Number: 2018-016-2 Internal NVTA Project Number (leave blank): \_\_\_\_\_

Recipient Entity: Fairfax County

Project Manager Name: Michael Guarino \_\_\_\_\_

Phone: (703) 877-5731 \_\_\_\_\_ email: Michael.Guarino@FairfaxCounty.gov \_\_\_\_\_

### Table A-1 Project Scope/Schedule Changes

Fill any Differences from the Approved NVTA Project Description Form Attached or Previously Submitted Appendix A. Describe and provide rationale for changes in scope and/or schedule.

Fairfax County previously submitted right of way, and construction estimates of \$32,000,000, and \$145,300,000 respectively. Based on further design, these estimates have been revised to \$19,400,000 for right of way, and \$165,103,070 for construction. Fairfax County requests to change its approved allocations to \$5,400,000 for right of way, and \$61,600,000 for construction.

The application submission shows a right of way schedule from FY19-20, and Appendix B shows the first drawdown of right of funds in FY20. This adjustment had to be made in the Appendix B, because this project didn't receive NVTA appropriation approval until FY20.

### Table A-2 Project Milestone by Phase Changes

Fill any Differences from the Approved NVTA Project Description Form Attached or Previously Submitted Appendix B. Provide Date of Revision. Any update to Appendix A, Table A-2 requires an update to Appendix B reflecting the changes.

	Project description form		Rev. 1: MM/DD/YYYY		Rev. 2: MM/DD/YYYY	
	Start Date	End Date	Start Date	End Date	Start Date	End Date
Study						
Preliminary Engineering	2016	2020	Aug '16	Nov '20		
Right of Way	2019	2020	Nov '20	Nov '22		
Construction	2021	2024	Aug '23	Aug '27		
Capital Asset Acquisition						
Other						

	Rev. 3: MM/DD/YYYY		Rev. 4: MM/DD/YYYY		Rev. 5: MM/DD/YYYY	
	Start Date	End Date	Start Date	End Date	Start Date	End Date
Study						
Preliminary Engineering						
Right of Way						
Construction						
Capital Asset Acquisition						
Other						

#### RECIPIENT ENTITY

NVTA

Submitted by (Person authorized in the resolution or Transportation Director):

Accepted by:

Signature: \_\_\_\_\_

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

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

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

Revised: 8/27/2018



# Fairfax County Parkway Widening

*Ox Road to Lee Highway, including a grade-separated interchange at the intersection of Popes Head Road*

## Project Description

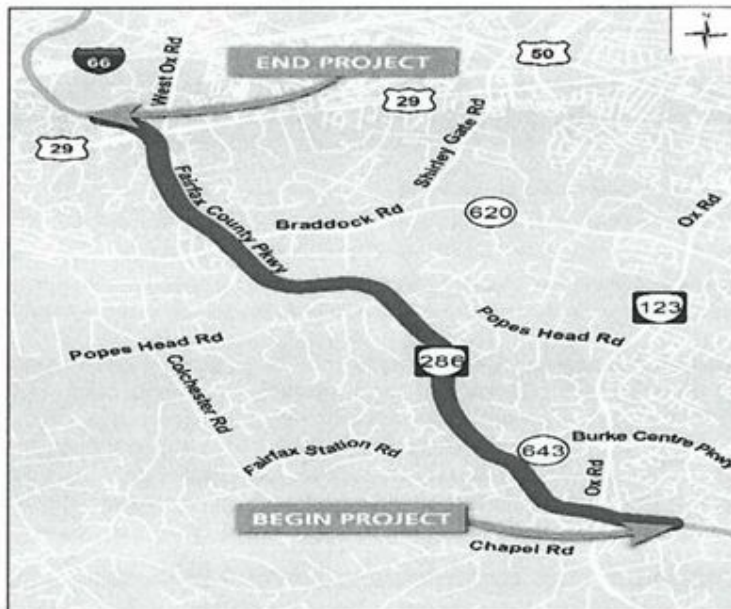


This project provides for the widening of Fairfax County Parkway from Ox Road (Route 123) to just north of Lee Highway (Route 29) from four to six lanes, and a grade separated interchange at the intersection of Fairfax County Parkway and Popes Head Road. Improvements will also be made to the existing Fairfax County Parkway Trail. Where there is no trail currently, a new shared-use path will be constructed to make the trail continuous within the project limits. Conceptual design assumes that all existing lanes will be salvaged and that 12' of pavement will be added to the inside median and 2' will be added to the outside to accommodate the future HOV lanes. The typical section has not been finalized, but shall not preclude future HOV additions or conversion. All signalized intersections are assumed to be full replacements and no new signalized intersections are being added.

**Reference Number:** 2018-016-2  
**TransAction ID:** 57  
**Submitting Jurisdiction/Agency:** Fairfax County  
**Location:** North of Lee Highway to Ox Road  
**Requested NVTA Funds:** \$67,000,000  
**Previous NVTA Funds Received:** \$20,000,000  
**Total Cost to Complete Project:** \$191,300,000

The interchange will provide significant congestion relief as well as improve safety at the signalized intersection at Popes Head Road. The project will provide for the future connection to Shirley Gate Road to the east, which was identified to improve regional north-south travel in this area of the County and alleviate congestion along the parallel Route 123 to the east. It is anticipated that the Shirley Gate Road extension will be built as a separate project after the interchange project is completed; however, the portion of the roadway from Fairfax County Parkway to the future Fairfax County Park Access Road entrance would be built as part of the interchange project. The interchange also includes shared use paths on Fairfax County Parkway. See Attachment B for additional information from the Virginia Department of Transportation's (VDOT) Public Information Meeting (PIM).

## Project Location



**Project Milestones**

	Before FY2018	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	After FY2023
Design, Engineering, Environmental Work	X	X	X	X				
Right of Way Acquisition			X	X				
Construction					X	X	X	X

**Project Funding**

	Requested NVTA Funds	Other Funding Sources	Total Cost by Phase
Design, Engineering, Environmental Work		\$10,000,000 (NVTA 70% Funds) \$4,000,000 (Local)	\$14,000,000
Right of Way Acquisition	\$22,000,000	\$10,000,000 (NVTA 70% Funds)	\$32,000,000
Construction	\$45,000,000	\$50,500,000 (Smart Scale) \$2,500,000 (RSTP)	\$145,300,000
<b>TOTAL:</b>	<b>\$67,000,000</b>	<b>\$77,000,000</b>	<b>\$191,300,000</b>

Note: There is a funding gap of \$47,300,000. Fairfax County has requested \$5,000,000 in FY2024 federal RSTP funds for the construction phase. Fairfax County plans to pursue the remaining funding gap through the state’s Smart Scale program, the NVTA’s next Call for Projects or other local, federal, and/or private sources.

**Project Analysis Highlights**

<b>Congestion Reduction Relative to Cost Ratio (Total Cost in \$1000’s):</b>	<b>73.05</b>
<b>Congestion Reduction Relative to Cost Ratio Rank (Total Cost in \$1000’s):</b>	<b>12</b>
<b>TransAction Project Rating:</b>	<b>76.40</b>
<b>TransAction Project Rating Rank:</b>	<b>6</b>

Note: The project analysis above was completed by NVTA staff using data and information from the project application and analyses of the region’s transportation network.

**Regional Impacts**

- Enhance quality of life and economic strength by improving connections among areas of concentrated growth.
- Reduce congestion and increase travel time reliability along the corridor and at the interchange at Popes Head Road
- Provide more mode options and expand travel choices for commuters through new bus route between Herndon Metrorail Station and Franconia-Springfield Metrorail/VRE Station via the Parkway to be implemented in Fiscal Year 2020.

Note: The regional impacts listed above are a summary of what was submitted in the project application NVTA staff received from the jurisdiction or agency that has applied for funding.

**APPENDIX B-PROJECT BUDGET & REIMBURSEMENT CASH FLOW SCHEDULE**

NVTA SPA Number: 2018-016-2  
 Fairfax County Parkway Widening  
 Ox Road to Lee Highway, including a grade-separated  
 interchange at the intersection of Popes Head Road  
 NVTA Project Title:  
 Date Prepared: 5/10/2019  
 Project Sponsor: Fairfax County  
 Contact Name & Email: Michael Guarino, (703) 877-5731  
Michael.Guarino@FairfaxCounty.gov

**NOTE 1:**  
 Use this box when updating Appendix B for existing projects:  
 Revision Number Date of Revision Revision Number Date of Revision

Original		4	
1		5	
2			
3			

Any update to Appendix B, Table B-2 and B-3 require an update to Appendix A Table A-2 reflecting the changes  
 Column A Column B Column C Column D Column E Column F Column G Column H Column I

**TABLE B-1 PROJECT COSTS & FUNDING SOURCE**

Project Cost Category	Total Project Costs	Approved NVTA Project Funds	Amount of Project Sponsor Funds	Amount of Other Sources of Funds	List of Other Sources of Funds (For each cost category include all other funding sources; list each source of funds on a separate line for each cost category)
Study	\$ -	\$ -	\$ -	\$ -	
Preliminary Engineering	\$ 10,000,000	\$ -		\$ 10,000,000	NVTA FY15-16 funds
Right-of-Way Acquisition	\$ 19,400,000	\$ 5,400,000			NVTA FY18-23 funds
Right-of-Way Acquisition			\$ 4,000,000		Local funds
Right-of-Way Acquisition				\$ 10,000,000	NVTA FY17 funds
Construction	\$ 165,103,070			\$ 50,558,370	Smart Scale FY18-23 funds
Construction				\$ 6,500,000	RSTP funds
Construction				\$ 46,114,700	Future NVTA regional funds, state Smart Scale program, and/or other sources of eligible revenue
Construction			\$ 330,000		Local funds
Construction		\$ 61,600,000			NVTA FY18-23 funds
Capital Asset Acquisitions					
Other					
<b>Total Estimated Cost</b>	<b>\$ 194,503,070</b>	<b>\$ 67,000,000</b>	<b>\$ 4,330,000</b>	<b>\$ 123,173,070</b>	

**TABLE B-2 PROJECT REIMBURSEMENT CASH FLOW PER FISCAL YEAR AND COST CATEGORY FOR NVTA FUNDS ONLY**

Project Cost Category	NVTA Previously Reimbursed	Total FY2019 Project Funds	Total FY2020 Project Funds	Total FY2021 Project Funds	Total FY2022 Project Funds	Total FY2023 Project Funds	FY2024 & Future Project Funds	
Study								
Preliminary Engineering								
Right-of-Way Acquisition			\$ 2,700,000	\$ 2,700,000				
Construction				\$ 3,000,000	\$ 19,533,333	\$ 19,533,333	\$ 19,533,333	
Capital Asset Acquisitions								Cumulative Est Cost
Other								Crosscheck
<b>Total Estimated Cost</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,700,000</b>	<b>\$ 5,700,000</b>	<b>\$ 19,533,333</b>	<b>\$ 19,533,333</b>	<b>\$ 19,533,333</b>	<b>\$ 67,000,000</b>

Table B-2 Cumulative Estimated Cost- Column I MUST Match Table B-1 Column C - Total Estimated Cost- Approved NVTA Project Funds

**TABLE B-3 QUARTERLY PROJECT REIMBURSEMENT CASH FLOW FOR NVTA FUNDS ONLY**

Quarter	NVTA Previously Reimbursed	Total FY2019 Cash Flow	Total FY2020 Cash Flow	Total FY2021 Cash Flow	Total FY2022 Cash Flow	Total FY2023 Cash Flow	FY2024 & Future Cash Flow	
September		\$ 675,000	\$ 1,425,000	\$ 4,883,333	\$ 4,883,333	\$ 4,883,333	\$ 4,883,333	
December		\$ 675,000	\$ 1,425,000	\$ 4,883,333	\$ 4,883,333	\$ 4,883,333	\$ 4,883,333	
March		\$ 675,000	\$ 1,425,000	\$ 4,883,333	\$ 4,883,333	\$ 4,883,333	\$ 4,883,333	Cumulative Est Cost
June		\$ 675,000	\$ 1,425,000	\$ 4,883,333	\$ 4,883,333	\$ 4,883,333	\$ 4,883,333	Crosscheck
<b>Total Estimated Cost</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,700,000</b>	<b>\$ 5,700,000</b>	<b>\$ 19,533,333</b>	<b>\$ 19,533,333</b>	<b>\$ 19,533,333</b>	<b>\$ 67,000,000</b>

TABLE B-3 Total Estimated Cost per Fiscal Year MUST Match Table B-2 Total Estimated Cost per Fiscal Year

This Appendix B form is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

Project Sponsor (Person Authorized to sign SPA / Director of Transportation)	Northern Virginia Transportation Authority	Northern Virginia Transportation Authority
Signature	Signature NVTA Executive Director	Signature NVTA Chief Financial Officer
Title		
Date	Date	Date

Please Print name of person signing



## APPENDIX D-Tax Covenants

### TAX COVENANTS (For Bond Funded Projects Only)

The Recipient Entity will not permit more than five percent of the total amount of NVTA Bond Proceeds or the Financed Property to be used directly or indirectly (i) for a Private Business Use or (ii) to make or finance loans to Nongovernmental Persons. Any transaction that is generally characterized as a loan for federal income tax purposes is a "loan" for purposes of this paragraph. In addition, a loan may arise from the direct lending of NVTA Bond Proceeds or may arise from transactions in which indirect benefits that are the economic equivalent of a loan are conveyed, including any contractual arrangement which in substance transfers tax ownership and/or significant burdens and benefits of ownership.

The Recipient Entity agrees not to requisition or spend NVTA Bond Proceeds for any Project Cost not constituting a Capital Expenditure.

Except as may be described in Appendix B, the Recipient Entity neither has on the date of this Agreement nor expects to have after this date any funds that are restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, for the purposes for which the Recipient Entity is receiving NVTA Bond Proceeds.

The Recipient Entity acknowledges that it may have to provide detailed information about the investment of the amount of any requisition unless (i) payments are remitted directly by NVTA to the contractors/vendors or (ii) the Recipient Entity remits payment to the contractors/vendors within five banking days after the date on which NVTA advances the amount of the requisition. NVTA may request the detailed information in order to compute the rebate liability to the U.S. Treasury on NVTA's bonds or other debt financing pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

"Capital Expenditure" means any cost of a type that is properly chargeable to capital account (or would be so chargeable with (or but for) a proper election or the application of the definition of "placed in service" under Treas. Reg. § 1.150-2(c)) under general federal income tax principles, determined at the time the expenditure is paid.

"Federal Government" means the government of the United States and its agencies or instrumentalities.

"Financed Property" means the property financed by the NVTA Bond Proceeds.

"General Public Use" means use of Financed Property by a Nongovernmental Person as a member of the general public. Use of Financed Property by a Nongovernmental Person in a Trade or Business is treated as General Public Use only if the Financed Property is intended to be available and in fact is reasonably available for use on the same basis by natural persons not

engaged in a Trade or Business. Use under arrangements that convey priority rights or other preferential benefits is not use on the same basis as the general public.

"Governmental Person" means any Person that is a state or local governmental unit within the meaning of Section 141 of the Code (or any instrumentality thereof).

"NVTB Bond Proceeds" means, as used herein, the sale proceeds of any NVTB bonds or other debt instrument and the investment earnings on such proceeds, collectively.

"Nongovernmental Person" mean any Person other than a Governmental Person. For the purposes hereof, the Federal Government is a Nongovernmental Person.

"Person" means any natural person, firm, joint venture, association, partnership, business trust, corporation, limited liability company, corporation or partnership or any other entity (including the Federal Government and a Governmental Person).

"Private Business Use" means a use of the NVTB Bond Proceeds directly or indirectly in a Trade or Business carried on by a Nongovernmental Person other than General Public Use. For all purposes hereof, a Private Business Use of any Financed Property is treated as a Private Business Use of NVTB Bond Proceeds. Both actual and beneficial use by a Nongovernmental Person may be treated as Private Business Use under Section 141 of the Code. In most cases, however, Private Business Use results from a Nongovernmental Person having special legal entitlements to use the Financed Property under an arrangement with the Recipient Entity. Examples of the types of special legal entitlements resulting in Private Business Use of Proceeds include (i) ownership for federal tax purposes of Financed Property by a Nongovernmental Person and (ii) actual or beneficial use of Financed Property by a Nongovernmental Person pursuant to a lease, a Service Contract, an incentive payment contract or certain other arrangements such as a take-or-pay or other output-type contract. Private Business Use of the Financed Property may also be established on the basis of a special economic benefit to one or more Nongovernmental Persons even if such Nongovernmental Persons do not have a special legal entitlement to the use of the Financed Property. Any arrangement that is properly characterized as a lease for federal income tax purposes is treated as a lease for purposes of the Private Business Use analysis. An arrangement that is referred to as a management or Service Contract may nevertheless be treated as a lease, and in determining whether a management or service contract is properly characterized as a lease, it is necessary to consider all of the facts and circumstances, including (i) the degree of control over the property that is exercised by a Nongovernmental Person, and (ii) whether a Nongovernmental Person bears risk of loss of the Financed Property. Private Business Use of Financed Property that is not available for General Public Use may also be established on the basis of a special economic benefit to one or more Nongovernmental Persons even if such Nongovernmental Persons do not have a special legal entitlement to the use of the Financed Property. In determining whether special economic benefit gives rise to Private Business Use, it is necessary to consider all of the facts and circumstances, including one or more of the following factors: (i) whether the Financed Property is functionally related or physically proximate to property used in the Trade or Business of a Nongovernmental Person, (ii) whether only a small number of Nongovernmental Persons receive the economic benefit, and

(iii) whether the cost of the Financed Property is treated as depreciable by the Nongovernmental Person.

"Service Contract" means a contract under which a Nongovernmental Person will provide services involving all, a portion or any function of any Financed Property. For example, a Service Contract includes a contract for the provision of management services for all or any portion of Financed Property. Contracts for services that are solely incidental to the primary governmental function or functions of Financed Property (for example, contracts for janitorial, office equipment repair, billing, or similar services) are not included in this definition. Additional contracts not included in this definition are (i) a contract to provide for services by a Nongovernmental Person in compliance with Revenue Procedure 97-13, 1997-1 C.B. 632, as modified by Revenue Procedure 2001-39, I.R.B. 2001-28, (ii) a contract to provide for services by a Nongovernmental Person if the only compensation is the reimbursement of the Nongovernmental Person for actual and direct expenses paid by the Nongovernmental Person to unrelated parties and (iii) a contract to provide for the operations by a Nongovernmental Person of a facility or system of facilities that consists predominately of public utility property (within the meaning of Section 168(i)(10) of the Code), if the only compensation is the reimbursement of actual and direct expenses of the Nongovernmental Person and reasonable administrative overhead expenses of the Nongovernmental Person.

"Trade or Business" has the meaning set forth in Section 141(b)(6)(B) of the Code, and includes, with respect to any Nongovernmental Person other than a natural person, any activity carried on by such Nongovernmental Person. "Trade or Business" for a natural person means any activity carried on by such natural person that constitutes a "trade of business" within the meaning of Section 162 of the Code.

**RECIPIENT ENTITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Standard Project Agreement for Funding and Administration  
between  
Northern Virginia Transportation Authority  
and  
Fairfax County**  
\_\_\_\_\_  
**(Recipient Entity)**

Project Name: Rolling Road Widening (Old Keene Mill Road to Franconia Springfield Parkway)

NVTA Project Number: \_\_\_\_\_

This Standard Project Agreement for Funding and Administration ("this Agreement") is made and executed in duplicate on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, as between the Northern Virginia Transportation Authority ("NVTA") and \_\_\_\_\_ Fairfax County ("Recipient Entity").

**WITNESSETH**

WHEREAS, NVTA is a political subdivision of the Commonwealth of Virginia created by the Northern Virginia Transportation Authority Act ("the NVTA Act"), Chapter 25 of Title 33.2 of the Code of Virginia, as amended;

WHEREAS, Section 33.2-2500(4) of the Code of Virginia authorizes NVTA to enter into project agreements with certain statutorily designated entities for the provision of transportation facilities and services to the area embraced by NVTA;

WHEREAS, Section 33.2-2509 of the Code of Virginia authorizes NVTA to use funds from a fund established pursuant to that Code section (the "NVTA Fund") in order to assist in the financing, in whole or in part, of certain regional transportation projects in accordance with Code Section 33.2-2510;

WHEREAS, the NVTA Fund provides for the deposit therein of certain dedicated revenues and other funds appropriated by the Virginia General Assembly;

WHEREAS, Section 33.2-2510 of the Code of Virginia authorizes the use of funds from the NVTA Fund and the use of proceeds from NVTA debt issuances ("NVTA Bond Proceeds") to be used by NVTA solely for transportation purposes benefitting those counties and cities embraced by NVTA;

WHEREAS, the Project set forth and described on Appendix A to this Agreement ("the Project") satisfies the requirements of Virginia Code Section 33.2-2510;

Revised: July 28, 2015

WHEREAS, the Project is to be financed, as described in Appendix B, in whole or in part, by funds from the NVTA Fund and/or from NVTA Bond Proceeds, is located within a locality embraced by NVTA's geographical borders, or is located in an adjacent locality, but only to the extent that any such extension is an insubstantial part of the Project and is essential to the viability of the Project within the localities embraced by NVTA;

WHEREAS, Fairfax County formally requested that NVTA provide funding to the Project by timely submitting an application for NVTA funding in response to NVTA's call for projects;

WHEREAS, NVTA has reviewed Fairfax County's application for funding and has approved Fairfax County's administration and performance of the Project's described scope of work;

WHEREAS, based on the information provided by Fairfax County, NVTA has determined that the Project complies with all requirements of the NVTA Act related to the use of moneys identified in Virginia Code Sections 33.2-2510(A),(C)1 and all other applicable legal requirements;

WHEREAS, the funds to be provided by NVTA described in Appendix B have been duly authorized and directed by Fairfax County to finance the Project;

WHEREAS, NVTA agrees that Fairfax County will design and/or construct the Project or perform such other specific work for the Project and Fairfax County agrees that it will perform such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, both parties have concurred in the Fairfax County's administration, performance, and completion of the Project on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, NVTA's governing body and Fairfax County's governing body have each authorized that their respective designee(s) execute this agreement on their respective behalf(s) as evinced by copies of each such entity's clerk's minutes which are appended hereto as Appendix E;.

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. Recipient Entity's Obligations

Fairfax County shall:

1. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement.
2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Project Description Sheets attached to Appendix A and complies with Va. Code Ann. Sections 33.2-2510(A), (C)1.
3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisitions for the Project, as is required by this Agreement and that may be necessary for completion of the Project.
4. Not use the NVTA funds specified on Appendix B to pay any Project cost if the NVTA Act does not permit such Project cost to be paid with NVTA funds.
5. Recognize that, if the Project contains "multiple phases" (as such "multiple phases" are defined for the Project on Appendix A), for which NVTA will provide funding for such multiple phases (as set forth on Appendix B), NVTA may not provide funding to Fairfax County to advance the Project to the next phase until the current phase is completed. In any circumstance where Fairfax County seeks to advance a Project to the next phase using NVTA funds, Fairfax County shall submit a written request to NVTA's Executive Director explaining the need for NVTA's funding of an advanced phase. NVTA's Executive Director will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVTA's current and projected cash flow position and make a recommendation to NVTA whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit Fairfax County from providing its own funds to

advance a future phase of the Project and from requesting reimbursement from NVTA for having advance funded a future phase of the Project. However, Fairfax County further recognizes that NVTA's reimbursement to Fairfax County for having advance funded a Project phase will be dependent upon NVTA's cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.

6. Acknowledge that NVTA's Executive Director will periodically update NVTA's project cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Project. Fairfax County shall provide all information required by NVTA so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Project as described in Appendix B.
7. Provide to NVTA requests for payment consistent with Appendix B and the most recently approved NVTA cash flow estimates that include NVTA's standard payment requisition(s), containing detailed summaries of actual project costs incurred with supporting documentation as determined by NVTA and that certify all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement. If approved by NVTA, Fairfax County can expect to receive payment within twenty (20) days upon receipt by NVTA. Approved payments may be made by means of electronic transfer of funds from NVTA to or for the account of Fairfax County.
8. Promptly notify NVTA's Executive Director of any additional project costs resulting from unanticipated circumstances and provide to NVTA detailed estimates of additional costs associated with those circumstances. Fairfax County understands that it will be within NVTA's sole discretion whether to provide any additional funding to the Project in such circumstances and that NVTA will do so only in accordance with NVTA's approved Project Selection Process and upon formal action and approval by NVTA. Fairfax County shall timely provide to NVTA a

complete and accurate update to Appendix B, if NVTA approves funding of any additional Project costs for the Project under this Paragraph.

9. Release or return any unexpended funds to NVTA no later than 90 days after final payment has been made to the contractors.
10. Review and acknowledge the requirements of NVTA Resolution No. 14-08 adopted January 23, 2014; to wit that, if applicable to Fairfax County's Project: a) Prior to any NVTA funds being released for a project that may be part of a larger project, projects, or system undertaken with an extra-territorial funding partner, all such extra-territorial funding partners must commit to pay their appropriate, respective proportionate share or shares of the larger project or system cost commensurate with the benefits to each on a basis agreed upon by the NVTA member localities; b) any such funds released by NVTA for such project will be in addition to the funds that the NVTA member locality is to receive from or be credited with by the extra-territorial funding partner for the project or system; and c) there shall be no funding made available by NVTA until such time as all extra-territorial funding partners for such project or system pay or officially commit to fund their appropriate, respective proportionate shares of such large project or system commensurate with the benefits to each on a basis agreed upon with NVTA.
11. Should Fairfax County be required to provide matching funds in order to proceed or complete the funding necessary for the Project, Fairfax County shall certify to NVTA that all such matching funds have been either authorized and/or appropriated by Fairfax County's governing body or have been obtained through another, independent funding source;
12. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern Fairfax County and provide copies of any such financial records to NVTA, free of charge, upon request.



13. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern Fairfax County; and provide to NVTA copies of all such drawings and plans free of charge, upon request.
14. Reimburse NVTA for all NVTA funds (with interest earned at the rate earned by NVTA) that Fairfax County misapplied or used in contravention of Sections 33.2-2500 *et. seq.* of the Virginia Code ("the NVTA Act") Chapter 766 of the 2013 Virginia Acts of Assembly ("Chapter 766"), or any term or condition of this Agreement.
15. Name NVTA and its Bond Trustee or require that all Fairfax County's contractors name NVTA or its Bond Trustee as an additional insured on any insurance policy issued for the work to be performed by or on behalf of Fairfax County for the Project and present NVTA with satisfactory evidence thereof before any work on the Project commences or continues.
16. Give notice to NVTA that Fairfax County may use NVTA funds to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTA's in-house legal counsel) in connection with the work performed under this Agreement Fairfax County so as to ensure that no conflict of interest may arise from any such representation.
17. Provide certification to NVTA, that upon final payment to all contractors for the Project, Fairfax County will use the Project for its intended purposes for the duration of the Project's useful life. Under no circumstances will NVTA be considered responsible or obligated to operate and/or maintain the Project after its completion.
18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern Fairfax County.

19. Acknowledge that if the Project is being funded in whole or in part by NVTA Bond Proceeds, comply with the tax covenants attached as Appendix D.
20. Acknowledge that if Fairfax County expects and/or intends that the Project is to be submitted for acceptance by the Commonwealth into its system that Fairfax County agrees to comply with the Virginia Department of Transportation's ("VDOT's") "Standards, Requirements and Guidance."
21. Recognize that Fairfax County is solely responsible for obtaining all permits and permissions necessary to construct and/or operate the Project, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.
22. Recognize that if Fairfax County is funding the Project, in whole or in part, with federal and/or state funds, in addition to NVTA funds and/or NVTA Bond Proceeds that Fairfax County will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration Agreement and acknowledges that NVTA will not be a party or signatory to that Agreement; nor will NVTA have any obligation to comply with the requirements of that Agreement.
23. Provide a certification to NVTA no later than 90 days after final payment to the contractors that Fairfax County adhered to all applicable laws and regulations and all requirements of this Agreement.

B. NVTA's Obligations

NVTA shall:

- I. Provide to Fairfax County the funding authorized by NVTA for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s) on a reimbursement basis as set forth in this Agreement and as specified in the Project Budget and Cash Flow contained in

Appendix B to this Agreement or the most updated amendment thereto, as approved by NVTA.

2. Assign a Program Coordinator for the Project. NVTA's Program Coordinator will be responsible for monitoring the Project on behalf of NVTA so as to ensure compliance with this Agreement and all NVTA's requirements and with overseeing, managing, reviewing, and processing, in consultation with NVTA's Executive Director and its Chief Financial Officer ("CFO") , all payment requisitions submitted by Fairfax County for the Project. NVTA's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Project Scope of Work as set forth on Appendix A or to the Project Budget and Cash Flow as set forth on Appendix B.
3. Route to NVTA's assigned Program Coordinator all Fairfax County's payment requisitions, containing detailed summaries of actual Project costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTA for the Project. After submission to NVTA, NVTA's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's legal and documentary sufficiency. NVTA's Program Coordinator will then make a recommendation to the NVTA's CFO and Executive Director whether to authorize payment, refuse payment, or seek additional information from Fairfax County. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) days from receipt. If the payment requisition is deemed insufficient, within twenty (20) days from receipt, NVTA's Program Coordinator will notify Fairfax County in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTA have been corrected. Under no circumstances will NVTA authorize payment for any work performed by or on behalf of Fairfax County that is not in conformity with the requirements of the NVTA Act, Chapter 766, or this Agreement.

4. Route all \_\_\_\_\_ Fairfax County \_\_\_\_\_'s supplemental requests for funding from NVTA under Paragraphs A.5 and A.8 of this Agreement to NVTA's Executive Director. NVTA's Executive Director will initially review those requests and all supporting documentation with NVTA's CFO. After such initial review, NVTA's Executive Director will make a recommendation to NVTA's Finance Committee for its independent consideration and review. NVTA's Finance Committee will thereafter make a recommendation on any such request to NVTA for final determination by NVTA.
5. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the NVTA Act, Chapter 766, and other applicable law. Such compliance reviews may entail review of \_\_\_\_\_ Fairfax County \_\_\_\_\_'s financial records for the Project and on -site inspections.
6. Acknowledge that if, as a result of NVTA's review of any payment requisition or of any NVTA compliance review, NVTA staff determines that \_\_\_\_\_ Fairfax County \_\_\_\_\_ has misused or misapplied any NVTA funds in derogation of this Agreement or in contravention of the NVTA Act, Chapter 766 or applicable law, NVTA staff will promptly advise NVTA's Executive Director and will advise \_\_\_\_\_ Fairfax County \_\_\_\_\_'s designated representative in writing. \_\_\_\_\_ Fairfax County \_\_\_\_\_ will thereafter have thirty (30) days to respond in writing to NVTA's initial findings. NVTA's staff will review \_\_\_\_\_ Fairfax County \_\_\_\_\_'s response and make a recommendation to NVTA's Finance Committee. NVTA's Finance Committee will thereafter conduct its own review of all submissions and make a recommendation to NVTA. Pending final resolution of the matter, NVTA will withhold further funding on the Project. If NVTA makes a final determination that \_\_\_\_\_ Fairfax County \_\_\_\_\_ has misused or misapplied funds in contravention of this Agreement, the NVTA Act, Chapter 766, or other applicable law, NVTA will cease further funding for the Project and will seek reimbursement from \_\_\_\_\_ Fairfax County \_\_\_\_\_ of all funds previously remitted by NVTA (with interest earned at the rate earned by NVTA) which were misapplied or misused by \_\_\_\_\_ Fairfax County \_\_\_\_\_. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

7. Make guidelines available to Fairfax County to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.
8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.
9. Be the sole determinant of the amount and source of NVTA funds to be provided and allocated to the Project and the amounts of any NVTA funds to be provided in excess of the amounts specified in Appendix B.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties.
2. Fairfax County may terminate this Agreement, for cause, in the event of a material breach by NVTA of this Agreement. If so terminated, NVTA shall pay for all Project costs incurred through the date of termination and all reasonable costs incurred by Fairfax County to terminate all Project related contracts. The Virginia General Assembly's failure to appropriate funds to NVTA as described in paragraph F of this Agreement or repeal of the legislation establishing the NVTA fund created pursuant to Chapter 766 shall not be considered material breaches of this Agreement by NVTA. Before initiating any proceedings to terminate under this Paragraph, Fairfax County shall give NVTA sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTA an opportunity to investigate and cure any such alleged breach.
3. NVTA may terminate this Agreement, for cause, resulting from Fairfax County's material breach of this Agreement. If so terminated, Fairfax County shall refund to NVTA all funds NVTA provided to Fairfax County for the Project (including interest earned at the rate earned by NVTA). NVTA will provide Fairfax County with sixty (60) days written notice that NVTA is exercising its rights to terminate this Agreement and the reasons for termination. Prior to termination, Fairfax County may

request that NVTA excuse \_\_\_\_\_ Fairfax County \_\_\_\_\_ from refunding all funds NVTA provided to \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project based upon \_\_\_\_\_ Fairfax County \_\_\_\_\_'s substantial completion of the Project or severable portions thereof; and NVTA may, in its sole discretion, excuse \_\_\_\_\_ Fairfax County \_\_\_\_\_ from refunding all or a portion of the funds NVTA provided to \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project. No such request to be excused from refunding will be allowed where \_\_\_\_\_ Fairfax County \_\_\_\_\_ has either misused or misapplied NVTA funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, \_\_\_\_\_ Fairfax County \_\_\_\_\_ will release or return to NVTA all unexpended NVTA funds with interest earned at the rate earned by NVTA no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTA's Executive Director and \_\_\_\_\_ Fairfax County \_\_\_\_\_'s Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTA and to \_\_\_\_\_ Fairfax County \_\_\_\_\_'s governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. NVTA's Financial Interest in Project Assets

\_\_\_\_\_ Fairfax County \_\_\_\_\_ agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by NVTA under this Agreement ("Project Assets") for the designated transportation purposes of the Project under this Agreement and in accordance with applicable law throughout the useful life of each Project Asset. NVTA shall retain a financial interest in the value of each of the of the Project Assets, whether any such Project Asset may have depreciated or appreciated, throughout its respective useful life proportionate to the amount of the cost of the Project Asset funded by NVTA under this

Agreement. In the event that Fairfax County fails to use any of the Project Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, Fairfax County shall refund to NVTA with interest at the rate earned by NVTA the amount attributable to NVTA's proportionate financial interest in the value of said Project Asset. If Fairfax County refuses or fails to refund said monies to NVTA, NVTA may recover its proportionate financial interest from Fairfax County by pursuit of any remedies available to NVTA, including but not limited to NVTA's withholding of commensurate amounts from future distributions of NVTA funds to Fairfax County.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by their respective governing bodies.
2. The parties acknowledge that all funding provided by NVTA pursuant to Chapter 766 is subject to appropriation by the Virginia General Assembly. The parties further acknowledge that: (i) the moneys allocated to the NVTA Fund pursuant to Va. Code Ann. Sections 58.1-638, 58.1-802.2, and 58.1-1742 and any other moneys that the General Assembly appropriates for deposit into the NVTA Fund are subject to appropriation by the General Assembly and (ii) NVTA's obligations under this Agreement are subject to such moneys being appropriated for deposit in the NVTA Fund by the General Assembly.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

- 1) to: NVTA, to the attention of its Executive Director;  
3040 Williams Drive, Suite 200  
Fairfax, VA 22031
- 2) to Fairfax County, to the attention of Tom Biesiadny  
4050 Legato Road  
Fairfax County (address)

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

Fairfax County represents that it is not acting as a partner or agent of NVTA; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

This Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.



O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Authority

By: \_\_\_\_\_

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

\_\_\_\_\_ Fairfax County \_\_\_\_\_ (Name of Recipient Entity)

By: \_\_\_\_\_

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

## Appendix A – Narrative Description of Project (Attach Project Description Form)

NVTA Project Title: Rolling Road Widening (Hunter Village to Old Keene Mill Road)

NVTA SPA Number: 2018-014-1 Internal NVTA Project Number (leave blank): \_\_\_\_\_

Recipient Entity: Fairfax County

Project Manager Name: Smitha Chellappa

Phone: \_\_703-877-5761\_ email: \_\_smitha.chellappa@fairfaxcounty.gov\_\_\_\_\_

### Table A-1 Project Scope/Schedule Changes

Fill any Differences from the Approved NVTA Project Description Form Attached or Previously Submitted Appendix A. Describe and provide rationale for changes in scope and/or schedule.

Fairfax County previously submitted preliminary engineering, right-of-way acquisition and construction estimates of \$5,887,000, \$18,674,476 and \$31,570,401 respectively. Based on further design, these estimates have been revised to \$7,248,767 for preliminary engineering, \$23,285,410 for right of way, and \$57,770,706 for construction. Fairfax County requests to change its approved allocations to \$7,248,767 for preliminary engineering, \$23,285,410 for right of way, \$57,770,706 for construction.

The application submission shows a right of way schedule from FY18-19, and Appendix B shows the first drawdown of right of funds in FY20. This adjustment had to be made in the Appendix B, because this project didn't receive NVTA appropriation approval until FY20. Currently, the schedule is unchanged.

### Table A-2 Project Milestone by Phase Changes

Fill any Differences from the Approved NVTA Project Description Form Attached or Previously Submitted Appendix B. Provide Date of Revision. Any update to Appendix A, Table A-2 requires an update to Appendix B reflecting the changes.

	Project description form		Rev. 1: MM/DD/YYYY		Rev. 2: MM/DD/YYYY	
	Start Date	End Date	Start Date	End Date	Start Date	End Date
Study						
Preliminary Engineering	2016	2017				
Right of Way	2018	2019				
Construction	2020	2024				
Capital Asset Acquisition						
Other						

	Rev. 3: MM/DD/YYYY		Rev. 4: MM/DD/YYYY		Rev. 5: MM/DD/YYYY	
	Start Date	End Date	Start Date	End Date	Start Date	End Date
Study						
Preliminary Engineering						
Right of Way						
Construction						
Capital Asset Acquisition						
Other						

#### RECIPIENT ENTITY

NVTA

Submitted by (Person authorized in the resolution or Transportation Director):

Accepted by:

Signature: \_\_\_\_\_

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

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

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

Revised: 8/27/2018



## Rolling Road Widening

Hunter Village Drive to Old Keene Mill Road

### Project Description

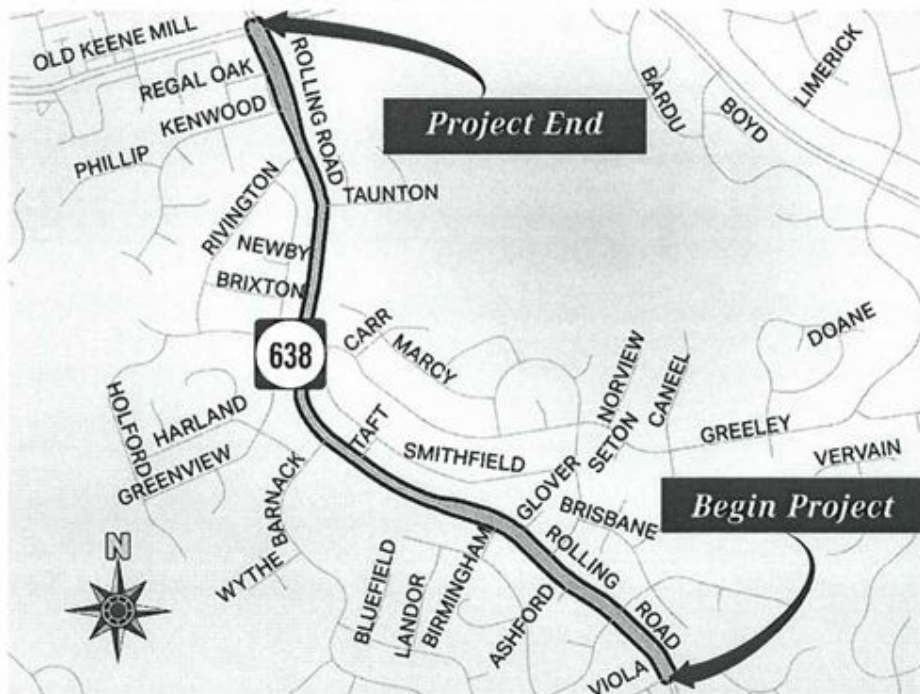


This project involves widening Rolling Road (Route 638) from a two to a four-lane divided roadway between Viola Street and Old Keene Mill Road, with pedestrian and bicycle facilities. In addition to widening Rolling Road, the project involves the following improvements:

- Implement access management by constructing a median on Rolling Road between Viola Street and Kenwood Avenue
- Construct dedicated left turn lanes at major intersections
- Construct an additional northbound left turn lane at the Old Keene Mill Road intersection
- Install a traffic signal at the intersection of Rolling Road at Greeley Boulevard
- Reduce congestion, enhance safety for all users, and improve access to points east and west while planning to meet future traffic demands,
- Providing storm-water management facilities.
- Provide continuity from both the south and north directions.
- This project also includes a shared-use path to increase safety for non-motorized users.

**Reference Number:** 2018-014-1  
**TransAction ID:** 54  
**Submitting Jurisdiction/Agency:** Fairfax County  
**Location:** 0.369 miles North of Fairfax County Parkway (Route 286) to Old Keene Mill Rd (Route 644)  
**Requested NVTA Funds:** \$11,111,000  
**Previous NVTA Funds Received:** \$5,000,000  
**Total Cost to Complete Project:** \$51,600,000

### Project Location



**Project Milestones**

	Before FY2018	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	After FY2023
Design, Engineering, Environmental Work	X							
Right of Way Acquisition		X	X					
Construction				X	X	X	X	X

**Project Funding**

	Requested NVTA Funds	Other Funding Sources	Total Cost by Phase
Design, Engineering, Environmental Work		\$2,400,000 (RSTP) \$600,000 (CMAQ)	\$5,880,000
Right of Way Acquisition	\$2,400,000	\$2,880,000 (Revenue Sharing) \$4,380,000 (RSTP) \$920,000 (Other State))	\$17,420,000
Construction	\$8,711,000	\$9,590,000 (RSTP) \$7,400,000 (Revenue Sharing) \$2,599,000 (Local Funds)	\$28,300,000
<b>TOTAL:</b>	<b>\$11,111,000</b>	<b>\$40,489,000</b>	<b>\$51,600,000</b>

**Project Analysis Highlights**

<b>Congestion Reduction Relative to Cost Ratio (Total Cost in \$1000's):</b>	<b>79.73</b>
<b>Congestion Reduction Relative to Cost Ratio Rank (Total Cost in \$1000's):</b>	<b>10</b>
<b>TransAction Project Rating:</b>	<b>65.99</b>
<b>TransAction Project Rating Rank:</b>	<b>44</b>

Note: The project analysis above was completed by NVTA staff using data and information from the project application and analyses of the region's transportation network.

**Regional Impacts**

- Reduce congestion by providing additional capacity on a highly congested north-south corridor
- Enhance the quality of life and economic strength
- Improves the safety of transportation network, and sustains and improves operation of the regional system

Note: The regional impacts listed above are a summary of what was submitted in the project application NVTA staff received from the jurisdiction or agency that has applied for funding.

**APPENDIX B-PROJECT BUDGET & REIMBURSEMENT CASH FLOW SCHEDULE**

NVTA SPA Number: 2018-014-1  
 NVTA Project Title: Rolling Road Widening (Hunter Village Drive to Old Keene Mill Road)  
 Date Prepared: 5/21/2019  
 Project Sponsor: Fairfax County  
 Contact Name & Email: Smitha Chellappa, (703) 877-5761  
 smitha.chellappa@fairfaxcounty.gov

**NOTE 1:**  
 Use this box when updating Appendix B for existing projects:

Revision Number	Date of Revision	Revision Number	Date of Revision
Original		4	
1		5	
2			
3			

Any update to Appendix B, Table B-2 and B-3 require an update to Appendix A Table A-2 reflecting the changes  
 Column A Column B Column C Column D Column E Column F Column G Column H Column I

**TABLE B-1 PROJECT COSTS & FUNDING SOURCE**

Project Cost Category	Total Project Costs	Approved NVTA Project Funds	Amount of Project Sponsor Funds	Amount of Other Sources of Funds	List of Other Sources of Funds (For each cost category include all other funding sources; list each source of funds on a separate line for each cost category)
Study					
Preliminary Engineering	\$ 7,248,767			\$ 600,000	Federal CMAQ funds
Preliminary Engineering				\$ 3,523,767	Federal RSTP funds
Preliminary Engineering				\$ 3,125,000	Revenue Sharing w/ NVTA FY15-16 funds as LCM
Right-of-Way Acquisition	\$ 23,285,410			\$ 11,359,033	Revenue Sharing w/ NVTA FY15-16 funds as LCM
Right-of-Way Acquisition				\$ 9,526,377	Federal RSTP funds
Right-of-Way Acquisition		\$ 2,400,000			NVTA FY18-23 funds (serves as LCM to Revenue Sharing)
Construction	\$ 57,770,706			\$ 5,757,054	Revenue Sharing
Construction				\$ 6,550,157	Federal RSTP funds
Construction				\$ 3,031,740	Other state funds
Construction				\$ 33,720,755	Local funds, and/or future NVTA regional funds, state Smart Scale program, and/or other sources of eligible revenue
Construction		\$ 8,711,000			NVTA FY18-23 funds (partially serves as LCM to Revenue Sharing)
Capital Asset Acquisitions					
Other					
<b>Total Estimated Cost</b>	<b>\$ 88,304,883</b>	<b>\$ 11,111,000</b>	<b>\$ -</b>	<b>\$ 77,193,883</b>	

**TABLE B-2 PROJECT REIMBURSEMENT CASH FLOW PER FISCAL YEAR AND COST CATEGORY FOR NVTA FUNDS ONLY**

Project Cost Category	NVTA Previously Reimbursed	Total FY2020 Project Funds	Total FY2021 Project Funds	Total FY2022 Project Funds	Total FY2023 Project Funds	Total FY2024 Project Funds	Total FY2025 & Future Project Funds
Study							
Preliminary Engineering							
Right-of-Way Acquisition		\$ 1,200,000	\$ 1,200,000				
Construction		\$ 4,351,000	\$ 4,360,000				
Capital Asset Acquisitions							
Other							
<b>Total Estimated Cost</b>	<b>\$ -</b>	<b>\$ 5,551,000</b>	<b>\$ 5,560,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

Table B-2 Cumulative Estimated Cost- Column I MUST Match Table B-1 Column C- Total Estimated Cost Approved NVTA Project Funds

**TABLE B-3 QUARTERLY PROJECT REIMBURSEMENT CASH FLOW FOR NVTA FUNDS ONLY**

Quarter	NVTA Previously Reimbursed	Total FY2020 Cash Flow	Total FY2021 Cash Flow	Total FY2022 Cash Flow	Total FY2023 Cash Flow	Total FY2024 Cash Flow	Total FY2025 & Future Cash Flow
September		\$ 1,387,750	\$ 1,390,000				
December		\$ 1,387,750	\$ 1,390,000				
March		\$ 1,387,750	\$ 1,390,000				
June		\$ 1,387,750	\$ 1,390,000				
<b>Total Estimated Cost</b>	<b>\$ -</b>	<b>\$ 5,551,000</b>	<b>\$ 5,560,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

TABLE B-3 Total Estimated Cost per Fiscal Year MUST Match Table B-2 Total Estimated Cost per Fiscal Year

Variance \$ -

This Appendix B form is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

Project Sponsor (Person Authorized to sign SPA / Director of Transportation)	Northern Virginia Transportation Authority	Northern Virginia Transportation Authority
Signature _____	Signature _____	Signature _____
Title _____	NVTA Executive Director	NVTA Chief Financial Officer
Date _____	Date _____	Date _____

Please Print name of person signing

## APPENDIX D-Tax Covenants

### TAX COVENANTS (For Bond Funded Projects Only)

The Recipient Entity will not permit more than five percent of the total amount of NVTA Bond Proceeds or the Financed Property to be used directly or indirectly (i) for a Private Business Use or (ii) to make or finance loans to Nongovernmental Persons. Any transaction that is generally characterized as a loan for federal income tax purposes is a "loan" for purposes of this paragraph. In addition, a loan may arise from the direct lending of NVTA Bond Proceeds or may arise from transactions in which indirect benefits that are the economic equivalent of a loan are conveyed, including any contractual arrangement which in substance transfers tax ownership and/or significant burdens and benefits of ownership.

The Recipient Entity agrees not to requisition or spend NVTA Bond Proceeds for any Project Cost not constituting a Capital Expenditure.

Except as may be described in Appendix B, the Recipient Entity neither has on the date of this Agreement nor expects to have after this date any funds that are restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, for the purposes for which the Recipient Entity is receiving NVTA Bond Proceeds.

The Recipient Entity acknowledges that it may have to provide detailed information about the investment of the amount of any requisition unless (i) payments are remitted directly by NVTA to the contractors/vendors or (ii) the Recipient Entity remits payment to the contractors/vendors within five banking days after the date on which NVTA advances the amount of the requisition. NVTA may request the detailed information in order to compute the rebate liability to the U.S. Treasury on NVTA's bonds or other debt financing pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

"Capital Expenditure" means any cost of a type that is properly chargeable to capital account (or would be so chargeable with (or but for) a proper election or the application of the definition of "placed in service" under Treas. Reg. § 1.150-2(c)) under general federal income tax principles, determined at the time the expenditure is paid.

"Federal Government" means the government of the United States and its agencies or instrumentalities.

"Financed Property" means the property financed by the NVTA Bond Proceeds.

"General Public Use" means use of Financed Property by a Nongovernmental Person as a member of the general public. Use of Financed Property by a Nongovernmental Person in a Trade or Business is treated as General Public Use only if the Financed Property is intended to be available and in fact is reasonably available for use on the same basis by natural persons not

engaged in a Trade or Business. Use under arrangements that convey priority rights or other preferential benefits is not use on the same basis as the general public.

"Governmental Person" means any Person that is a state or local governmental unit within the meaning of Section 141 of the Code (or any instrumentality thereof).

"NVTB Bond Proceeds" means, as used herein, the sale proceeds of any NVTB bonds or other debt instrument and the investment earnings on such proceeds, collectively.

"Nongovernmental Person" mean any Person other than a Governmental Person. For the purposes hereof, the Federal Government is a Nongovernmental Person.

"Person" means any natural person, firm, joint venture, association, partnership, business trust, corporation, limited liability company, corporation or partnership or any other entity (including the Federal Government and a Governmental Person).

"Private Business Use" means a use of the NVTB Bond Proceeds directly or indirectly in a Trade or Business carried on by a Nongovernmental Person other than General Public Use. For all purposes hereof, a Private Business Use of any Financed Property is treated as a Private Business Use of NVTB Bond Proceeds. Both actual and beneficial use by a Nongovernmental Person may be treated as Private Business Use under Section 141 of the Code. In most cases, however, Private Business Use results from a Nongovernmental Person having special legal entitlements to use the Financed Property under an arrangement with the Recipient Entity. Examples of the types of special legal entitlements resulting in Private Business Use of Proceeds include (i) ownership for federal tax purposes of Financed Property by a Nongovernmental Person and (ii) actual or beneficial use of Financed Property by a Nongovernmental Person pursuant to a lease, a Service Contract, an incentive payment contract or certain other arrangements such as a take-or-pay or other output-type contract. Private Business Use of the Financed Property may also be established on the basis of a special economic benefit to one or more Nongovernmental Persons even if such Nongovernmental Persons do not have a special legal entitlement to the use of the Financed Property. Any arrangement that is properly characterized as a lease for federal income tax purposes is treated as a lease for purposes of the Private Business Use analysis. An arrangement that is referred to as a management or Service Contract may nevertheless be treated as a lease, and in determining whether a management or service contract is properly characterized as a lease, it is necessary to consider all of the facts and circumstances, including (i) the degree of control over the property that is exercised by a Nongovernmental Person, and (ii) whether a Nongovernmental Person bears risk of loss of the Financed Property. Private Business Use of Financed Property that is not available for General Public Use may also be established on the basis of a special economic benefit to one or more Nongovernmental Persons even if such Nongovernmental Persons do not have a special legal entitlement to the use of the Financed Property. In determining whether special economic benefit gives rise to Private Business Use, it is necessary to consider all of the facts and circumstances, including one or more of the following factors: (i) whether the Financed Property is functionally related or physically proximate to property used in the Trade or Business of a Nongovernmental Person, (ii) whether only a small number of Nongovernmental Persons receive the economic benefit, and



(iii) whether the cost of the Financed Property is treated as depreciable by the Nongovernmental Person.

"Service Contract" means a contract under which a Nongovernmental Person will provide services involving all, a portion or any function of any Financed Property. For example, a Service Contract includes a contract for the provision of management services for all or any portion of Financed Property. Contracts for services that are solely incidental to the primary governmental function or functions of Financed Property (for example, contracts for janitorial, office equipment repair, billing, or similar services) are not included in this definition. Additional contracts not included in this definition are (i) a contract to provide for services by a Nongovernmental Person in compliance with Revenue Procedure 97-13, 1997-1 C.B. 632, as modified by Revenue Procedure 2001-39, I.R.B. 2001-28, (ii) a contract to provide for services by a Nongovernmental Person if the only compensation is the reimbursement of the Nongovernmental Person for actual and direct expenses paid by the Nongovernmental Person to unrelated parties and (iii) a contract to provide for the operations by a Nongovernmental Person of a facility or system of facilities that consists predominately of public utility property (within the meaning of Section 168(i)(10) of the Code), if the only compensation is the reimbursement of actual and direct expenses of the Nongovernmental Person and reasonable administrative overhead expenses of the Nongovernmental Person.

"Trade or Business" has the meaning set forth in Section 141(b)(6)(B) of the Code, and includes, with respect to any Nongovernmental Person other than a natural person, any activity carried on by such Nongovernmental Person. "Trade or Business" for a natural person means any activity carried on by such natural person that constitutes a "trade of business" within the meaning of Section 162 of the Code.

**RECIPIENT ENTITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Standard Project Agreement for Funding and Administration  
between  
Northern Virginia Transportation Authority  
and  
Fairfax County  
\_\_\_\_\_  
(Recipient Entity)**

Project Name: Route 1 Widening (Mount Vernon Memorial Highway to Napper Road

NVTA Project Number: \_\_\_\_\_

This Standard Project Agreement for Funding and Administration ("this Agreement") is made and executed in duplicate on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, as between the Northern Virginia Transportation Authority ("NVTA") and \_\_\_\_\_ Fairfax County \_\_\_\_\_ ("Recipient Entity").

**WITNESSETH**

WHEREAS, NVTA is a political subdivision of the Commonwealth of Virginia created by the Northern Virginia Transportation Authority Act ("the NVTA Act"), Chapter 25 of Title 33.2 of the Code of Virginia, as amended;

WHEREAS, Section 33.2-2500(4) of the Code of Virginia authorizes NVTA to enter into project agreements with certain statutorily designated entities for the provision of transportation facilities and services to the area embraced by NVTA;

WHEREAS, Section 33.2-2509 of the Code of Virginia authorizes NVTA to use funds from a fund established pursuant to that Code section (the "NVTA Fund") in order to assist in the financing, in whole or in part, of certain regional transportation projects in accordance with Code Section 33.2-2510;

WHEREAS, the NVTA Fund provides for the deposit therein of certain dedicated revenues and other funds appropriated by the Virginia General Assembly;

WHEREAS, Section 33.2-2510 of the Code of Virginia authorizes the use of funds from the NVTA Fund and the use of proceeds from NVTA debt issuances ("NVTA Bond Proceeds") to be used by NVTA solely for transportation purposes benefitting those counties and cities embraced by NVTA;

WHEREAS, the Project set forth and described on Appendix A to this Agreement ("the Project") satisfies the requirements of Virginia Code Section 33.2-2510;

Revised: July 28, 2015

WHEREAS, the Project is to be financed, as described in Appendix B, in whole or in part, by funds from the NVTA Fund and/or from NVTA Bond Proceeds, is located within a locality embraced by NVTA's geographical borders, or is located in an adjacent locality, but only to the extent that any such extension is an insubstantial part of the Project and is essential to the viability of the Project within the localities embraced by NVTA;

WHEREAS,           Fairfax County           formally requested that NVTA provide funding to the Project by timely submitting an application for NVTA funding in response to NVTA's call for projects;

WHEREAS, NVTA has reviewed           Fairfax County          's application for funding and has approved           Fairfax County          's administration and performance of the Project's described scope of work;

WHEREAS, based on the information provided by           Fairfax County          , NVTA has determined that the Project complies with all requirements of the NVTA Act related to the use of moneys identified in Virginia Code Sections 33.2-2510(A),(C)1 and all other applicable legal requirements;

WHEREAS, the funds to be provided by NVTA described in Appendix B have been duly authorized and directed by           Fairfax County           to finance the Project;

WHEREAS, NVTA agrees that           Fairfax County           will design and/or construct the Project or perform such other specific work for the Project and           Fairfax County           agrees that it will perform such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, both parties have concurred in the           Fairfax County          's administration, performance, and completion of the Project on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, NVTA's governing body and           Fairfax County          's governing body have each authorized that their respective designee(s) execute this agreement on their respective behalf(s) as evinced by copies of each such entity's clerk's minutes which are appended hereto as Appendix E;.

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. Recipient Entity's Obligations

Fairfax County shall:

1. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement.
2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Project Description Sheets attached to Appendix A and complies with Va. Code Ann. Sections 33.2-2510(A), (C)1.
3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisitions for the Project, as is required by this Agreement and that may be necessary for completion of the Project.
4. Not use the NVTA funds specified on Appendix B to pay any Project cost if the NVTA Act does not permit such Project cost to be paid with NVTA funds.
5. Recognize that, if the Project contains "multiple phases" (as such "multiple phases" are defined for the Project on Appendix A), for which NVTA will provide funding for such multiple phases (as set forth on Appendix B), NVTA may not provide funding to Fairfax County to advance the Project to the next phase until the current phase is completed. In any circumstance where Fairfax County seeks to advance a Project to the next phase using NVTA funds, Fairfax County shall submit a written request to NVTA's Executive Director explaining the need for NVTA's funding of an advanced phase. NVTA's Executive Director will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVTA's current and projected cash flow position and make a recommendation to NVTA whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit Fairfax County from providing its own funds to

advance a future phase of the Project and from requesting reimbursement from NVTA for having advance funded a future phase of the Project. However, Fairfax County further recognizes that NVTA's reimbursement to Fairfax County for having advance funded a Project phase will be dependent upon NVTA's cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.

6. Acknowledge that NVTA's Executive Director will periodically update NVTA's project cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Project. Fairfax County shall provide all information required by NVTA so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Project as described in Appendix B.
7. Provide to NVTA requests for payment consistent with Appendix B and the most recently approved NVTA cash flow estimates that include NVTA's standard payment requisition(s), containing detailed summaries of actual project costs incurred with supporting documentation as determined by NVTA and that certify all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement. If approved by NVTA, Fairfax County can expect to receive payment within twenty (20) days upon receipt by NVTA. Approved payments may be made by means of electronic transfer of funds from NVTA to or for the account of Fairfax County.
8. Promptly notify NVTA's Executive Director of any additional project costs resulting from unanticipated circumstances and provide to NVTA detailed estimates of additional costs associated with those circumstances. Fairfax County understands that it will be within NVTA's sole discretion whether to provide any additional funding to the Project in such circumstances and that NVTA will do so only in accordance with NVTA's approved Project Selection Process and upon formal action and approval by NVTA. Fairfax County shall timely provide to NVTA a

complete and accurate update to Appendix B, if NVTA approves funding of any additional Project costs for the Project under this Paragraph.

9. Release or return any unexpended funds to NVTA no later than 90 days after final payment has been made to the contractors.
10. Review and acknowledge the requirements of NVTA Resolution No. 14-08 adopted January 23, 2014; to wit that, if applicable to Fairfax County's Project: a) Prior to any NVTA funds being released for a project that may be part of a larger project, projects, or system undertaken with an extra-territorial funding partner, all such extra-territorial funding partners must commit to pay their appropriate, respective proportionate share or shares of the larger project or system cost commensurate with the benefits to each on a basis agreed upon by the NVTA member localities; b) any such funds released by NVTA for such project will be in addition to the funds that the NVTA member locality is to receive from or be credited with by the extra-territorial funding partner for the project or system; and c) there shall be no funding made available by NVTA until such time as all extra-territorial funding partners for such project or system pay or officially commit to fund their appropriate, respective proportionate shares of such large project or system commensurate with the benefits to each on a basis agreed upon with NVTA.
11. Should Fairfax County be required to provide matching funds in order to proceed or complete the funding necessary for the Project, Fairfax County shall certify to NVTA that all such matching funds have been either authorized and/or appropriated by Fairfax County's governing body or have been obtained through another, independent funding source;
12. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern Fairfax County and provide copies of any such financial records to NVTA, free of charge, upon request.

13. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern Fairfax County; and provide to NVTA copies of all such drawings and plans free of charge, upon request.
14. Reimburse NVTA for all NVTA funds (with interest earned at the rate earned by NVTA) that Fairfax County misapplied or used in contravention of Sections 33.2-2500 *et. seq.* of the Virginia Code ("the NVTA Act") Chapter 766 of the 2013 Virginia Acts of Assembly ("Chapter 766"), or any term or condition of this Agreement.
15. Name NVTA and its Bond Trustee or require that all Fairfax County's contractors name NVTA or its Bond Trustee as an additional insured on any insurance policy issued for the work to be performed by or on behalf of Fairfax County for the Project and present NVTA with satisfactory evidence thereof before any work on the Project commences or continues.
16. Give notice to NVTA that Fairfax County may use NVTA funds to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTA's in-house legal counsel) in connection with the work performed under this Agreement Fairfax County so as to ensure that no conflict of interest may arise from any such representation.
17. Provide certification to NVTA, that upon final payment to all contractors for the Project, Fairfax County will use the Project for its intended purposes for the duration of the Project's useful life. Under no circumstances will NVTA be considered responsible or obligated to operate and/or maintain the Project after its completion.
18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern Fairfax County.

19. Acknowledge that if the Project is being funded in whole or in part by NVTA Bond Proceeds, comply with the tax covenants attached as Appendix D.
20. Acknowledge that if Fairfax County expects and/or intends that the Project is to be submitted for acceptance by the Commonwealth into its system that Fairfax County agrees to comply with the Virginia Department of Transportation's ("VDOT's") "Standards, Requirements and Guidance."
21. Recognize that Fairfax County is solely responsible for obtaining all permits and permissions necessary to construct and/or operate the Project, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.
22. Recognize that if Fairfax County is funding the Project, in whole or in part, with federal and/or state funds, in addition to NVTA funds and/or NVTA Bond Proceeds that Fairfax County will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration Agreement and acknowledges that NVTA will not be a party or signatory to that Agreement; nor will NVTA have any obligation to comply with the requirements of that Agreement.
23. Provide a certification to NVTA no later than 90 days after final payment to the contractors that Fairfax County adhered to all applicable laws and regulations and all requirements of this Agreement.

B. NVTA's Obligations

NVTA shall:

- I. Provide to Fairfax County the funding authorized by NVTA for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s) on a reimbursement basis as set forth in this Agreement and as specified in the Project Budget and Cash Flow contained in



Appendix B to this Agreement or the most updated amendment thereto, as approved by NVTA.

2. Assign a Program Coordinator for the Project. NVTA's Program Coordinator will be responsible for monitoring the Project on behalf of NVTA so as to ensure compliance with this Agreement and all NVTA's requirements and with overseeing, managing, reviewing, and processing, in consultation with NVTA's Executive Director and its Chief Financial Officer ("CFO") , all payment requisitions submitted by \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project. NVTA's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Project Scope of Work as set forth on Appendix A or to the Project Budget and Cash Flow as set forth on Appendix B.
  
3. Route to NVTA's assigned Program Coordinator all \_\_\_\_\_ Fairfax County \_\_\_\_\_'s payment requisitions, containing detailed summaries of actual Project costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTA for the Project. After submission to NVTA, NVTA's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's legal and documentary sufficiency. NVTA's Program Coordinator will then make a recommendation to the NVTA's CFO and Executive Director whether to authorize payment, refuse payment, or seek additional information from \_\_\_\_\_ Fairfax County \_\_\_\_\_. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) days from receipt. If the payment requisition is deemed insufficient, within twenty (20) days from receipt, NVTA's Program Coordinator will notify \_\_\_\_\_ Fairfax County \_\_\_\_\_ in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTA have been corrected. Under no circumstances will NVTA authorize payment for any work performed by or on behalf of \_\_\_\_\_ Fairfax County \_\_\_\_\_ that is not in conformity with the requirements of the NVTA Act, Chapter 766, or this Agreement.

4. Route all Fairfax County's supplemental requests for funding from NVTA under Paragraphs A.5 and A.8 of this Agreement to NVTA's Executive Director. NVTA's Executive Director will initially review those requests and all supporting documentation with NVTA's CFO. After such initial review, NVTA's Executive Director will make a recommendation to NVTA's Finance Committee for its independent consideration and review. NVTA's Finance Committee will thereafter make a recommendation on any such request to NVTA for final determination by NVTA.
5. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the NVTA Act, Chapter 766, and other applicable law. Such compliance reviews may entail review of Fairfax County's financial records for the Project and on -site inspections.
6. Acknowledge that if, as a result of NVTA's review of any payment requisition or of any NVTA compliance review, NVTA staff determines that Fairfax County has misused or misapplied any NVTA funds in derogation of this Agreement or in contravention of the NVTA Act, Chapter 766 or applicable law, NVTA staff will promptly advise NVTA's Executive Director and will advise Fairfax County's designated representative in writing. Fairfax County will thereafter have thirty (30) days to respond in writing to NVTA's initial findings. NVTA's staff will review Fairfax County's response and make a recommendation to NVTA's Finance Committee. NVTA's Finance Committee will thereafter conduct its own review of all submissions and make a recommendation to NVTA. Pending final resolution of the matter, NVTA will withhold further funding on the Project. If NVTA makes a final determination that Fairfax County has misused or misapplied funds in contravention of this Agreement, the NVTA Act, Chapter 766, or other applicable law, NVTA will cease further funding for the Project and will seek reimbursement from Fairfax County of all funds previously remitted by NVTA (with interest earned at the rate earned by NVTA) which were misapplied or misused by Fairfax County. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

7. Make guidelines available to Fairfax County to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.
8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.
9. Be the sole determinant of the amount and source of NVTA funds to be provided and allocated to the Project and the amounts of any NVTA funds to be provided in excess of the amounts specified in Appendix B.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties.
2. Fairfax County may terminate this Agreement, for cause, in the event of a material breach by NVTA of this Agreement. If so terminated, NVTA shall pay for all Project costs incurred through the date of termination and all reasonable costs incurred by Fairfax County to terminate all Project related contracts. The Virginia General Assembly's failure to appropriate funds to NVTA as described in paragraph F of this Agreement or repeal of the legislation establishing the NVTA fund created pursuant to Chapter 766 shall not be considered material breaches of this Agreement by NVTA. Before initiating any proceedings to terminate under this Paragraph, Fairfax County shall give NVTA sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTA an opportunity to investigate and cure any such alleged breach.
3. NVTA may terminate this Agreement, for cause, resulting from Fairfax County's material breach of this Agreement. If so terminated, Fairfax County shall refund to NVTA all funds NVTA provided to Fairfax County for the Project (including interest earned at the rate earned by NVTA). NVTA will provide Fairfax County with sixty (60) days written notice that NVTA is exercising its rights to terminate this Agreement and the reasons for termination. Prior to termination, Fairfax County may

request that NVTA excuse \_\_\_\_\_ Fairfax County \_\_\_\_\_ from refunding all funds NVTA provided to \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project based upon \_\_\_\_\_ Fairfax County \_\_\_\_\_'s substantial completion of the Project or severable portions thereof; and NVTA may, in its sole discretion, excuse \_\_\_\_\_ Fairfax County \_\_\_\_\_ from refunding all or a portion of the funds NVTA provided to \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project. No such request to be excused from refunding will be allowed where \_\_\_\_\_ Fairfax County \_\_\_\_\_ has either misused or misapplied NVTA funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, \_\_\_\_\_ Fairfax County \_\_\_\_\_ will release or return to NVTA all unexpended NVTA funds with interest earned at the rate earned by NVTA no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTA's Executive Director and \_\_\_\_\_ Fairfax County \_\_\_\_\_'s Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTA and to \_\_\_\_\_ Fairfax County \_\_\_\_\_'s governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. NVTA's Financial Interest in Project Assets

\_\_\_\_\_ Fairfax County \_\_\_\_\_ agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by NVTA under this Agreement ("Project Assets") for the designated transportation purposes of the Project under this Agreement and in accordance with applicable law throughout the useful life of each Project Asset. NVTA shall retain a financial interest in the value of each of the of the Project Assets, whether any such Project Asset may have depreciated or appreciated, throughout its respective useful life proportionate to the amount of the cost of the Project Asset funded by NVTA under this

Agreement. In the event that Fairfax County fails to use any of the Project Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, Fairfax County shall refund to NVTA with interest at the rate earned by NVTA the amount attributable to NVTA's proportionate financial interest in the value of said Project Asset. If Fairfax County refuses or fails to refund said monies to NVTA, NVTA may recover its proportionate financial interest from Fairfax County by pursuit of any remedies available to NVTA, including but not limited to NVTA's withholding of commensurate amounts from future distributions of NVTA funds to Fairfax County.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by their respective governing bodies.
2. The parties acknowledge that all funding provided by NVTA pursuant to Chapter 766 is subject to appropriation by the Virginia General Assembly. The parties further acknowledge that: (i) the moneys allocated to the NVTA Fund pursuant to Va. Code Ann. Sections 58.1-638, 58.1-802.2, and 58.1-1742 and any other moneys that the General Assembly appropriates for deposit into the NVTA Fund are subject to appropriation by the General Assembly and (ii) NVTA's obligations under this Agreement are subject to such moneys being appropriated for deposit in the NVTA Fund by the General Assembly.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

- 1) to: NVTA, to the attention of its Executive Director;  
3040 Williams Drive, Suite 200  
Fairfax, VA 22031
- 2) to Fairfax County, to the attention of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (address)

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

Fairfax County represents that it is not acting as a partner or agent of NVTA; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

This Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Authority

By: \_\_\_\_\_

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

\_\_\_\_\_ Fairfax County \_\_\_\_\_ (Name of Recipient Entity)

By: \_\_\_\_\_

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

## Appendix A – Narrative Description of Project (Attach Project Description Form)

NVTA Project Title: Route 1 Widening (Mount Vernon Memorial Highway to Napper Road)

NVTA SPA Number: 2018-006-1 Internal NVTA Project Number (leave blank): \_\_\_\_\_

Recipient Entity: Fairfax County

Project Manager Name: Ajmal Hamidi

Phone: 703-877-5600 email: ajmal.hamidi@fairfaxcounty.gov

### Table A-1 Project Scope/Schedule Changes

Fill any Differences from the Approved NVTA Project Description Form Attached or Previously Submitted Appendix A. Describe and provide rationale for changes in scope and/or schedule.

The northern limits of the project have been extended from Napper Road to Sherwood Hall Lane. Sherwood Hall Lane provides a more rational terminus for the project since it is easier to tie into the signalized intersection of Sherwood Hall Lane as opposed to the stop-controlled intersection of Napper Road. This project is seeking a seamless transition with the County’s overlapping Richmond Highway Bus Rapid Transit (BRT) project. Phase I of the BRT project terminates at Hybla Valley near the Sherwood Hall Lane intersection while Phase II extends from Hybla Valley to Fort Belvoir. By extending the terminus of the VDOT roadway project from Napper Road to Sherwood Hall Lane, this VDOT-administered project would be better accommodating the County’s BRT project which is also receiving NVTA funding. The extension would also provide a traffic operations and safety benefit by extending the northbound right-turn lane of Richmond Highway at Sherwood Hall Lane.

There have been schedule changes from efforts to reduce property impacts through design alternations based on stakeholder feedback. Consequently, the anticipated start date for right-of-way acquisition was delayed from summer of 2019 to winter of 2019. The anticipated start date for construction was delayed from winter of 2022 to summer of 2023.

### Table A-2 Project Milestone by Phase Changes

Fill any Differences from the Approved NVTA Project Description Form Attached or Previously Submitted Appendix B. Provide Date of Revision. Any update to Appendix A, Table A-2 requires an update to Appendix B reflecting the changes.

	Project description form		Rev. 1: MM/DD/YYYY		Rev. 2: MM/DD/YYYY	
	Start Date	End Date	Start Date	End Date	Start Date	End Date
Study						
Preliminary Engineering	4/2017	5/2019				
Right of Way	6/2019	11/2022	1/1/2020	6/1/2022		
Construction	12/2022	2/2026	6/1/2023	6/1/2026		
Capital Asset Acquisition						
Other						

	Rev. 3: MM/DD/YYYY		Rev. 4: MM/DD/YYYY		Rev. 5: MM/DD/YYYY	
	Start Date	End Date	Start Date	End Date	Start Date	End Date
Study						
Preliminary Engineering						
Right of Way						
Construction						
Capital Asset Acquisition						
Other						

Revised: 8/27/2018



**RECIPIENT ENTITY**

**NVTA**

*Submitted by (Person authorized in the resolution  
or Transportation Director):*

*Accepted by:*

Signature: \_\_\_\_\_

\_\_\_\_\_

Name: Tom Biesiadny

\_\_\_\_\_

Title: Director

\_\_\_\_\_

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

\_\_\_\_\_



DRAFT

NVTA FY2018-23 PROGRAM  
Updated April 13, 2018

## Route 1 Widening

Mount Vernon Memorial Highway to Napper Road

### Project Description



The US Route 1 (known as Richmond Highway in Fairfax County) Corridor Improvements project (Route 1 Widening project) will provide multimodal improvements including roadway widening along the 2.91-mile section of Route 1 between Mt. Vernon Memorial Highway/Jeff Todd Way and Napper Road in Fairfax County. US Route 1 is currently classified as an Urban Principal Arterial. This project will increase the number of through travel lanes along Route 1 from four lanes to six lanes. In addition, it will provide a median reservation for future Bus Rapid Transit (BRT), intersection improvements, the replacement of three bridges, secure pedestrian crossings, as well as 6.5-foot wide off-road bicycle paths and 6-foot wide sidewalks on both sides of the roads.

**Reference Number:** 2018-006-1

**TransAction ID:** 214

**Submitting Jurisdiction/Agency:** Fairfax County

**Location:** Mount Vernon Memorial Highway/Jeff Todd Way to Napper Road

**Requested NVTA Funds:** \$127,000,000

**Previous NVTA Funds Received:** \$1,000,000

**Total Cost to Complete Project:** \$215,000,000

The project will seamlessly connect, on the south end, to the segment of Route 1 from Telegraph Road to Mt. Vernon Memorial Highway which was recently widened as part of the Federal Highway Administration (FHWA) Route 1 – Fort Belvoir project. This project will also connect to the existing six-lane segment of Route 1 north of Napper Road, resulting in a continuous six-lane facility from Fort Belvoir to I-95/I-495 in Alexandria. The roadway widening will help reduce congestion on about 10 miles of Route 1. Moreover, this project will improve safety for all users through various means. It will implement access management strategies such as the consolidation of driveways and other access points to reduce conflict points resulting in better safety and traffic flow. In addition, this project will implement intersection improvements to accommodate exiting and projected travel demand. These intersection improvements will include the addition of turn lanes, the provision of emergency signal preemption, pedestrian-activated countdown signals, transit signal priority for the future BRT, and potentially alternative intersection designs. This project is currently in the design stage.

### Project Location



**Project Milestones**

	Before FY2018	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	After FY2023
Design, Engineering, Environmental Work	X	X	X					
Right of Way Acquisition			X	X	X	X		
Construction						X	X	X

**Project Funding**

	Requested NVTA Funds	Other Funding Sources	Total Cost by Phase
Design, Engineering, Environmental Work		\$1,000,000 (NVTA FY2015-16)	\$18,500,000
		\$3,460,000 (Rev Sharing '17)	
	\$1,500,000	\$3,460,000 (Rev Sharing LCM)	
		\$1,50,000 (Rev Sharing '18)	
		\$7,580,000 (Rev Sharing LCM)	
Right of Way Acquisition	\$87,000,000	\$3,000,000 (Rev Sharing 18) \$19,520,000 (RSTP)	\$120,600,000
Construction	\$38,500,000		\$75,900,000
<b>TOTAL:</b>	\$127,000,000	\$39,520,000	\$215,000,000

Note: There is a funding gap of \$48,480,000. Fairfax County plans to request additional funds through the state's Smart Scale program, the NVTA's next Call for Projects or other local, federal and/or private sources.

**Project Analysis Highlights**

<b>Congestion Reduction Relative to Cost Ratio (Total Cost in \$1000's):</b>	<b>26.48</b>
<b>Congestion Reduction Relative to Cost Ratio Rank (Total Cost in \$1000's):</b>	<b>24</b>
<b>TransAction Project Rating:</b>	<b>75.14</b>
<b>TransAction Project Rating Rank:</b>	<b>8</b>

Note: The project analysis above was completed by NVTA staff using data and information from the project application and analyses of the region's transportation network.

**Regional Impacts**

- Enhance the quality of life and economic strength
- Enable optimal use of the transportation network and leverage the existing network
- Establish a consistent six-lane section and enable the future median-running BRT system
- Reduce negative impacts of transportation on communities and the environment
- Reduce auto traffic volumes
- Improve reliable travel times for motorists and transit
- Provide frequent transit service, bicycle and pedestrian facilities

Note: The regional impacts listed above are a summary of what was submitted in the project application NVTA staff received from the jurisdiction or agency that has applied for funding.

**APPENDIX B-PROJECT BUDGET & REIMBURSEMENT CASH FLOW SCHEDULE**

NVTA SPA Number: 2018-006-1  
 NVTA Project Title: Route 1 Widening (Mount Vernon Memorial Highway to Napper Road)  
 Date Prepared: 5/14/2019  
 Project Sponsor: Fairfax County  
 Contact Name & Email: Ray Johnson carroll.johnson@fairfaxcounty.gov

**NOTE 1:**  
 Use this box when updating Appendix B for existing projects:

Revision Number	Date of Revision	Revision Number	Date of Revision
Original		4	
1		5	
2			
3			

Any update to Appendix B, Table B-2 and B-3 require an update to Appendix A Table A-2 reflecting the changes  
 Column A Column B Column C Column D Column E Column F Column G Column H Column I

**TABLE B-1 PROJECT COSTS & FUNDING SOURCE**

Project Cost Category	Total Project Costs	Approved NVTA Project Funds	Amount of Project Sponsor Funds	Amount of Other Sources of Funds	List of Other Sources of Funds (For each cost category include all other funding sources; list each source of funds on a separate line for each cost category)
Study					
Preliminary Engineering	\$ 18,500,000			\$ 9,000,000	Federal RSTP funds
Preliminary Engineering				\$ 3,300,000	Revenue Sharing funds
Preliminary Engineering				\$ 1,000,000	NVTA FY15-16 funds (serves as Revenue Sharing LCM)
Preliminary Engineering			\$ 3,700,000		Local funds (serves as Revenue Sharing LCM)
Preliminary Engineering		\$ 1,500,000			NVTA FY18-23 funds
Right-of-Way Acquisition	\$ 277,600,000			\$ 37,664,000	Federal RSTP funds
Right-of-Way Acquisition				\$ 6,700,000	Revenue Sharing funds
Right-of-Way Acquisition				\$ 130,760,000	Future NVTA regional funds, state Smart Scale program, and/or other sources of eligible revenue
Right-of-Way Acquisition		\$ 102,476,000			NVTA FY18-23 funds (serves as Revenue Sharing LCM)
Construction	\$ 75,900,000			\$ 52,876,000	Future NVTA regional funds, state Smart Scale program, and/or other sources of eligible revenue
Construction		\$ 23,024,000			NVTA FY18-23 funds
Capital Asset Acquisitions					
Other					
<b>Total Estimated Cost</b>	<b>\$ 372,000,000</b>	<b>\$ 127,000,000</b>	<b>\$ 3,700,000</b>	<b>\$ 241,300,000</b>	

**TABLE B-2 PROJECT REIMBURSEMENT CASH FLOW PER FISCAL YEAR AND COST CATEGORY FOR NVTA FUNDS ONLY**

Project Cost Category	NVTA Previously Reimbursed	Total FY2020 Project Funds	Total FY2021 Project Funds	Total FY2022 Project Funds	Total FY2023 Project Funds	Total FY2024 Project Funds	FY2025 & Future Project Funds	Cumulative Est Cost Crosscheck
Study								
Preliminary Engineering	\$ -	\$ 1,000,000	\$ 500,000					
Right-of-Way Acquisition		\$ 25,619,000	\$ 25,619,000	\$ 25,619,000	\$ 25,619,000			
Construction					\$ 11,512,000	\$ 11,512,000		
Capital Asset Acquisitions								
Other								
<b>Total Estimated Cost</b>	<b>\$ -</b>	<b>\$ 26,619,000</b>	<b>\$ 26,119,000</b>	<b>\$ 25,619,000</b>	<b>\$ 37,131,000</b>	<b>\$ 11,512,000</b>	<b>\$ -</b>	<b>\$ 127,000,000</b>

Table B-2 Cumulative Estimated Cost- Column I MUST Match Table B-1 Column C - Total Estimated Cost Approved NVTA Project Funds

**TABLE B-3 QUARTERLY PROJECT REIMBURSEMENT CASH FLOW FOR NVTA FUNDS ONLY**

Quarter	NVTA Previously Reimbursed	Total FY2020 Cash Flow	Total FY2021 Cash Flow	Total FY2022 Cash Flow	Total FY2023 Cash Flow	Total FY2024 Cash Flow	FY2025 & Future Cash Flow	Cumulative Est Cost Crosscheck
September		\$ 6,654,750	\$ 6,529,750	\$ 6,404,750	\$ 9,282,750	\$ 2,878,000		
December		\$ 6,654,750	\$ 6,529,750	\$ 6,404,750	\$ 9,282,750	\$ 2,878,000		
March		\$ 6,654,750	\$ 6,529,750	\$ 6,404,750	\$ 9,282,750	\$ 2,878,000		
June		\$ 6,654,750	\$ 6,529,750	\$ 6,404,750	\$ 9,282,750	\$ 2,878,000		
<b>Total Estimated Cost</b>	<b>\$ -</b>	<b>\$ 26,619,000</b>	<b>\$ 26,119,000</b>	<b>\$ 25,619,000</b>	<b>\$ 37,131,000</b>	<b>\$ 11,512,000</b>	<b>\$ -</b>	<b>\$ 127,000,000</b>

TABLE B-3 Total Estimated Cost per Fiscal Year MUST Match Table B-2 Total Estimated Cost per Fiscal Year

Variance \$ -

This Appendix B form is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

Project Sponsor (Person Authorized to sign SPA / Director of Transportation)  Signature _____ Title _____ Date _____ Please Print name of person signing	Northern Virginia Transportation Authority  Signature _____ NVTA Executive Director Date _____	Northern Virginia Transportation Authority  Signature _____ NVTA Chief Financial Officer Date _____
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## APPENDIX D-Tax Covenants

### TAX COVENANTS (For Bond Funded Projects Only)

The Recipient Entity will not permit more than five percent of the total amount of NVTA Bond Proceeds or the Financed Property to be used directly or indirectly (i) for a Private Business Use or (ii) to make or finance loans to Nongovernmental Persons. Any transaction that is generally characterized as a loan for federal income tax purposes is a "loan" for purposes of this paragraph. In addition, a loan may arise from the direct lending of NVTA Bond Proceeds or may arise from transactions in which indirect benefits that are the economic equivalent of a loan are conveyed, including any contractual arrangement which in substance transfers tax ownership and/or significant burdens and benefits of ownership.

The Recipient Entity agrees not to requisition or spend NVTA Bond Proceeds for any Project Cost not constituting a Capital Expenditure.

Except as may be described in Appendix B, the Recipient Entity neither has on the date of this Agreement nor expects to have after this date any funds that are restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, for the purposes for which the Recipient Entity is receiving NVTA Bond Proceeds.

The Recipient Entity acknowledges that it may have to provide detailed information about the investment of the amount of any requisition unless (i) payments are remitted directly by NVTA to the contractors/vendors or (ii) the Recipient Entity remits payment to the contractors/vendors within five banking days after the date on which NVTA advances the amount of the requisition. NVTA may request the detailed information in order to compute the rebate liability to the U.S. Treasury on NVTA's bonds or other debt financing pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

"Capital Expenditure" means any cost of a type that is properly chargeable to capital account (or would be so chargeable with (or but for) a proper election or the application of the definition of "placed in service" under Treas. Reg. § 1.150-2(c)) under general federal income tax principles, determined at the time the expenditure is paid.

"Federal Government" means the government of the United States and its agencies or instrumentalities.

"Financed Property" means the property financed by the NVTA Bond Proceeds.

"General Public Use" means use of Financed Property by a Nongovernmental Person as a member of the general public. Use of Financed Property by a Nongovernmental Person in a Trade or Business is treated as General Public Use only if the Financed Property is intended to be available and in fact is reasonably available for use on the same basis by natural persons not

engaged in a Trade or Business. Use under arrangements that convey priority rights or other preferential benefits is not use on the same basis as the general public.

"Governmental Person" means any Person that is a state or local governmental unit within the meaning of Section 141 of the Code (or any instrumentality thereof).

"NVTB Bond Proceeds" means, as used herein, the sale proceeds of any NVTB bonds or other debt instrument and the investment earnings on such proceeds, collectively.

"Nongovernmental Person" mean any Person other than a Governmental Person. For the purposes hereof, the Federal Government is a Nongovernmental Person.

"Person" means any natural person, firm, joint venture, association, partnership, business trust, corporation, limited liability company, corporation or partnership or any other entity (including the Federal Government and a Governmental Person).

"Private Business Use" means a use of the NVTB Bond Proceeds directly or indirectly in a Trade or Business carried on by a Nongovernmental Person other than General Public Use. For all purposes hereof, a Private Business Use of any Financed Property is treated as a Private Business Use of NVTB Bond Proceeds. Both actual and beneficial use by a Nongovernmental Person may be treated as Private Business Use under Section 141 of the Code. In most cases, however, Private Business Use results from a Nongovernmental Person having special legal entitlements to use the Financed Property under an arrangement with the Recipient Entity. Examples of the types of special legal entitlements resulting in Private Business Use of Proceeds include (i) ownership for federal tax purposes of Financed Property by a Nongovernmental Person and (ii) actual or beneficial use of Financed Property by a Nongovernmental Person pursuant to a lease, a Service Contract, an incentive payment contract or certain other arrangements such as a take-or-pay or other output-type contract. Private Business Use of the Financed Property may also be established on the basis of a special economic benefit to one or more Nongovernmental Persons even if such Nongovernmental Persons do not have a special legal entitlement to the use of the Financed Property. Any arrangement that is properly characterized as a lease for federal income tax purposes is treated as a lease for purposes of the Private Business Use analysis. An arrangement that is referred to as a management or Service Contract may nevertheless be treated as a lease, and in determining whether a management or service contract is properly characterized as a lease, it is necessary to consider all of the facts and circumstances, including (i) the degree of control over the property that is exercised by a Nongovernmental Person, and (ii) whether a Nongovernmental Person bears risk of loss of the Financed Property. Private Business Use of Financed Property that is not available for General Public Use may also be established on the basis of a special economic benefit to one or more Nongovernmental Persons even if such Nongovernmental Persons do not have a special legal entitlement to the use of the Financed Property. In determining whether special economic benefit gives rise to Private Business Use, it is necessary to consider all of the facts and circumstances, including one or more of the following factors: (i) whether the Financed Property is functionally related or physically proximate to property used in the Trade or Business of a Nongovernmental Person, (ii) whether only a small number of Nongovernmental Persons receive the economic benefit, and

(iii) whether the cost of the Financed Property is treated as depreciable by the Nongovernmental Person.

"Service Contract" means a contract under which a Nongovernmental Person will provide services involving all, a portion or any function of any Financed Property. For example, a Service Contract includes a contract for the provision of management services for all or any portion of Financed Property. Contracts for services that are solely incidental to the primary governmental function or functions of Financed Property (for example, contracts for janitorial, office equipment repair, billing, or similar services) are not included in this definition. Additional contracts not included in this definition are (i) a contract to provide for services by a Nongovernmental Person in compliance with Revenue Procedure 97-13, 1997-1 C.B. 632, as modified by Revenue Procedure 2001-39, I.R.B. 2001-28, (ii) a contract to provide for services by a Nongovernmental Person if the only compensation is the reimbursement of the Nongovernmental Person for actual and direct expenses paid by the Nongovernmental Person to unrelated parties and (iii) a contract to provide for the operations by a Nongovernmental Person of a facility or system of facilities that consists predominately of public utility property (within the meaning of Section 168(i)(10) of the Code), if the only compensation is the reimbursement of actual and direct expenses of the Nongovernmental Person and reasonable administrative overhead expenses of the Nongovernmental Person.

"Trade or Business" has the meaning set forth in Section 141(b)(6)(B) of the Code, and includes, with respect to any Nongovernmental Person other than a natural person, any activity carried on by such Nongovernmental Person. "Trade or Business" for a natural person means any activity carried on by such natural person that constitutes a "trade of business" within the meaning of Section 162 of the Code.

**RECIPIENT ENTITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Standard Project Agreement for Funding and Administration  
between  
Northern Virginia Transportation Authority  
and  
Fairfax County**  
\_\_\_\_\_  
**(Recipient Entity)**

Project Name: Frontier Drive Extension and Intersection Improvements

NVTA Project Number: \_\_\_\_\_

This Standard Project Agreement for Funding and Administration ("this Agreement") is made and executed in duplicate on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, as between the Northern Virginia Transportation Authority ("NVTA") and \_\_\_\_\_ Fairfax County ("Recipient Entity").

**WITNESSETH**

WHEREAS, NVTA is a political subdivision of the Commonwealth of Virginia created by the Northern Virginia Transportation Authority Act ("the NVTA Act"), Chapter 25 of Title 33.2 of the Code of Virginia, as amended;

WHEREAS, Section 33.2-2500(4) of the Code of Virginia authorizes NVTA to enter into project agreements with certain statutorily designated entities for the provision of transportation facilities and services to the area embraced by NVTA;

WHEREAS, Section 33.2-2509 of the Code of Virginia authorizes NVTA to use funds from a fund established pursuant to that Code section (the "NVTA Fund") in order to assist in the financing, in whole or in part, of certain regional transportation projects in accordance with Code Section 33.2-2510;

WHEREAS, the NVTA Fund provides for the deposit therein of certain dedicated revenues and other funds appropriated by the Virginia General Assembly;

WHEREAS, Section 33.2-2510 of the Code of Virginia authorizes the use of funds from the NVTA Fund and the use of proceeds from NVTA debt issuances ("NVTA Bond Proceeds") to be used by NVTA solely for transportation purposes benefitting those counties and cities embraced by NVTA;

WHEREAS, the Project set forth and described on Appendix A to this Agreement ("the Project") satisfies the requirements of Virginia Code Section 33.2-2510;

Revised: July 28, 2015



WHEREAS, the Project is to be financed, as described in Appendix B, in whole or in part, by funds from the NVTA Fund and/or from NVTA Bond Proceeds, is located within a locality embraced by NVTA's geographical borders, or is located in an adjacent locality, but only to the extent that any such extension is an insubstantial part of the Project and is essential to the viability of the Project within the localities embraced by NVTA;

WHEREAS, Fairfax County formally requested that NVTA provide funding to the Project by timely submitting an application for NVTA funding in response to NVTA's call for projects;

WHEREAS, NVTA has reviewed Fairfax County's application for funding and has approved Fairfax County's administration and performance of the Project's described scope of work;

WHEREAS, based on the information provided by Fairfax County, NVTA has determined that the Project complies with all requirements of the NVTA Act related to the use of moneys identified in Virginia Code Sections 33.2-2510(A),(C)1 and all other applicable legal requirements;

WHEREAS, the funds to be provided by NVTA described in Appendix B have been duly authorized and directed by Fairfax County to finance the Project;

WHEREAS, NVTA agrees that Fairfax County will design and/or construct the Project or perform such other specific work for the Project and Fairfax County agrees that it will perform such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, both parties have concurred in the Fairfax County's administration, performance, and completion of the Project on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, NVTA's governing body and Fairfax County's governing body have each authorized that their respective designee(s) execute this agreement on their respective behalf(s) as evinced by copies of each such entity's clerk's minutes which are appended hereto as Appendix E;.

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. Recipient Entity's Obligations

Fairfax County shall:

1. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement.
2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Project Description Sheets attached to Appendix A and complies with Va. Code Ann. Sections 33.2-2510(A), (C)1.
3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisitions for the Project, as is required by this Agreement and that may be necessary for completion of the Project.
4. Not use the NVTA funds specified on Appendix B to pay any Project cost if the NVTA Act does not permit such Project cost to be paid with NVTA funds.
5. Recognize that, if the Project contains "multiple phases" (as such "multiple phases" are defined for the Project on Appendix A), for which NVTA will provide funding for such multiple phases (as set forth on Appendix B), NVTA may not provide funding to Fairfax County to advance the Project to the next phase until the current phase is completed. In any circumstance where Fairfax County seeks to advance a Project to the next phase using NVTA funds, Fairfax County shall submit a written request to NVTA's Executive Director explaining the need for NVTA's funding of an advanced phase. NVTA's Executive Director will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVTA's current and projected cash flow position and make a recommendation to NVTA whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit Fairfax County from providing its own funds to

advance a future phase of the Project and from requesting reimbursement from NVTA for having advance funded a future phase of the Project. However, Fairfax County further recognizes that NVTA's reimbursement to Fairfax County for having advance funded a Project phase will be dependent upon NVTA's cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.

6. Acknowledge that NVTA's Executive Director will periodically update NVTA's project cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Project. Fairfax County shall provide all information required by NVTA so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Project as described in Appendix B.
7. Provide to NVTA requests for payment consistent with Appendix B and the most recently approved NVTA cash flow estimates that include NVTA's standard payment requisition(s), containing detailed summaries of actual project costs incurred with supporting documentation as determined by NVTA and that certify all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement. If approved by NVTA, Fairfax County can expect to receive payment within twenty (20) days upon receipt by NVTA. Approved payments may be made by means of electronic transfer of funds from NVTA to or for the account of Fairfax County.
8. Promptly notify NVTA's Executive Director of any additional project costs resulting from unanticipated circumstances and provide to NVTA detailed estimates of additional costs associated with those circumstances. Fairfax County understands that it will be within NVTA's sole discretion whether to provide any additional funding to the Project in such circumstances and that NVTA will do so only in accordance with NVTA's approved Project Selection Process and upon formal action and approval by NVTA. Fairfax County shall timely provide to NVTA a

complete and accurate update to Appendix B, if NVTA approves funding of any additional Project costs for the Project under this Paragraph.

9. Release or return any unexpended funds to NVTA no later than 90 days after final payment has been made to the contractors.
10. Review and acknowledge the requirements of NVTA Resolution No. 14-08 adopted January 23, 2014; to wit that, if applicable to Fairfax County's Project: a) Prior to any NVTA funds being released for a project that may be part of a larger project, projects, or system undertaken with an extra-territorial funding partner, all such extra-territorial funding partners must commit to pay their appropriate, respective proportionate share or shares of the larger project or system cost commensurate with the benefits to each on a basis agreed upon by the NVTA member localities; b) any such funds released by NVTA for such project will be in addition to the funds that the NVTA member locality is to receive from or be credited with by the extra-territorial funding partner for the project or system; and c) there shall be no funding made available by NVTA until such time as all extra-territorial funding partners for such project or system pay or officially commit to fund their appropriate, respective proportionate shares of such large project or system commensurate with the benefits to each on a basis agreed upon with NVTA.
11. Should Fairfax County be required to provide matching funds in order to proceed or complete the funding necessary for the Project, Fairfax County shall certify to NVTA that all such matching funds have been either authorized and/or appropriated by Fairfax County's governing body or have been obtained through another, independent funding source;
12. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern Fairfax County and provide copies of any such financial records to NVTA, free of charge, upon request.

13. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern Fairfax County; and provide to NVTA copies of all such drawings and plans free of charge, upon request.
14. Reimburse NVTA for all NVTA funds (with interest earned at the rate earned by NVTA) that Fairfax County misapplied or used in contravention of Sections 33.2-2500 *et. seq.* of the Virginia Code ("the NVTA Act") Chapter 766 of the 2013 Virginia Acts of Assembly ("Chapter 766"), or any term or condition of this Agreement.
15. Name NVTA and its Bond Trustee or require that all Fairfax County's contractors name NVTA or its Bond Trustee as an additional insured on any insurance policy issued for the work to be performed by or on behalf of Fairfax County for the Project and present NVTA with satisfactory evidence thereof before any work on the Project commences or continues.
16. Give notice to NVTA that Fairfax County may use NVTA funds to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTA's in-house legal counsel) in connection with the work performed under this Agreement Fairfax County so as to ensure that no conflict of interest may arise from any such representation.
17. Provide certification to NVTA, that upon final payment to all contractors for the Project, Fairfax County will use the Project for its intended purposes for the duration of the Project's useful life. Under no circumstances will NVTA be considered responsible or obligated to operate and/or maintain the Project after its completion.
18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern Fairfax County.

19. Acknowledge that if the Project is being funded in whole or in part by NVTA Bond Proceeds, comply with the tax covenants attached as Appendix D.
20. Acknowledge that if Fairfax County expects and/or intends that the Project is to be submitted for acceptance by the Commonwealth into its system that Fairfax County agrees to comply with the Virginia Department of Transportation's ("VDOT's") "Standards, Requirements and Guidance."
21. Recognize that Fairfax County is solely responsible for obtaining all permits and permissions necessary to construct and/or operate the Project, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.
22. Recognize that if Fairfax County is funding the Project, in whole or in part, with federal and/or state funds, in addition to NVTA funds and/or NVTA Bond Proceeds that Fairfax County will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration Agreement and acknowledges that NVTA will not be a party or signatory to that Agreement; nor will NVTA have any obligation to comply with the requirements of that Agreement.
23. Provide a certification to NVTA no later than 90 days after final payment to the contractors that Fairfax County adhered to all applicable laws and regulations and all requirements of this Agreement.

**B. NVTA's Obligations**

NVTA shall:

- I. Provide to Fairfax County the funding authorized by NVTA for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s) on a reimbursement basis as set forth in this Agreement and as specified in the Project Budget and Cash Flow contained in

Appendix B to this Agreement or the most updated amendment thereto, as approved by NVTA.

2. Assign a Program Coordinator for the Project. NVTA's Program Coordinator will be responsible for monitoring the Project on behalf of NVTA so as to ensure compliance with this Agreement and all NVTA's requirements and with overseeing, managing, reviewing, and processing, in consultation with NVTA's Executive Director and its Chief Financial Officer ("CFO"), all payment requisitions submitted by \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project. NVTA's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Project Scope of Work as set forth on Appendix A or to the Project Budget and Cash Flow as set forth on Appendix B.
  
3. Route to NVTA's assigned Program Coordinator all \_\_\_\_\_ Fairfax County \_\_\_\_\_'s payment requisitions, containing detailed summaries of actual Project costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTA for the Project. After submission to NVTA, NVTA's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's legal and documentary sufficiency. NVTA's Program Coordinator will then make a recommendation to the NVTA's CFO and Executive Director whether to authorize payment, refuse payment, or seek additional information from \_\_\_\_\_ Fairfax County \_\_\_\_\_. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) days from receipt. If the payment requisition is deemed insufficient, within twenty (20) days from receipt, NVTA's Program Coordinator will notify \_\_\_\_\_ Fairfax County \_\_\_\_\_ in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTA have been corrected. Under no circumstances will NVTA authorize payment for any work performed by or on behalf of \_\_\_\_\_ Fairfax County \_\_\_\_\_ that is not in conformity with the requirements of the NVTA Act, Chapter 766, or this Agreement.

4. Route all Fairfax County's supplemental requests for funding from NVTA under Paragraphs A.5 and A.8 of this Agreement to NVTA's Executive Director. NVTA's Executive Director will initially review those requests and all supporting documentation with NVTA's CFO. After such initial review, NVTA's Executive Director will make a recommendation to NVTA's Finance Committee for its independent consideration and review. NVTA's Finance Committee will thereafter make a recommendation on any such request to NVTA for final determination by NVTA.
5. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the NVTA Act, Chapter 766, and other applicable law. Such compliance reviews may entail review of Fairfax County's financial records for the Project and on -site inspections.
6. Acknowledge that if, as a result of NVTA's review of any payment requisition or of any NVTA compliance review, NVTA staff determines that Fairfax County has misused or misapplied any NVTA funds in derogation of this Agreement or in contravention of the NVTA Act, Chapter 766 or applicable law, NVTA staff will promptly advise NVTA's Executive Director and will advise Fairfax County's designated representative in writing. Fairfax County will thereafter have thirty (30) days to respond in writing to NVTA's initial findings. NVTA's staff will review Fairfax County's response and make a recommendation to NVTA's Finance Committee. NVTA's Finance Committee will thereafter conduct its own review of all submissions and make a recommendation to NVTA. Pending final resolution of the matter, NVTA will withhold further funding on the Project. If NVTA makes a final determination that Fairfax County has misused or misapplied funds in contravention of this Agreement, the NVTA Act, Chapter 766, or other applicable law, NVTA will cease further funding for the Project and will seek reimbursement from Fairfax County of all funds previously remitted by NVTA (with interest earned at the rate earned by NVTA) which were misapplied or misused by Fairfax County. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.



7. Make guidelines available to Fairfax County to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.
8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.
9. Be the sole determinant of the amount and source of NVTA funds to be provided and allocated to the Project and the amounts of any NVTA funds to be provided in excess of the amounts specified in Appendix B.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties.
2. Fairfax County may terminate this Agreement, for cause, in the event of a material breach by NVTA of this Agreement. If so terminated, NVTA shall pay for all Project costs incurred through the date of termination and all reasonable costs incurred by Fairfax County to terminate all Project related contracts. The Virginia General Assembly's failure to appropriate funds to NVTA as described in paragraph F of this Agreement or repeal of the legislation establishing the NVTA fund created pursuant to Chapter 766 shall not be considered material breaches of this Agreement by NVTA. Before initiating any proceedings to terminate under this Paragraph, Fairfax County shall give NVTA sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTA an opportunity to investigate and cure any such alleged breach.
3. NVTA may terminate this Agreement, for cause, resulting from Fairfax County's material breach of this Agreement. If so terminated, Fairfax County shall refund to NVTA all funds NVTA provided to Fairfax County for the Project (including interest earned at the rate earned by NVTA). NVTA will provide Fairfax County with sixty (60) days written notice that NVTA is exercising its rights to terminate this Agreement and the reasons for termination. Prior to termination, Fairfax County may

request that NVTA excuse \_\_\_\_\_ Fairfax County \_\_\_\_\_ from refunding all funds NVTA provided to \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project based upon \_\_\_\_\_ Fairfax County \_\_\_\_\_'s substantial completion of the Project or severable portions thereof; and NVTA may, in its sole discretion, excuse \_\_\_\_\_ Fairfax County \_\_\_\_\_ from refunding all or a portion of the funds NVTA provided to \_\_\_\_\_ Fairfax County \_\_\_\_\_ for the Project. No such request to be excused from refunding will be allowed where \_\_\_\_\_ Fairfax County \_\_\_\_\_ has either misused or misapplied NVTA funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, \_\_\_\_\_ Fairfax County \_\_\_\_\_ will release or return to NVTA all unexpended NVTA funds with interest earned at the rate earned by NVTA no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTA's Executive Director and \_\_\_\_\_ Fairfax County \_\_\_\_\_'s Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTA and to \_\_\_\_\_ Fairfax County \_\_\_\_\_'s governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. NVTA's Financial Interest in Project Assets

\_\_\_\_\_ Fairfax County \_\_\_\_\_ agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by NVTA under this Agreement ("Project Assets") for the designated transportation purposes of the Project under this Agreement and in accordance with applicable law throughout the useful life of each Project Asset. NVTA shall retain a financial interest in the value of each of the of the Project Assets, whether any such Project Asset may have depreciated or appreciated, throughout its respective useful life proportionate to the amount of the cost of the Project Asset funded by NVTA under this

Agreement. In the event that Fairfax County fails to use any of the Project Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, Fairfax County shall refund to NVTA with interest at the rate earned by NVTA the amount attributable to NVTA's proportionate financial interest in the value of said Project Asset. If Fairfax County refuses or fails to refund said monies to NVTA, NVTA may recover its proportionate financial interest from Fairfax County by pursuit of any remedies available to NVTA, including but not limited to NVTA's withholding of commensurate amounts from future distributions of NVTA funds to Fairfax County.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by their respective governing bodies.
2. The parties acknowledge that all funding provided by NVTA pursuant to Chapter 766 is subject to appropriation by the Virginia General Assembly. The parties further acknowledge that: (i) the moneys allocated to the NVTA Fund pursuant to Va. Code Ann. Sections 58.1-638, 58.1-802.2, and 58.1-1742 and any other moneys that the General Assembly appropriates for deposit into the NVTA Fund are subject to appropriation by the General Assembly and (ii) NVTA's obligations under this Agreement are subject to such moneys being appropriated for deposit in the NVTA Fund by the General Assembly.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

- 1) to: NVTA, to the attention of its Executive Director;  
3040 Williams Drive, Suite 200  
Fairfax, VA 22031
- 2) to Fairfax County, to the attention of Director of Transportation  
Fairfax County (address)

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

Fairfax County represents that it is not acting as a partner or agent of NVTA; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

This Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Authority

By: \_\_\_\_\_

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

\_\_\_\_\_ Fairfax County \_\_\_\_\_ (Name of Recipient Entity)

By: \_\_\_\_\_

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

## Appendix A – Narrative Description of Project (Attach Project Description Form)

NVTA Project Title: Frontier Drive Extension and Intersection Improvements  
 NVTA SPA Number: 2018-009-1 \_\_\_\_\_ Internal NVTA Project Number (leave blank): \_\_\_\_\_  
 Recipient Entity: Fairfax County  
 Project Manager Name: Audra Bandy  
 Phone: 703-877-5713 email: Audra.Bandy@fairfaxcounty.gov

### Table A-1 Project Scope/Schedule Changes

Fill any Differences from the Approved NVTA Project Description Form Attached or Previously Submitted Appendix A. Describe and provide rationale for changes in scope and/or schedule.

Since the Frontier Drive application was submitted to NVTA, the cost of each phase of the project has changed (shown in Appendix B), and original total project estimate of \$116,070,000 has increased to \$140,000,000.

The application submission shows a right of way schedule from FY19-21, and Appendix B shows the first drawdown of right of funds in FY20. This adjustment had to be made in the Appendix B, because this project didn't receive NVTA appropriation approval until FY20.

### Table A-2 Project Milestone by Phase Changes

Fill any Differences from the Approved NVTA Project Description Form Attached or Previously Submitted Appendix B. Provide Date of Revision. Any update to Appendix A, Table A-2 requires an update to Appendix B reflecting the changes.

	Project description form		Rev. 1: MM/DD/YYYY		Rev. 2: MM/DD/YYYY	
	Start Date	End Date	Start Date	End Date	Start Date	End Date
Study						
Preliminary Engineering	2017	2022	Mar '16	Jul '20		
Right of Way	2019	2021	Jul '19	Jul '23		
Construction	2022	2024	Aug '23	Dec '26		
Capital Asset Acquisition						
Other						

	Rev. 3: MM/DD/YYYY		Rev. 4: MM/DD/YYYY		Rev. 5: MM/DD/YYYY	
	Start Date	End Date	Start Date	End Date	Start Date	End Date
Study						
Preliminary Engineering						
Right of Way						
Construction						
Capital Asset Acquisition						
Other						

#### RECIPIENT ENTITY

NVTA

Submitted by (Person authorized in the resolution or Transportation Director):

Accepted by:

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



## Frontier Drive Extension and Intersection Improvements

### Project Description



The project will extend Frontier Drive from its current southern terminus at the Joe Alexander Transit Center to Loisdale Road, through the Springfield Industrial Park, generally along the existing Spring Center Drive alignment. The extension would facilitate traffic and transit access to the Transit Center, which includes the Franconia-Springfield Metrorail Station serving both the Washington Metropolitan Area Transit Authority (WMATA) Metrorail and Virginia Railway Express Commuter Rail systems; and via the proposed braided ramps to and from the Franconia-Springfield Parkway. The extension will provide a more direct connection for twenty transit routes and Greyhound bus service, some of which will operate between the Transit Center and the General Services Administration (GSA)/Springfield Industrial Park road network and the Northern Virginia Community College (NVCC). The current disconnected roadway forces transit providers to develop circuitous routes to reach the GSA road network. The more direct routing is anticipated to reduce travel time by 3 to 4 minutes on each trip. The project will also provide pedestrian and bicycle facilities along Frontier Drive and will support the relocation of the Transportation Security Administration headquarters adjacent to the GSA site, which will be located in the vicinity of Springfield Center Drive and is expected to bring more than 3,000 jobs by 2020.

**Reference Number:** 2018-009-1  
**TransAction ID:** 84  
**Submitting Jurisdiction/Agency:** Fairfax County  
**Location:** Frontier Drive to Loisdale Road  
**Requested NVTA Funds:** \$79,500,000  
**Previous NVTA Funds Received:** \$2,000,000  
**Total Cost to Complete Project:** \$116,070,000

The proposed Frontier Drive Extension is envisioned to run on the western portion of the Transit Center property, and would affect current station access and circulation. The new roadway would require conversion of the existing southbound entrance road from Frontier Drive and the Franconia-Springfield Parkway into a new, two-way, four-lane, divided, minor arterial facility, with associated turn lanes and a new entrance accessing the Transit Center. Improvements include the Frontier Drive Extension to Loisdale Road (Route 789), braided ramps at the Franconia-Springfield Parkway & Frontier Drive interchange, traffic signalization at two (2) intersections and internal circulation enhancements at the Franconia-Springfield Transit Center. The project is identified in the Fairfax County Comprehensive Plan (2013) and in VDOT's Six-Year Improvement Program (Year 2017). Partial funding has been established for the Preliminary Engineering (PE) phase of this project. Franconia-Springfield Parkway is classified as a National Highway System (NHS) non-Interstate facility.

### Project Location



**Project Milestones**

	Before FY2018	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	After FY2023
Design, Engineering, Environmental Work	X	X	X	X	X	X		
Right of Way Acquisition			X	X	X			
Construction						X	X	X

**Project Funding**

	Requested NVTA Funds	Other Funding Sources	Total Cost by Phase
Design, Engineering, Environmental Work		\$2,000,000 (NVTA 70%) \$8,000,000 (NVTA 30%)	\$10,000,000
Right of Way Acquisition	\$25,000,000		\$25,000,000
Construction	\$54,500,000		\$81,070,000
<b>TOTAL:</b>	<b>\$79,500,000</b>	<b>\$10,000,000</b>	<b>\$116,070,000</b>

Note: There is a funding gap of \$26,570,000, for which Fairfax County plans to apply for funds through the state's Smart Scale program the NVTA's next Call for Projects or other local, federal and/or private sources.

**Project Analysis Highlights**

<b>Congestion Reduction Relative to Cost Ratio (Total Cost in \$1000's):</b>	<b>8.43</b>
<b>Congestion Reduction Relative to Cost Ratio Rank (Total Cost in \$1000's):</b>	<b>42</b>
<b>TransAction Project Rating:</b>	<b>69.80</b>
<b>TransAction Project Rating Rank:</b>	<b>21</b>

Note: The project analysis above was completed by NVTA staff using data and information from the project application and analyses of the region's transportation network.

**Regional Impacts**

- Enhance the quality of life and economic strength
- Reduce congestion on I-95 between the Fairfax County Parkway and Old Keene Mill Road (Route 644), and in the area around the Springfield Town Center.
- Improve travel times
- Provide mode options through on-road bicycle lanes, sidewalks and a shared-use path
- Increase access to jobs, employees, markets, and destinations

Note: The regional impacts listed above are a summary of what was submitted in the project application NVTA staff received from the jurisdiction or agency that has applied for funding.



**APPENDIX B-PROJECT BUDGET & REIMBURSEMENT CASH FLOW SCHEDULE**

NVTA SPA Number: 2018-009-1  
 NVTA Project Title: Frontier Drive Extension and Intersection Improvements  
 Date Prepared: \_\_\_\_\_  
 Project Sponsor: Fairfax County  
 Contact Name & Email: Audra Bandy, (703) 877-5713  
Audra.Bandy@FairfaxCounty.gov

**NOTE 1:**  
 Use this box when updating Appendix B for existing projects:

Revision Number	Date of Revision	Revision Number	Date of Revision
Original		4	
1		5	
2			
3			

Any update to Appendix B, Table B-2 and B-3 require an update to Appendix A Table A-2 reflecting the changes  
 Column A      Column B      Column C      Column D      Column E      Column F      Column G      Column H      Column I

**TABLE B-1 PROJECT COSTS & FUNDING SOURCE**

Project Cost Category	Total Project Costs	Approved NVTA Project Funds	Amount of Project Sponsor Funds	Amount of Other Sources of Funds	List of Other Sources of Funds (For each cost category include all other funding sources; list each source of funds on a separate line for each cost category)
Study					
Preliminary Engineering	\$ 9,000,000			\$ 2,000,000	NVTA FY15-16 funds
Preliminary Engineering			\$ 7,000,000		Local funds
Right-of-Way Acquisition	\$ 37,300,000			\$ 11,300,000	Future NVTA regional funds, state Smart Scale program, and/or other sources of eligible revenue.
Right-of-Way Acquisition			\$ 1,000,000		Local funds
Right-of-Way Acquisition		\$ 25,000,000			NVTA FY18-23 funds
Construction	\$ 93,700,000			\$ 93,700,000	Future NVTA regional funds, state Smart Scale program, and/or other sources of eligible revenue.
Construction					
Capital Asset Acquisitions					
Other					
<b>Total Estimated Cost</b>	<b>\$ 140,000,000</b>	<b>\$ 25,000,000</b>	<b>\$ 8,000,000</b>	<b>\$ 107,000,000</b>	

**TABLE B-2 PROJECT REIMBURSEMENT CASH FLOW PER FISCAL YEAR AND COST CATEGORY FOR NVTA FUNDS ONLY**

Project Cost Category	NVTA Previously Reimbursed	Total FY2020 Project Funds	Total FY2021 Project Funds	Total FY2022 Project Funds	Total FY2023 Project Funds	Total FY2024 Project Funds	FY2025 & Future Project Funds	Cumulative Est Cost Crosscheck
Study								
Preliminary Engineering								
Right-of-Way Acquisition		\$ 5,000,000	\$ 10,000,000	\$ 10,000,000				
Construction								
Capital Asset Acquisitions								
Other								
<b>Total Estimated Cost</b>	<b>\$ -</b>	<b>\$ 5,000,000</b>	<b>\$ 10,000,000</b>	<b>\$ 10,000,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 25,000,000</b>

Table B-2 Cumulative Estimated Cost- Column I MUST Match Table B-1 Column C - Total Estimated Cost Approved NVTA Project Funds

**TABLE B-3 QUARTERLY PROJECT REIMBURSEMENT CASH FLOW FOR NVTA FUNDS ONLY**

Quarter	NVTA Previously Reimbursed	Total FY2020 Cash Flow	Total FY2021 Cash Flow	Total FY2022 Cash Flow	Total FY2023 Cash Flow	Total FY2024 Cash Flow	FY2025 & Future Cash Flow	Cumulative Est Cost Crosscheck
September		\$ 1,250,000	\$ 2,500,000	\$ 2,500,000				
December		\$ 1,250,000	\$ 2,500,000	\$ 2,500,000				
March		\$ 1,250,000	\$ 2,500,000	\$ 2,500,000				
June		\$ 1,250,000	\$ 2,500,000	\$ 2,500,000				
<b>Total Estimated Cost</b>	<b>\$ -</b>	<b>\$ 5,000,000</b>	<b>\$ 10,000,000</b>	<b>\$ 10,000,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 25,000,000</b>

TABLE B-3 Total Estimated Cost per Fiscal Year MUST Match Table B-2 Total Estimated Cost per Fiscal Year

Variance \$ -

This Appendix B form is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

Project Sponsor (Person Authorized to sign SPA / Director of Transportation)

Northern Virginia Transportation Authority

Northern Virginia Transportation Authority

Signature

Signature  
 NVTA Executive Director

Signature  
 NVTA Chief Financial Officer

Title

Date

Date

Date

Please Print name of person signing

## **APPENDIX D-Tax Covenants**

### **TAX COVENANTS (For Bond Funded Projects Only)**

The Recipient Entity will not permit more than five percent of the total amount of NVTA Bond Proceeds or the Financed Property to be used directly or indirectly (i) for a Private Business Use or (ii) to make or finance loans to Nongovernmental Persons. Any transaction that is generally characterized as a loan for federal income tax purposes is a "loan" for purposes of this paragraph. In addition, a loan may arise from the direct lending of NVTA Bond Proceeds or may arise from transactions in which indirect benefits that are the economic equivalent of a loan are conveyed, including any contractual arrangement which in substance transfers tax ownership and/or significant burdens and benefits of ownership.

The Recipient Entity agrees not to requisition or spend NVTA Bond Proceeds for any Project Cost not constituting a Capital Expenditure.

Except as may be described in Appendix B, the Recipient Entity neither has on the date of this Agreement nor expects to have after this date any funds that are restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, for the purposes for which the Recipient Entity is receiving NVTA Bond Proceeds.

The Recipient Entity acknowledges that it may have to provide detailed information about the investment of the amount of any requisition unless (i) payments are remitted directly by NVTA to the contractors/vendors or (ii) the Recipient Entity remits payment to the contractors/vendors within five banking days after the date on which NVTA advances the amount of the requisition. NVTA may request the detailed information in order to compute the rebate liability to the U.S. Treasury on NVTA's bonds or other debt financing pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

"Capital Expenditure" means any cost of a type that is properly chargeable to capital account (or would be so chargeable with (or but for) a proper election or the application of the definition of "placed in service" under Treas. Reg. § 1.150-2(c)) under general federal income tax principles, determined at the time the expenditure is paid.

"Federal Government" means the government of the United States and its agencies or instrumentalities.

"Financed Property" means the property financed by the NVTA Bond Proceeds.

"General Public Use" means use of Financed Property by a Nongovernmental Person as a member of the general public. Use of Financed Property by a Nongovernmental Person in a Trade or Business is treated as General Public Use only if the Financed Property is intended to be available and in fact is reasonably available for use on the same basis by natural persons not

engaged in a Trade or Business. Use under arrangements that convey priority rights or other preferential benefits is not use on the same basis as the general public.

"Governmental Person" means any Person that is a state or local governmental unit within the meaning of Section 141 of the Code (or any instrumentality thereof).

"NVTB Bond Proceeds" means, as used herein, the sale proceeds of any NVTB bonds or other debt instrument and the investment earnings on such proceeds, collectively.

"Nongovernmental Person" mean any Person other than a Governmental Person. For the purposes hereof, the Federal Government is a Nongovernmental Person.

"Person" means any natural person, firm, joint venture, association, partnership, business trust, corporation, limited liability company, corporation or partnership or any other entity (including the Federal Government and a Governmental Person).

"Private Business Use" means a use of the NVTB Bond Proceeds directly or indirectly in a Trade or Business carried on by a Nongovernmental Person other than General Public Use. For all purposes hereof, a Private Business Use of any Financed Property is treated as a Private Business Use of NVTB Bond Proceeds. Both actual and beneficial use by a Nongovernmental Person may be treated as Private Business Use under Section 141 of the Code. In most cases, however, Private Business Use results from a Nongovernmental Person having special legal entitlements to use the Financed Property under an arrangement with the Recipient Entity. Examples of the types of special legal entitlements resulting in Private Business Use of Proceeds include (i) ownership for federal tax purposes of Financed Property by a Nongovernmental Person and (ii) actual or beneficial use of Financed Property by a Nongovernmental Person pursuant to a lease, a Service Contract, an incentive payment contract or certain other arrangements such as a take-or-pay or other output-type contract. Private Business Use of the Financed Property may also be established on the basis of a special economic benefit to one or more Nongovernmental Persons even if such Nongovernmental Persons do not have a special legal entitlement to the use of the Financed Property. Any arrangement that is properly characterized as a lease for federal income tax purposes is treated as a lease for purposes of the Private Business Use analysis. An arrangement that is referred to as a management or Service Contract may nevertheless be treated as a lease, and in determining whether a management or service contract is properly characterized as a lease, it is necessary to consider all of the facts and circumstances, including (i) the degree of control over the property that is exercised by a Nongovernmental Person, and (ii) whether a Nongovernmental Person bears risk of loss of the Financed Property. Private Business Use of Financed Property that is not available for General Public Use may also be established on the basis of a special economic benefit to one or more Nongovernmental Persons even if such Nongovernmental Persons do not have a special legal entitlement to the use of the Financed Property. In determining whether special economic benefit gives rise to Private Business Use, it is necessary to consider all of the facts and circumstances, including one or more of the following factors: (i) whether the Financed Property is functionally related or physically proximate to property used in the Trade or Business of a Nongovernmental Person, (ii) whether only a small number of Nongovernmental Persons receive the economic benefit, and

(iii) whether the cost of the Financed Property is treated as depreciable by the Nongovernmental Person.

"Service Contract" means a contract under which a Nongovernmental Person will provide services involving all, a portion or any function of any Financed Property. For example, a Service Contract includes a contract for the provision of management services for all or any portion of Financed Property. Contracts for services that are solely incidental to the primary governmental function or functions of Financed Property (for example, contracts for janitorial, office equipment repair, billing, or similar services) are not included in this definition. Additional contracts not included in this definition are (i) a contract to provide for services by a Nongovernmental Person in compliance with Revenue Procedure 97-13, 1997-1 C.B. 632, as modified by Revenue Procedure 2001-39, I.R.B. 2001-28, (ii) a contract to provide for services by a Nongovernmental Person if the only compensation is the reimbursement of the Nongovernmental Person for actual and direct expenses paid by the Nongovernmental Person to unrelated parties and (iii) a contract to provide for the operations by a Nongovernmental Person of a facility or system of facilities that consists predominately of public utility property (within the meaning of Section 168(i)(10) of the Code), if the only compensation is the reimbursement of actual and direct expenses of the Nongovernmental Person and reasonable administrative overhead expenses of the Nongovernmental Person.

"Trade or Business" has the meaning set forth in Section 141(b)(6)(B) of the Code, and includes, with respect to any Nongovernmental Person other than a natural person, any activity carried on by such Nongovernmental Person. "Trade or Business" for a natural person means any activity carried on by such natural person that constitutes a "trade of business" within the meaning of Section 162 of the Code.

**RECIPIENT ENTITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Board Agenda Item  
June 25, 2019

ACTION – 15

Board Approval of Authorization Process for Non-Public Safety Agencies to Participate in the Public Safety Unmanned Aircraft Systems (UAS) Program

ISSUE:

Board approval for an authorization process for a non-public safety department or agency requesting to operate unmanned aircraft systems under the public safety Unmanned Aircraft System Program (UAS).

RECOMMENDATION:

The County Executive recommends approval by the Board of Supervisors.

TIMING:

Board approval is requested on June 25, 2019.

BACKGROUND:

The Board approved an Unmanned Aircraft Systems (UAS) program on May 21, 2019. As requested, the approval was limited to public safety use only, specifically the Office of Emergency Management, Fire and Rescue Department, Police Department and Sheriff's Office. This program is designed to support a variety of public safety missions with a focus on life safety. Identified mission types include, but are not limited to, search and rescue, operational planning, emergency management, flooding assessment, post-disaster or incident damage assessment, crash reconstruction, fire incident/scene management and investigations, hazardous materials responses, and wildlife estimation. Unmanned aircraft will also be an asset during deployments for the Fire and Rescue Department's Urban Search and Rescue (USAR) team.

Board adoption of the UAS program for public safety followed significant discussion at several Public Safety Committee meetings, the creation of a UAS Task Force, a community outreach and input process, and subsequent revisions to the proposed program and policies. Significant discussion and policy development was to ensure compliance with the *Code of Virginia*, establish safety and training protocols, provide for the protection of privacy and civil rights, develop operational safeguards to reduce potential inadvertent recording or transmittal of images of persons or properties unrelated to the mission being conducted, and to adopt a posture of minimal data collection and retention.

Board Agenda Item  
June 25, 2019

Following Board approval of the UAS program for public safety Supervisor John Cook, in a Board Matter dated May 21, 2019, and approved by the Board, directed that any other non-public safety County department or agency, including the Park Authority, wanting to also use UAS in the future be required to first obtain Board authorization and that an approval process be developed. This Action Item is in response to that Board Matter.

Board approval of any program expansion is important to maintain community trust and awareness of other potential UAS use, maintain program integrity, avoid duplication of efforts and resources, leverage policies, expertise, and training, and to incorporate other departments and agencies into the same UAS governance, review, and oversight structure.

To request Board approval to operate UAS any non-public safety County department or agency shall detail in a memorandum to the Board the:

- intended purpose and scope of a UAS program
- operational benefits
- mission types
- data/imagery collection and retention policies
- planned operational procedures to avoid inadvertent recording of persons or properties unrelated to a mission
- agreement to comply with the provisions of the adopted UAS Program Manual and the UAS program governance structure, or clearly articulate any exceptions being requested
- agreement to assign a department or agency specific UAS program coordinator who will also serve on the UAS Steering Committee.
- anticipated costs and whether these will be absorbed by the department or agency or if funding will be requested

Board members will be provided a minimum of three weeks to review the memorandum and to have the opportunity to ask questions, provide concerns or comments, request additional clarification, or note an objection.

If no Board member notes any objections the requesting department or agency may then submit an Action Item for Board consideration of UAS program expansion. However, if any Board member notes an objection the department or agency shall be required to first present its proposed UAS program to the Public Safety Committee for discussion and guidance as to any next steps.

Any agency or department with questions about the public safety UAS program, the UAS Program Manual, FAA requirements, or any other aspect of UAS operations or needing any assistance in preparing a memorandum for the Board or a presentation for

Board Agenda Item  
June 25, 2019

the Public Safety Committee may contact the UAS Program Manager or the Deputy County Executive of Public Safety.

Proposed language for this UAS approval procedure, if adopted by the Board, has been included and highlighted in Attachment 1 (pp. 5-6) and will be incorporated if approved.

FISCAL IMPACT:

None for this item. Costs for any future UAS program expansions would be detailed in those requests.

CREATION OF NEW POSITIONS:

There are no positions being requested.

ENCLOSED DOCUMENTS:

Attachment 1 - Fairfax County UAS Program Manual

STAFF:

David M. Rohrer, Deputy County Executive  
Roy Shrout, Deputy Coordinator, Office of Emergency Management

ASSIGNED COUNSEL:

John W. Burton, Assistant County Attorney



**Fairfax County Government**

# **PROGRAM MANUAL**

## **UNMANNED AIRCRAFT SYSTEMS (UAS)**

**Date: May 21, 2019**

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## **PROGRAM MANUAL PURPOSE**

The purpose of this program manual is to provide a set of operational policies and procedures to promote the safe, effective, efficient, responsible, and lawful operation of the Fairfax County Unmanned Aircraft Systems (UAS) program. This program manual applies specifically to public use of Unmanned Aircraft Systems by approved County agencies and does not apply to civil use by residents or private businesses or organizations.

This program manual was developed through coordination with multiple participating agencies and stakeholders, the establishment of a UAS Task Force, and community engagement and input. This manual will be considered a living document and will be revised as required due to any legislative, regulatory, or policy revisions, best practices, or any change in the concept of operations.

Important aspects of this manual are the focus on responsible and accountable operations; the safety of the public and UAS flight crews; the protection of individuals' privacy, civil rights and civil liberties; compliance with all applicable federal, state, and local laws, regulations, and policies; public information; data management; and operational and training requirements.

To demonstrate transparency and maintain community trust the Fairfax County UAS program will provide information about the program and missions on a dedicated County UAS webpage and provide alert notifications to the public for any flights. Community engagement is to be a cornerstone of the program.

All Fairfax County UAS Part 107 certified employees and volunteers shall adhere to the guidelines in this program manual and any additional participating County agency specific requirements to maintain the highest level of standards, safety, and professionalism while operating a UAS.

## **MISSION STATEMENT**

The Fairfax County UAS program will provide an enhanced level of operational capability, safety, and situational awareness for first responders, approved participating agencies, and decision-makers by delivering relevant high-quality imagery, data, and customized geospatial solutions using unmanned aircraft in a responsible and transparent manner to maintain the public trust.

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## SECTION 1: OVERVIEW

### UNMANNED AIRCRAFT SYSTEMS (UAS) PURPOSE

Unmanned Aircraft Systems (UAS) provide enhanced operational capability, safety, and situational awareness for first responders, other staff or volunteers, affiliated partners, and the community. They can operate in many types of environments (natural or manmade), or other critical incidents which might be hazardous to the safety of first responders or others. UAS provides a unique, viable, safe, versatile, supplemental tool for incident commanders and first responders. UAS also have a cost benefit compared to manned aircraft. UAS is not a replacement for manned aircraft that have a different set of capabilities, but for some missions UAS provide first responders with a tool that can access areas where manned aircraft cannot fly due to weather or other safety regulations. UAS provides a viable, safe, and supplemental asset to other manned aircraft assets.

### APPROVED COUNTY UAS DEPARTMENTS/AGENCIES

The Fairfax County UAS program was approved, and this program manual adopted, by the Board of Supervisors on May 21, 2019. The current Board approval is for specific public safety use only by the below listed agencies:

- Fire and Rescue Department
- Office of Emergency Management
- Police Department
- Sheriff's Office

To request Board approval to operate UAS any non-public safety County department or agency shall detail in a memorandum to the Board the:

- intended purpose and scope of a UAS program
- operational benefits
- mission types
- data/imagery collection and retention policies
- planned operational procedures to avoid inadvertent recording of persons or properties unrelated to a mission
- agreement to comply with the provisions of this UAS Program Manual and the UAS program governance structure, or clearly articulate any exceptions being requested
- agreement to assign a department or agency specific UAS program coordinator who will also serve on the UAS Steering Committee.
- anticipated costs and whether these will be absorbed by the department or agency or if funding will be requested

Board members will be provided a minimum of three weeks to review the memorandum and to have the opportunity to ask questions, provide concerns or comments, request additional clarification, or note an objection.

If no Board member notes any objections the requesting department or agency may then submit an Action Item for Board consideration of UAS program expansion. However, if any Board

member notes an objection the department or agency shall be required to first present its proposed UAS program to the Public Safety Committee for discussion and guidance as to any next steps.

Any agency or department with questions about the public safety UAS program, the UAS Program Manual, FAA requirements, or any other aspect of UAS operations or needing any assistance in preparing a memorandum for the Board or a presentation for the Public Safety Committee may contact the UAS Program Manager or the Deputy County Executive of Public Safety.

Board approval of any UAS use is important to maintain community trust and awareness, maintain program integrity, avoid duplication of efforts and resources, leverage policies, expertise, and training, and to incorporate other departments and agencies into the same governance, review, and oversight structure.

### **ANNUAL EXECUTIVE SUMMARY**

The Fairfax County UAS Program Manager, in coordination with the UAS Steering Committee, will develop an annual executive summary to highlight program accomplishments, outline mission summaries, and provide information about the number of deployments, hours flown, support for other localities or partner agencies. Any significant revisions to this manual or other relevant policies will also be identified in the summary. This summary will be posted to the County webpage and will also be available to those persons without electronic access upon request.

### **PUBLIC EDUCATION AND INVOLVEMENT**

To be transparent and maintain community trust, in the development of this program a UAS Task Force, with community representation was established, and the community was invited to participate in information and question sessions, or to otherwise review and comment on the use of UAS technology and this policy manual online or through email.

Transparency and community engagement will continue to be an integral program component, with multiple methods and strategies to not only provide information, but to also continue to seek and allow public comment on the purpose of the program, equipment, capabilities, policies, safety protocols, and safeguards to protect individuals' privacy, civil rights, and civil liberties. These methods and strategies will include but not limited to the following:

- Provide presentations at community meetings, town halls or special events. Invite media representation as possible.
- Community representation on the UAS Steering Committee.
- Predisposition to the release of information on the program, policies, missions, flight data, logs, etc.
- Provide public demonstrations to showcase the County's capability and provide public information and education on the UAS program.
- Establish and maintain a UAS webpage for transparency and to provide the public information on policy, equipment, training, mission types, and FAQs.

- Biennial formal assessment of the UAS program with community participation.
- Fairfax County Park Authority sponsored beginner classes to educate the community about UAS.
  - Special events and programs focusing on safety and UAS philosophy.
  - Both indoor and outdoor flight opportunities.

### **COUNTY UAS WEBPAGE**

A key County principle is to provide transparency and information to the public. As part of a multi-tiered approach to this principle the UAS program will maintain a dedicated County webpage that will provide links to the UAS Program Manual, policies and procedures, information on missions flown, program updates, and locations where members of the public may fly personal drones in compliance with Federal restrictions in permitted areas of UAS flight.

Website: <https://www.fairfaxcounty.gov/uas>

### **PUBLIC COMMENT / REQUESTS**

An email account has been created to provide access to the County UAS program for the public to ask questions about the program, offer feedback or suggestions, or notify of a complaint. The UAS Program Manager will be responsible for monitoring this email account and responding or coordinating responses with appropriate agencies.

Email address: [UAS@fairfaxcounty.gov](mailto:UAS@fairfaxcounty.gov)

### **PUBLIC ALERTING / NOTIFICATION**

A UAS notification group has been created in Fairfax Alerts that will provide the public the opportunity to sign up for notifications for missions or training flights. These alerts will be sent geo-coded only to the immediate area in which flight operations which will be conducted within line of sight of the Pilot in Command and any visual observer, will be taking place. Other existing alternative alert/notification methods may be used in certain instances, particularly if an emergency or critical incident is occurring. The respective agency program coordinator or incident commander will be responsible for ensuring timely public notification.

### **PUBLIC / MEDIA INTERACTION DURING OPERATIONS**

While on a mission assignment, it is likely that members of the public and/or media may approach the flight crew and attempt to observe the operation, ask questions, request an interview, or take pictures or video of the operation. Flight crew members are expected to be respectful, but their priority is safety of all involved.

Flight crew members or other representatives of the UAS program are encouraged to speak with the public and media about the program or the mission provided it is safe, does not interfere with flight operations, or compromise the integrity of any mission. When possible, designate a safe area for the public or media to assemble and observe.

The flight crew may request support from other County agencies, such as police, if needed to establish a safe perimeter and/or request a PIO to respond to assist.

Flight crews are to ensure that any sensitive mission information is not readily accessible by the public or media visually or using video or other photographic equipment.

In the event the public or media wants to fly their own unmanned aircraft near or within an active airspace, flight crews or other support staff may, if necessary, ask them to avoid flight operations in the immediate area due to safety and security concerns, or provide other reasonable mitigation and deconfliction measures, such as assigning perimeter zones or different altitudes, etc. The Pilot in Command has the ultimate authority and responsibility to continue or abort any mission if safety or mission effectiveness or security is compromised.

### **CONCERNS / COMPLAINTS / QUESTIONS**

If a member of the public has a concern or would like further information about the program or a specific flight or UAS operator, that request will be handled first through the UAS Program Manager and then followed up with the respective Agency Program Coordinator as needed.

Any complaint that alleges a privacy, civil rights, or civil liberties violation, or other type of complaint, will be handled in accordance with established County or respective agency policy. Efforts will be made to respond to a complaint within 48 hours of notification unless the initial contact falls during a weekend or holiday.

All requests, questions or comments should be directed through the UAS program email account: [UAS@fairfaxcounty.gov](mailto:UAS@fairfaxcounty.gov).

### **UAS EQUIPMENT CAPABILITIES**

Each of the aircraft used in the UAS program brings a variety of technology and flight capabilities. Enhanced capabilities include:

- Operate in environments that are hazardous or potentially hazardous to personnel.
- Provide High Definition video and photographs.
- Thermal imaging/Forward-Looking Infrared Radar (FLIR).
- Carry an external payload (flotation device, radio, medication, automated external defibrillator (AED)).
- Operate in virtually all-weather conditions.
- Take off and land autonomously.
- Onboard passive collision detection.
- Autonomous return to home during loss of signal or reduced battery strength.

### **PROHIBITED USES**

The UAS program and equipment shall not be used for the following:

- UAS flights in airspace prohibited by applicable Federal and state regulations unless a waiver of the applicable restriction is obtained prior to a flight.
- UAS flights beyond visual line of sight (BVLOS).

- As a weapon or otherwise modified to deploy any projectile, chemical agent, or electric shock analogous to that of an electronic control weapon.
- To conduct unauthorized surveillance activities.
- To collect or use data in any manner that would harass, coerce or discriminate against any person(s) based upon their ethnicity, race, gender, national origin, religion, sexual orientation, or gender identity.
- In violation of the United States Constitution, federal laws or regulations, or the Code of Virginia. When a search warrant is required by law, and no warrant exception exists, flight is prohibited unless authorized by a search warrant signed by a magistrate.
- Routine police patrol operations.
- In conditions that exceed the manufacturer's recommended limitations, including but limited to range, ceiling, wind strength, and battery charge.
- In other than Class G airspace unless specific authorization is granted by the FAA.
- Daisy-chaining observers to extend line-of-sight.
- To intentionally gather intelligence related to First Amendment protected speech, associations, or activity.
- For personal use of any type.
- To intentionally pursue, harass, disturb, or destroy wildlife.

## **MISSION PROFILES**

Listed below are examples of the types of missions for which UAS systems may be deployed. This list is not exhaustive, and other types of missions may be flown provided they follow County and agency policies and are approved by the incident commander or remote Pilot-in-Command.

- Damage Assessment (natural or man-made event)
  - Structural, flood related, environment, transportation, pipeline breaks, and rail incidents.
  - Enhanced search grids through onboard software.
- Search and Rescue Missions (individuals, aircraft, vehicles and objects)
  - Search for endangered or critical missing individuals.
  - Provide a large-scale overview of the search area.
  - Identify potential hazards for search teams and vehicles.
  - Allow for limited tracking of search teams in an area.
  - Provide photographic and video capability and analysis.
  - Scene awareness and life safety to identify potential hazards to responders.
- Fire Scene Management
  - Overflight of structure fires (residential and commercial) by providing a 360-degree view for the incident commander.
  - Aerial management and coordination for large outside fires to help determine the extent of coverage and identify structures, exposures or another infrastructure that may be impacted.
  - Assist in helping account for personnel on the fire ground.



- Provide real-time aerial video footage of large-scale incidents.
- Assist in evaluating hazards, structure integrity and helping to ensure scene safety.
- Fire / Explosives Investigations
  - Assist fire investigators in assessing and documenting fire scenes for an overall scope of the scene.
  - Provide detailed overhead views of large fire scenes from multiple angles and is safer than placing aerial ladders in multiple locations to get aerial photos. This is both a time saving and safety issue. The UAS can also zoom in or fly in to get extreme close-up photos and distant scene photos that would normally require the use of the County Police's helicopter unit or other aviation assets.
  - Assist Blasting Enforcement Officer in developing requirements for blast site safety zones for commercial blasting projects.
  - Assist in post blast investigations in locating blast scene radius and areas impacted by an explosion.
- Hazardous Materials
  - Infrared (IR) Forward-Looking Infrared (FLIR) capabilities of the UAS in tracking flows of hazardous materials on waterways during a hazardous materials incident.
  - Assist with hazard identification and development of safety measures.
  - Provide area reconnaissance information without placing personnel in potentially hazardous locations:
    - Assist in determining hazardous materials involvement.
    - Determine potential run-off/movement of hazardous materials.
    - Ensure area is clear of the public.
- Urban Search and Rescue (USAR)
  - Assist with area reconnaissance including urban, suburban and rural locations.
  - Assist with personnel tracking and accountability in wide area search.
  - Provide real-time aerial video footage of rescue operations including but not limited to:
    - Trench rescue.
    - Structural collapse.
    - Swift water rescue.
- Plan Development
  - Assist the Fairfax Joint Local Emergency Planning Committee (FJLEPC) staff in developing site specific Hazardous Materials Emergency Response Plans (HMERP) for large critical hazard facilities and surrounding communities. Examples are waste and fresh water treatment facilities, and petroleum tank farms that cover many acres and are adjacent to residential and/or commercial communities and environmentally sensitive areas.
- Infrastructure
  - Assess hazardous pipeline infrastructure within Fairfax County to evaluate possible leaks and impacts during incidents or pipeline repair projects. This will assist in locating possible critical areas, communities, and sensitive environmental

- areas that could be impacted by hazardous chemicals leaks or be impacted by normal repairs and inspections of the pipelines.
- Critical Infrastructure Assessment (bridges, antenna towers, stream and water management).
- Public Safety
  - Provide aerial mapping support to assist in crash reconstruction.
  - Provide aerial mapping, photographing and analyzing crime scenes.
  - Provide real-time traffic impact assessment and 3D mapping due to vehicle crashes or significant events (such as road backups/alternate routes of travel, weather, or evacuations).
  - Provide real-time situational awareness during managed deer hunts and sharpshooting operations on approved parklands to help provide an additional layer of safety for those involved and surrounding properties and residents.
  - Perimeter security.
- Dive Team Support
  - Reconnaissance of the area for best access points into the water.
  - Potentially identify the location of a missing vehicle/person (shadows, tire marks).
  - Scene awareness to identify potential hazards to responders.
- Geospatial Data Acquisition
  - Orthomosaics.
  - Elevation Surfaces.
  - Digital Surface Models.
  - 3D Point Clouds.

## SECTION 2: LAW ENFORCEMENT USE OF UAS

It is important to distinguish between “general public safety missions” and the use of UAS technology by law enforcement. This policy has been developed in a manner that equally values security, safety, and privacy.

The following provisions specifically apply to the use of UAS technology by the Fairfax County Police Department (FCPD). The FCPD, consistent with other UAS user agencies, will promulgate specific agency guidelines in alignment with this program manual.

- A. The UA is lawfully authorized for use by the Fairfax County Police Department under the following circumstances:
  1. During the execution of a valid search warrant, including forensic crime scene processing and documentation, or in accordance with the exceptions as outlined in [Va. Code Ann. § 19.2-60.1](#). (see *Code of Virginia section, pp. 23-24*)
  2. An unmanned aircraft system may be deployed without a warrant:
    - a. When an Amber Alert is activated pursuant to [Va. Code Ann. § 52-34.3](#)
    - b. When a Senior Alert is activated pursuant to [Va. Code Ann. § 52-34.6](#)
    - c. When a Blue Alert is activated pursuant to [Va. Code Ann. § 52-34.9](#)
    - d. Where use of an unmanned aircraft system is determined to be necessary to alleviate an immediate danger to any person. Examples that may meet the “Immediate danger” threshold include, but are not limited to:
      - Missing Endangered Person
      - Suicidal/Homicidal Person
      - Barricaded/Armed Suspect
      - Fleeing Suspect considered armed and dangerous
      - Active Shooter incidents
      - Bomb/Improvised Explosive Device Incidents
      - Hazmat situations
    - e. To investigate a traffic crash, where a report is required pursuant to [Va. Code Ann. § 46.2-373](#), to survey the scene for the purpose of crash reconstruction and scene documentation.
    - f. For purposes related to training, testing, and equipment evaluation.

- g. If operated in a location where a person with legal authority consents to a warrantless search.
- B. The primary missions of the FCPD UAS Program are:
- Search and Rescue
  - Crash reconstruction
  - Forensic documentation
- C. UAS operators shall take all reasonable precautions to avoid inadvertently recording or transmitting images of individuals and areas uninvolved with the mission.
- D. Reasonable precautions to avoid inadvertent viewing and/or recording of uninvolved persons may include the following:
1. Deactivating or turning recording devices away from certain areas, structures, or persons during UAS operations.
  2. Focusing on the areas necessary to the mission to minimize the inadvertent collection of data about uninvolved persons or places.
  3. In many operations, it may be prudent and appropriate, to not use any of the UAS's recording capability during an operation, and instead use only the UAS live feed transmission capability to avoid creating "unintended images" of people or activities outside the scope of the investigation.
- E. If an FCPD UAS must be flown over private property enroute to an authorized flight area, the PIC shall operate the UAS in a manner, and at an altitude to avoid disturbing any persons on the ground.
- F. The need, availability, and use of the UAS shall never supersede the obtaining of a search warrant when such a warrant is required under Virginia law. FCPD shall not circumvent search warrant requirements by requesting any non-law enforcement or regulatory agencies to fly missions on its behalf.
- G. Transparency regarding UAS operations, including how the agency deploys and operates the technology, fosters an informed community and promotes greater public trust. If asked, operators should inform individuals that they are using a UAS, and the purpose for the use if the disclosure does not jeopardize any operation or investigation.

## **SECTION 3: ADMINISTRATION**

### **STEERING COMMITTEE**

A Fairfax County UAS Steering Committee will be formed and meet at least once every three (3) months. The committee will report to the Deputy County Executive for Public Safety and will include representatives from the Office of Emergency Management, Fire and Rescue Department, Police Department, Sheriff's Office, Office of the County Attorney, Risk Management Division, Department of Information Technology, Office of Public Affairs, Park Authority, and any other participating county agency approved to possess or use UAS technology. Appropriate staff from any relevant state or federal agency may also be included.

A minimum of two community or organization members, with commensurate experience, interest, and knowledge, will also be selected and appointed as members of the Steering Committee to provide a community perspective, protect and promote civil liberties and privacy, ensure program compliance, and enhance community engagement and trust.

The committee will be responsible for supporting the UAS Program Manager, administering the County UAS program, developing the annual executive summary, ensuring that the program complies with all applicable federal, state, and local laws, regulations, and policies, ensuring coordination among participating agencies, updating the program manual, and reviewing best practices and new technology.

### **UAS PROGRAM MANAGER**

The UAS Program Manager will be designated by, and report to, the Deputy County Executive for Public Safety, and will serve for a period of 2 years. The designation will be made following consultation with members of the Steering Committee. The Program Manager is responsible for the oversight of the Fairfax County UAS program and will work closely with all the agency program coordinators.

### **Position Requirements**

- Current Fairfax County government employee.
- Current Remote Pilot Certificate issued by the FAA with small UAS rating.

### **Duties**

- Member of the UAS Steering Committee.
- Develop the annual Executive Summary.
- Coordinate all County UAS training.
- Manage and update the UAS Program Manual.
- Coordinate the Public Program Evaluation Program.
- Provide updated information to all agency program coordinators.
- Manage the County UAS email account and webpage.
- Maintain FAA certifications.

- Liaison with FAA, Virginia Public Safety UAS Council, Commonwealth of Virginia Unmanned Aerial Systems Sub-Panel, and the Washington Metropolitan Council of Governments (COG).
- Participate in local/regional committee meetings.
- Coordinate with external partners.
- Work closely with County senior leadership.
- Maintain flight proficiency as prescribed in this program manual.
- Maintain and update the County FAA Certificate of Authorization (COA).

## **AGENCY PROGRAM COORDINATORS**

Each participating agency shall designate an Agency Program Coordinator to support the UAS Program Manager and coordinate an agency's UAS policies, operations, training, documentation, resource management, and data management. The UAS Program Manager shall maintain a list of current Agency Program Coordinators.

### **Position Requirements**

- Current Fairfax County government employee.
- Designated by the agency director or designee.

### **Duties**

- Member of the UAS Steering Committee.
- Manage an agency's UAS program in coordination with the UAS Program Manager.
- Coordinate agency training and all ensure operational guidelines are followed.
- Disseminate revisions to the UAS Program Manual to all agency flight crews and revise any respective agency policies as needed.
- Keep current on best practices and technology and make appropriate recommendations.
- Ensure that all aircraft updates and enhancements are downloaded.
- Ensure that data management/access and retention guidelines are being followed.
- Ensure preventive/operational maintenance is performed to standards and documented.
- Maintain copies of all training certificates, flight logs and maintenance logs.
- Respond to County program email as applicable.
- Responsible to ensure any respective agency standards of operating procedures, general orders, or other policy is updated.
- Conduct indoctrination training to new UAS members.
- Oversee procurement of UAS equipment.
- Conduct audits of agency flight and maintenance logs semiannually.

**PROGRAM MANUAL REVISIONS**

The UAS Program Manual will be reviewed periodically as required to incorporate any revisions due to federal, state, or local legislative, regulatory, or policy revisions, operational assessments, or best practices. At a minimum, the UAS Program Manual will be reviewed and updated, as needed, annually. Revisions will include additions of new or supplementary material, deletions of outdated information or changes in industry best practices. No proposed revision should contradict or override authorities or other plans contained in statute or regulation. All requests for revisions will be submitted to the Fairfax County UAS Steering Committee for coordination, approval, and distribution. Any department or agency approved for UAS use may also propose revisions to the UAS Program Manual. Program manual revisions shall be reviewed and approved by the Deputy County Executive for Public Safety.

**NOTICE OF REVISION**

Notices of revision to the UAS Program Manual will be prepared and distributed by the UAS Steering Committee for all revisions made outside of the scheduled revision process. The notice of revision will include the effective date, revision number, subject, purpose, and action required by the UAS program team. The notice of revision will include revised pages for replacement within the UAS Program Manual.

**Sample Record of Revision Form**

Number	Date	Date Entered	Entered By
1.1	DD/MM/YEAR	DD/MM/YEAR	First Last

## **PROGRAM EVALUATION**

Although program evaluation and improvement will be an ongoing objective, to ensure that the Fairfax County UAS program continues to evolve and maintain a high level of transparency the UAS Steering committee will schedule a formal evaluation of the UAS program, policies, and practices every two years (biennially). The first of these should begin on or about June 1, 2021. Representatives from the Steering Committee and the community will participate in this review process.

At a minimum, the review process will include the following:

- Review of the UAS program, practices, and policies.
- Review of any applicable federal, state, or local code or regulation amendments or additions to evaluate the need to make any programmatic or training revisions.
- A 30-day public comment period.
- Production of an executive summary of any revisions or recommended revisions.
- Update of the UAS program manual and any required training materials.
- Data storage and retention.

After the program evaluation process has been completed a copy of the executive summary and the updated UAS program manual will be published on the Fairfax County UAS webpage.

## **REQUIRED REPORTS / CERTIFICATIONS**

The Fairfax County UAS program has specific reporting and certification requirements, to include:

- Annual review of the pilot and maintenance logs.
- Annual maintenance review of all aircraft, controllers, and spare parts.
- Annual Executive Summary.
- Applicable FAA and National Capitol Region waivers.
- Annual review and update of the UAS Operations Manual.
- Annual review of all training conducted.
- Quarterly update to county webpage.
- Maintain applicable FAA Remote Pilot knowledge and certifications.

The UAS Program Manager shall have the responsibility, in coordination with the Steering Committee, to ensure the timely completion of these reporting requirements.

## **MEMORANDUMS OF UNDERSTANDING / MUTUAL AID**

Applicable existing MOUs and Mutual Aid agreements will be relied upon when providing support to other localities within the National Capital Region. All guidelines as outlined in this program manual will be followed when supporting another locality or agency. Additional or revised language may be required in current MOUs/MOAs/Mutual Aid agreements based on the restrictive nature of this UAS program.



## **SECTION 4: REGULATORY**

All flights, regardless if operational or training, shall comply with all applicable federal, state, and local laws and regulations. All flights will be conducted following all applicable FAA regulations pertaining to the operations and certification of small Unmanned Aircraft Systems including but not limited to Title 14 CFR and Part 107.

Fairfax County will conduct UAS flight operations under either a FAA Certificate of Authorization (COA) or as a Civil Operator. This COA grants permission to fly within specific parameters established by the FAA.

To fly in controlled airspace and comply with Part 107, prior to any flight, Fairfax County will be required to obtain airspace authorization.

FAA rules do not allow flights beyond the line of sight of the Pilot in Command or visual observers without a FAA waiver. Consequently, the Fairfax County UAS program will not make flights beyond visual line of sight (BVLOS), and has not applied for such a waiver. Any future request to seek a waiver for BVLOS shall require Board of Supervisors' approval.

All FAA advisories, circulars, orders, bulletins or notices will be reviewed by the UAS Program Manager. Any changes that may impact the Fairfax County program will be updated to this program manual and the changes distributed per the record of manual changes section.

### **ADDITIONAL FAA COMPLIANCE**

The program will comply with any additional information or regulatory requests from the Federal Aviation Administration (FAA) to include, for example:

- Any document, record, or report on:
  - Aircraft registration.
  - Flight records.
  - Incident reports.
  - Deviation from regulations.
  - Authorization from air traffic control (ATC).
  - Waiver from specific provisions (as appropriate).
- FAA may require upon request, to test or inspect:
  - Aircraft.
  - The remote pilot in command or person manipulating the flight controls.
  - Visual observer.
- Report any accident within 10 days that meets the following criteria:
  - Causes serious injury to any person or who has a loss of consciousness.
  - Damage to any property, other than the aircraft, greater than \$500.

Under every circumstance in which the FAA becomes involved, the Pilot in Command shall notify their respective Agency Program Coordinator within 24 hours. The Agency Program Coordinator

must make appropriate notification to their agency chain of command and the UAS Program Manager.

In the event of any UAS accident, regardless if it meets the FAA threshold for a reportable accident, the Pilot in Command must notify their Agency Program Coordinator, UAS Program Manager, and Fairfax County Risk Management Division.

### **REPORTING REQUIREMENTS**

While flying under an FAA approved Certificate Authority (COA) the following requirements will be adhered to at a minimum. There may be additional requirements as outlined in a Fairfax County COA that are not yet listed in this section. Those additional requirements are to be followed as well. Once a COA has been approved by the FAA this section will be updated to reflect the full extent of requirements.

- Documentation of all operations associated with UAS activities is required regardless of the airspace in which the UAS operates. NOTE: Negative (zero flights) reports are required.
- The Proponent must submit the following information monthly through the COA Application Processing System (CAPS):
  - Name of Proponent, and aircraft registration number,
  - UAS type and model,
  - All operating locations, to include city name and latitude/longitude,
  - Number of flights (per location, per aircraft),
  - Total aircraft operation hours,
  - Takeoff or landing damage, and
    - Equipment malfunction. Required reports include, failures or malfunctions to the:
      - Control station
      - Electrical system
      - Fuel system
      - Navigation system
      - On-board flight control system
      - Power plant
  - The number and duration of lost link events (control, performance and health monitoring, or communications) per UAS, per flight.

### **INCIDENT/ACCIDENT/MISHAP REPORTING**

After an incident or accident that meets the criteria below, and within 24 hours of that incident, accident or event described below, the proponent must provide initial notification of the following to the FAA via email at mail to: [9-AJV-115-UASOrganization@faa.gov](mailto:9-AJV-115-UASOrganization@faa.gov) and via the UAS COA On-Line forms (Incident/Accident).

- All accidents/mishaps involving UAS operations where any of the following occurs:
  - Fatal injury, where the operation of a UAS results in a death occurring within 30 days of the accident/mishap
  - Serious injury, where the operation of a UAS results in:
    - Hospitalization for more than 48 hours, commencing within 7 days from the date of the injury was received;
    - A fracture of any bone (except simple fractures of fingers, toes, or nose);
    - Severe hemorrhages, nerve, muscle, or tendon damage;
    - Involving any internal organ; or
    - Involves second or third-degree burns, or any burns affecting more than 5 percent of the body surface.
  - Total unmanned aircraft loss
  - Substantial damage to the unmanned aircraft system where there is damage to the airframe, power plant, or onboard systems that must be repaired prior to further flight
  - Damage to property, other than the unmanned aircraft.
- Any incident/mishap that results in an unsafe/abnormal operation including, but not limited to:
  - A malfunction or failure of the unmanned aircraft's on-board flight control system (including but not limited to navigation)
  - A malfunction or failure of ground control station flight control hardware or software (other than loss of control link)
  - A power plant failure or malfunction
  - An in-flight fire
  - An aircraft collision involving another aircraft.
  - Any in-flight failure of the unmanned aircraft's electrical system requiring use of alternate or emergency power to complete the flight
  - A deviation from any provision contained in the COA
  - A deviation from an ATC clearance and/or Letter(s) of Agreement/Procedures
  - A lost control link event resulting in
    - Fly-away, or
    - Execution of a pre-planned/unplanned lost link procedure.

Initial reports must contain the information identified in the COA On-Line Accident/Incident Report. Follow-on reports describing the accident/incident/mishap(s) must be submitted by providing copies of proponent aviation accident/incident reports upon completion of safety investigations.

The above procedures are not a substitute for separate accident/incident reporting required by the National Transportation Safety Board under 49 CFR Part 830 §830.5.

For other than Department of Defense operations, this COA is issued with the provision that the FAA be permitted involvement in the proponent's incident/accident/mishap investigation as prescribed by FAA Order 8020.11, Aircraft Accident and Incident Notification, Investigation, and Reporting.

## SECTION 5: PROTECTION OF PRIVACY, CIVIL RIGHTS, AND CIVIL LIBERTIES

UAS technology is an emerging field, particularly for use in public safety. Although the potential benefits and enhanced capabilities are substantial, concerns exist that UAS may be misused or abused, particularly by law enforcement agencies. UAS operators, observers, and support staff shall ensure the protection of individuals' civil rights, civil liberties and privacy in any UAS deployment. To accomplish this primary goal:

- All agency use under the County UAS program will comply with the *Code of Virginia*, to expressly include § 19.2-60.1., set forth below. This code section prohibits the use of this technology by law enforcement or regulatory agencies with enforcement authority without a valid search warrant except in carefully defined circumstances. Prior to implementing an agency UAS program, the Police Department will develop and maintain training for supervisors and commanders relevant to this code section to ensure compliance. Other participating entities with authority to enforce criminal law or regulatory violations, such as Fire Marshals, will also develop and maintain relevant training, and be required to also comply with the provisions of § 19.2-60.1. Any allegations or violations will be reported and investigated in accordance with County and department policies.
- All UAS users, regardless of agency, shall adopt a posture of minimal data collection, limited to only that data, including images or video recordings, which are essential to complete the objective of the UAS mission.
- All personnel operating a County UA shall take every reasonable precaution to avoid inadvertently recording or transmitting images of individuals and properties unrelated to the mission. To the maximum extent possible, onboard cameras shall be directed toward the area of interest and away from uninvolved individuals or properties to minimize such inadvertent recording or transmission of images.
- Unless required by an articulable operational purpose, the recording of data imagery shall not begin until the UA has arrived at the location designated for the mission.
- All personnel operating a County UA, including non-law enforcement or regulatory personnel, shall be knowledgeable about individual privacy rights, civil rights, civil liberties and Va. Code § 19.2-60.1.
- Non-law enforcement agencies or other regulatory agencies shall not be requested to fly missions on behalf of law enforcement or any regulatory agency in order to circumvent any search warrant requirements.
- UA live feed only transmit capability will be the normal, preferred UAS use by the Pilot in Command, on-scene commander, incident command post (ICP), Emergency Operations Center (EOC), or another Department Operation Center (DOC). The video or camera capability may be used during an operation if essential, but only at the discretion of the requesting agency / incident commander, following an approved checklist and with the rationale provided in a post-incident report.
- All video and still images will be maintained in strict compliance with Fairfax County and the Library of Virginia policies and procedures. Recorded data should not be retained

beyond any period required by Virginia law. Agencies shall conduct regular audits to ensure that recorded data is not retained beyond these time periods and is destroyed in compliance with Library of Virginia guidelines. See *Appendix A* for the retention periods applicable to certain data imagery.

- All persons who have access to any County UA storage medium must have passed a County approved background check. County agencies maintaining imagery data will keep a complete and accurate record, including identity and purpose, of every access to such data by persons or organizations.
- The video is stored onboard the aircraft. The video transmission from the aircraft uses an encrypted data link. The video is viewable by the operator of the UAS utilizing a monitor at the ground control station.
- The UAS Program will employ reasonable technological or administrative safeguards to ensure that images incidentally or inadvertently recorded are not misused, disseminated or viewed unnecessarily to protect individual rights. The UAS training program shall include topics on Va. Code § 19.2-60.1, the protection of individuals' privacy, civil rights, and civil liberties, FOIA, and data dissemination, storage, retention, and security requirements.
- The users of UAS recorded data are responsible for ensuring dissemination of data is authorized, follows County policies and Virginia law, including but not limited to the Virginia Data Collection and Dissemination Practices Act and the Virginia Freedom of Information Act (VFOIA) and is consistent with the recipients' legitimate need to know and authority to receive such data. Any further dissemination by a data recipient will require the data owner's prior consent.
- Any collected data will not be indexed or otherwise arranged to be searchable by an individual's name, personal number or other identifiers.
- The County UAS program will not be paired with facial recognition technology to identify individuals in real-time.
- The UAS webpage and program email account will be maintained and monitored to provide information, and address any public questions, concerns or recommendations.
- The UAS Steering Committee has been established to review and update UAS procedures and training, identify new technologies, review best practices, revisions to UAS related laws and regulations, and any emerging case law or court decisions.
- The County UAS program will operate in strict compliance with all applicable federal, state, and local laws, regulations, and policies, and in a responsible and ethical manner. All operations will be balanced to accomplish the mission (e.g., emergency or life safety) while protecting privacy rights, civil rights, and civil liberties.
- The County UAS program will not use, retain, or disseminate collected data in any manner that would violate any Constitutional rights or in any manner that would discriminate against persons based upon, but not limited to, race, ethnicity, gender, national origin, or religion.
- No video or photographs taken by a County-owned and operated UA will be used for personal use. Any requests for appropriate County use, such as presentations or publications, must be approved by the UAS Program Manager and the data owner

(respective County agency). The Program Manager may seek guidance, if needed, from the Office of the County Attorney. No inadvertent or incidental personal images or information will be permitted to be used under this section.

## **CODE OF VIRGINIA**

During the 2013 General Assembly Session, House Bill 2012 imposed a moratorium on the use of unmanned aircraft systems by law-enforcement agencies until July 1, 2015, with certain exceptions. This legislation also required the Department of Criminal Justice Services, in consultation with the Office of the Attorney General and other agencies, to develop model protocols for the use of unmanned aircraft systems by law-enforcement agencies, resulting in House Document No. 12, Protocols for the Use of Unmanned Aircraft Systems by Law-Enforcement Agencies, published in 2013. Although the moratorium for use by law-enforcement has been lifted, House Document 12 was one of the foundational pillars to inform this program manual.

All agency use under the County UAS program will comply with the Code of Virginia, to expressly include § 19.2-60.1., listed below. Prior to implementing an agency UAS program, the Police and Fire and Rescue Departments will develop and maintain training for supervisors and commanders relevant to this code section to ensure compliance. Other participating entities with authority to enforce criminal law or regulatory violations, such as Office of the Fire Marshal or the Department of Code Compliance, will also develop and maintain relevant training before any use is approved, and be required to also comply with the provisions of § 19.2-60.1. Any allegations or violations will be reported and investigated in accordance with County and department policies.

*§ 19.2-60.1. Use of unmanned aircraft systems by public bodies; search warrant required.*

*A. As used in this section, unless the context requires a different meaning:*

*"Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.*

*"Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links, sensing devices, and the components that control the unmanned aircraft.*

*B. No state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations, including but not limited to the Department of State Police, and no department of law enforcement as defined in § 15.2-836 of any county, city, or town shall utilize an unmanned aircraft system except during the execution of a search warrant issued pursuant to this chapter or an administrative or inspection warrant issued pursuant to law.*

*C. Notwithstanding the prohibition in this section, an unmanned aircraft system may be deployed without a warrant (i) when an Amber Alert is activated pursuant to § 52-34.3; (ii) when a Senior Alert is activated pursuant to § 52-34.6; (iii) when a Blue Alert is activated pursuant to § 52-34.9; (iv) where use of an unmanned aircraft system is determined to be necessary to alleviate an immediate danger to any person; (v) by a law-enforcement officer following an accident where a report is required pursuant to § 46.2-373, to survey the scene of such accident for the purpose of crash reconstruction and record the scene by photographic or video images; (vi) by the Department of Transportation when assisting a law-enforcement officer to prepare a report pursuant to § 46.2-373; (vii) for training exercises related to such uses; or (viii) if a person with legal authority consents to the warrantless search.*

*D. The warrant requirements of this section shall not apply when such systems are utilized to support the Commonwealth or any locality for purposes other than law enforcement, including damage assessment, traffic assessment, flood stage assessment, and wildfire assessment. Nothing herein shall prohibit use of unmanned aircraft systems for private, commercial, or recreational use or solely for research and development purposes by institutions of higher education and other research organizations or institutions.*

*E. Evidence obtained through the utilization of an unmanned aircraft system in violation of this section is not admissible in any criminal or civil proceeding.*

*F. In no case may a weaponized unmanned aircraft system be deployed in the Commonwealth or its use facilitated in the Commonwealth by a state or local government department, agency, or instrumentality or department of law enforcement in the Commonwealth except in operations at the Space Port and Naval/Aegis facilities at Wallops Island.*

*G. Nothing herein shall apply to the Armed Forces of the United States or the Virginia National Guard while utilizing unmanned aircraft systems during training required to maintain readiness for its federal mission or when facilitating training for other U.S. Department of Defense units.*

2015, cc. 764, 774; 2018, cc. 419, 546, 654.

## SECTION 6: DATA MANAGEMENT

### POLICY

Fairfax County would use unmanned aircraft to capture imagery and video data only to the extent necessary to assist or support the flight crew or affiliated personnel in planning, response, and recovery efforts, or for training purposes. The method of acquisition may include the utilization of commercial off-the-shelf camera payloads, advanced thermal imaging devices, multi-spectral sensor technologies and video capture equipment that are placed, as part of a UAS, for remote sensing purposes. The more important function for most UAS missions is the live video feed capability for the flight crew, Incident Commander or other authorized personnel to view.

All images and video collected using unmanned aircraft will be managed in compliance with County data collection and dissemination policies. County record retention procedures are derived from the requirements outlined in the Library of Virginia archives, records and collections services records retention and disposition schedules for localities.

The Library of Virginia publishes these Schedules pursuant to the Virginia Public Records Act, Va. Code Ann. §§ 42.1-76 through -91 of the Code of Virginia:

[http://www.lva.virginia.gov/agencies/records/sched\\_local/index.htm](http://www.lva.virginia.gov/agencies/records/sched_local/index.htm)

### METHODS

**IMAGES** – Any images captured during flight are stored as data in the UAS internal storage medium. The storage medium is inserted or enabled during the pre-flight process, securely attached to the aircraft while in flight, and removed or disabled after each flight.

**VIDEO** – Real-time or near real-time video, captured and or distributed via electronic means, is stored on board the aircraft. The video transmission from the aircraft uses an encrypted data link. The video is viewable by the operator of the UAS utilizing a monitor at the ground control station. The encrypted video data is also distributed to external monitors by cable or other methods to on-scene personnel.

### PROTECTION

To further safeguard any imagery data collected during a flight operation the following will be strictly adhered to:

- The storage medium will be handled only by the UAS pilot or observer.
- The UAS pilot or observer will secure the storage medium.
- Should the storage medium (memory card) need to be transferred to another County agency, a transfer document will be signed by both the UAS pilot or observer and the requestor. The storage medium protection requirements then transfer to the requesting/receiving agency.



- Authorized Fairfax County personnel will be granted permission and access to view any live video stream. In the event of an Emergency Operations Center (EOC) operation, those County agencies and affiliated trusted partners, such as Virginia Department of Transportation (VDOT), the Virginia Department of Emergency Management (VDEM), the Red Cross, or other agencies during an EOC activation will be permitted to view the live video.
- At **no time** will the public be allowed to view or record the live streaming imagery unless there has been consent by the on-scene incident commander and UAS Pilot in Command. An example where live video may be shown could be the impact to the highway system or other transportation sector with significant impact to the public.
- Viewers of the live video stream in an EOC or other operational environments are not authorized to record, distribute or disclose information gained from viewing the video stream without prior approval by the UAS Program Manager, who may consult as needed with the Deputy County Executive for Public Safety or the Office of the County Attorney.
- Data imagery maintained by a County agency will not be disseminated to another information system without specifying requirements for security and usage, including limitation on access thereto, and without receiving reasonable assurances that those requirements and limitations will be observed.
- County agencies maintaining imagery data will keep a list of all persons or organizations having regular access to such data.
- County agencies maintaining imagery data will keep a complete and accurate record, including but not limited to identity and purpose, of every access to such data by persons or organizations. Such record will be maintained for three (3) years or until personal information, including photographs and video of individuals, is purged, whichever is shorter.

## **FREEDOM OF INFORMATION REQUESTS**

The Virginia Freedom of Information Act (VFOIA), Va. Code Ann. §§ 2.2-3700 through 3714, allows residents of Virginia open access to public records in the custody of a public body or its officers and employees, and open entry to meeting of public bodies where the business of the people is being conducted. Requests for UAS data, including but not limited to images, video, program manual, pilot and maintenance logs or other program materials will be treated as a public records request, and forwarded to the appropriate agency housing the data.

FOIA requests will be processed in compliance with the County FOIA Policy. The purpose of this FOIA policy is to set forth a uniform policy for processing, responding to, and tracking requests for public records. This FOIA policy seeks to balance the County's commitment to transparency and openness, while ensuring the protection of the County's privacy and security interests.

The County's FOIA policy may be accessed at the below link:

<https://www.fairfaxcounty.gov/publicaffairs/foia>

## **SECTION 7: OPERATIONS POSITIONS**

### **CHIEF PILOT**

The UAS program Chief Pilot is responsible for the development and performance of the training program for all UAS operations. The Chief Pilot shall have authority over the pilot and visual observer programs and ensure that all team members are trained, licensed, and operational as needed.

#### **Position Requirements**

- Current Fairfax County government employee.
- Current Remote Pilot Certificate issued by the FAA with small UAS rating.

#### **Duties**

- Member of the UAS Steering Committee.
- Oversee the Fairfax County UAS training program.
- Perform proficiency check flights of all pilots and visual observers.
- Maintain all training records for flight crews.
- Responsible for disseminating any legislative or regulatory revisions to flight crews countywide.
- Provide ground school and flight training.
- Coordinate after action conferences as needed.
- Coordinate any manufacturer updates to aircraft or software version enhancements.
- Ensure that all flight plans, and other documentation is filled out and maintained.

### **PILOT IN COMMAND (PIC)**

The respective agency director must approve any request for an agency employee to become trained as an FAA Part 107 pilot. Once approved, the candidate will work directly with the UAS Chief Pilot to participate in both ground and flight school and familiarization training. The Pilot in Command will be responsible for flying the aircraft in a safe and approved manner and will assume overall responsibility for all safety related matters.

#### **Position Requirements**

- Current Fairfax County government employee.
- Current Remote Pilot Certificate issued by the FAA with small UAS rating.

#### **Duties**

- Available to respond to fly agency approved missions.
- Responsible for ensuring safety of each flight operations.
- Final authority in determining if flight operations will launch or continue if already initiated.

- Ensuring that pilot logbook, aircraft logbook and other paperwork is completed for each mission.
- Notify the UAS Program Manager of any deployment of the UAS with flight date, time and location.
- Ensure flight conditions complies with all applicable FAA rules and regulations, including but not limited to flight within line of sight requirements.
- Follow checklists for each flight regardless if training or actual mission.
- In the absence of a safety officer on the scene, the PIC will be responsible for ensuring that all safety protocols are followed prior to, during, and after each flight.

### **VISUAL OBSERVER (VO)**

The Visual Observer is responsible for supporting the Pilot in Command to help ensure all UAS operations are done in a safe, protected, and effective manner. All flight operations, operational or training, shall, at a minimum, have both a Pilot in Command and a Visual Observer.

#### **Position Requirements**

- Current Fairfax County government employee.
- Remote Pilot Certificate with small UAS rating.

#### **Duties**

- Maintain an unaided visual line of sight any time the aircraft is airborne.
- Ensure the takeoff and landing zones, and surrounding area, are clear and safe of any public or other hazards.
- Coordinate as needed with the Incident Commander via in-person, voice, or other communication modes.
- Focus 100 percent of attention on the aircraft once airborne.
- Ensure that there are no potential conflicts or hazards in the sky such as birds, aircraft, wires or trees.

### **SAFETY OFFICER (SOFR)**

If available, a Safety Officer is also responsible for overall UAS mission safety. In coordination with the Pilot in Command, and after evaluating safety risk factors, the Safety Officer shall have the final determination as to whether to commence a mission. While the Safety Officer will continue to monitor safety for the duration of a mission, and provide input to the PIC, once airborne the PIC has final authority to continue or discontinue the flight of the UAS.

If no Safety Officer is available or assigned to a mission the Pilot in Command will assume the role. Regardless of any of the duties outlined, any crew member participating in the mission has the responsibility to provide critical safety information to the PIC both before and during the flight.

### **Position Requirements**

- Current Fairfax County government employee.
- Completed the Safety Officer course.

### **Duties**

- Responsible for ensuring safe UAS operations.
- Assist in conducting a hazard risk assessment prior to any flight.
- Assist in debriefing missions and training sessions with emphasis on safety concerns and issues.
- Serve as a crew member as needed.

## **SECTION 8: SAFETY**

### **POLICY**

Safety first shall be an overarching priority and philosophy for the County UAS program. This program is committed to providing a safe environment for the public and flight crews and to ensure flight operations are performed in a safe, secure, responsible, lawful, and ethical manner. To mitigate risks, each flight crew shall comply with the requirements of this program manual, safety protocols, all applicable federal, state, and local laws, regulations, and policies, and follow all recommended manufacturer guidelines for each operation. The goal is to have zero accidents or injuries. Guiding safety principles include:

- All flight crew members must recognize that there is still an element of risk during each mission and focus on risk assessment and mitigation.
- Regardless of assigned duties, all crew members have a primary duty to safety considerations, and the authority and responsibility to act immediately to notify and warn others and to suspend operations.
- All flight operations are to comply with the UAS program guidance, applicable laws, regulations, or policies, and any agency specific policies.
- Risk assessment and mitigation are not just pre-flight activities but must continue during a mission.
- Unnecessary risks shall not be taken.
- Any identified safety hazard, whether procedural, operational, or maintenance related shall be corrected as soon as possible.
- Additional safety suggestions or recommendations may be made to the UAS Chief Pilot or Program Manager for consideration.
- Performance of regular audits of safety policies, procedures, and practices.
- Research, monitor, review, and incorporate, as appropriate, any emerging UAS safety best practices.

### **MEDICAL FACTORS**

Every member of the flight crew shall adhere to the following guidelines as outlined by the FAA (Illness, Medication, Stress, Alcohol, Fatigue and Eating - IMSAFE).

- Pilots and observers shall only deploy the UAS when rested and emotionally prepared for the tasks at hand.
- The safety rule is to not act as a pilot or observer when suffering from any physical illness, exhaustion, or emotional problems which can seriously impair judgment, memory and alertness. All crew members are expected to “stand down” when these or any other factors could reasonably be expected to adversely affect their ability to perform flight duties.
- A self-assessment of physical condition shall be made by all members during pre-flight activities.

- Performance can be seriously impacted by prescription and over the counter drugs. All flight crew members are responsible to self-monitor their condition and to report to their respective Agency Program Coordinator or the Program Manager when they are unable to participate safely. If it is determined that any medication taken could hamper a pilot or observer that member shall be prohibited from the deployment or exercise.
- No member shall act as a pilot or observer within eight hours after consumption of any alcoholic beverages, while under the influence of alcohol, or while having an alcohol concentration of 0.04 as per Federal Aviation Regulation (FAR) 91.17.

### **RISK ASSESSMENT AND MITIGATION**

Safety requires effective practices in managing multiple risk factors to include, the aircraft, environment, and the human component. The use of small unmanned aircraft being placed into service will always have some level of risk. However, it is important to always promote a zero-accident and safety-first philosophy and reduce and mitigate risks by doing the following:

- All UAS crew members shall review safety and operations checklists prior to operations.
- All UAS crew members shall be briefed before each flight.
- Ensure that all pilots have the required training and the necessary skill level to safely execute the mission assignment.
- Follow all preflight procedures to include:
  - Weather assessment.
  - Airspace assessment.
  - Aircraft assessment and preflight checklist.
  - Assessment and accounting of personal condition.
- Operate to the extent possible in open and clear areas and always within line of sight of the Pilot in Command and Visual Observer.
- After each flight, ensure the following:
  - Post flight check lists are completed.
  - Aircraft and pilot flight logs are completed.
  - Maintenance of the aircraft is documented.
  - Conduct a hot-wash of the mission to identify potential issues and highlight positive actions.
- Ensure that the necessary safety equipment is on hand prior to flight departure:
  - Fire extinguisher and/or sand.
  - First-aid kit.
  - Appropriate clothing to include a reflective vest.
- Additional factors to consider prior to flight departure:
  - Flights over people with an emphasis on safety and the right to privacy.
  - Flights over sensitive areas.
  - Any flight that may adversely impact wildlife ecologically important areas, or sensitive habitats (preserved lands and waters, areas with threatened or endangered species).

- Launches, landings and routes should avoid areas that would result in disruption to migratory patterns, breeding, nesting, feeding or sheltering of wildlife, when feasible.
  - County personnel shall regularly review the Federal Aviation Administration’s Strike Database (<https://wildlife.faa.gov/>) for guidance on areas to avoid.
  - Potential aviary activity may be found at: <https://ebird.org/home>.
  - For awareness for UAS operators, the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act are listed in Appendix C.
- However, UAS operators will be authorized to balance the need to conduct a life safety mission for any person(s) against the need to protect wildlife.

## **SAFETY TRAINING**

### **NEW CREW MEMBER**

Safety training for all new UAS crew members will take place prior to any hands-on operation with aircraft or any mission flights. This training will ensure the crew member has the latest information about the program and safety guidance and understands the process to report potential conflicts. All training will be documented in the crew members’ training folders.

### **ANNUAL**

All Fairfax County UAS crew members will participate in an annual safety training program. This training program will cover topics that include updates to federal, state or local legislation, regulations, or policies, best practices from previous missions flown, review of updates to the UAS program manual, and a review of safety information regarding aircraft and position assignments.

### **SAFETY TRAINING MATERIALS / DOCUMENTATION**

The UAS Program Manager and Steering Committee, in coordination with the Agency Program Coordinators, will be responsible for developing, maintaining, and updating UAS related safety and risk assessment and mitigation training materials and documentation.

### **SUMMARY**

It is the duty of every member within the UAS flight crew to contribute to the goal of safety-first operations and zero accidents. The process of assessment is not just for preflight, but a continual effort that needs to be second nature for every member of the flight crew during every aspect of each mission.

## **SECTION 9: OPERATIONAL TRAINING**

### **OBJECTIVE**

The key to safe and effective operations is maintaining a professional level of knowledge and competency through training.

The Fairfax County UAS program is comprised of three formal training programs. The first training program is the 16-hour ground school that will be used to help prepare all new program crew to take the FAA Part 107 exam. Training will include topics in meteorology, flight standards, aeronautical chart interpretation, communications and flight safety. If a candidate has an FAA Part 61 pilot's certificate, and has a current flight review, they will not be required to take the ground school.

The second training program to be completed by each candidate is flight school. During this training, each pilot and observer will be exposed to the basics of flight characteristics for the aircraft, maintenance procedures, safety and hands on flying the aircraft. Each pilot prior to flying an actual mission must have a minimum of 10 documented hours of flight time. Once the 10 hours has been met, the Chief Pilot will test and certify that the Pilot-In-Training has met all the training requirements and is a certified Fairfax County UAS pilot.

The third training program is recurring flight training. To maintain both the skills and qualification as a pilot each crew member must fly a minimum of three qualifying events in the preceding 90 days. A qualifying event can be either a live mission or training session. Each crew member must also maintain a current Remote Pilot Certificate issued by the FAA with small UAS rating to retain pilot qualifications in the UAS program.

The Fairfax County Park Authority has provided the UAS program a site where flight training may be conducted.

All flight hours and training will be maintained in the individual pilot's logbook.

### **INITIAL TRAINING**

- Any new member shall successfully complete the required initial training before deployment as a member of a UAS flight crew.
- In addition to the formal training, pilots and observers must have completed enough safety training, to include communicating any instructions or information required to remain clear of conflicting traffic.
- In conjunction with fulfilling all training requirements for pilot/observer duties, the new member must also become familiar with UAS program operations, aircraft, and equipment.
- Before a member can operate as a pilot they must complete a period of flight training with the UAS instructors to demonstrate proficiency of the flight training exercises and the airframe. This must be accomplished to show their ability and knowledge of the UAS.



- In conjunction with fulfilling all training requirements for pilot/observer duties, the new member must also demonstrate proficiency with applicable rules, regulations and policies governing the protection of individuals' privacy, civil rights, and civil liberties in the Commonwealth of Virginia, FOIA requests, and data dissemination, storage, retention, and security requirements.
- In conjunction with fulfilling all training requirements for pilot/observer duties, the new member must also become familiar with applicable rules, regulations and policies governing the applicable FOIA requirements and data dissemination, storage, retention, and security requirements in the Commonwealth of Virginia.

### **RECURRING TRAINING**

Recurring flight training will maintain a member's knowledge and skills as follows:

- Review and update on best practices and legal updates as it relates to the protection of individuals' privacy, civil rights, and civil liberties.
- Review and update on best practices or law as it relates to FOIA requests and data dissemination, storage, retention, and security requirements.
- All designated members within a participating agency shall maintain proficiency in their pilot/observer abilities.
- Pilots and observers will be required to fly a minimum of three actual or training missions every 90 days to maintain proficiency.
- Recurrent training is not limited to actual operating/observer skills but includes knowledge of all pertinent UAS/aviation matters.
- Failure to prove proficiency, including failure to maintain a current Remote Pilot Certificate issued by the FAA with small UAS rating, can result in removal from UAS responsibilities.

### **TRAINING MATERIALS / DOCUMENTATION**

The UAS Program Manager and Steering Committee, in coordination with the Agency Program Coordinators, will be responsible for developing, maintaining, and updating UAS related training materials and documentation.

## **SECTION 10: GENERAL OPERATING PROCEDURES**

### **REQUEST FOR SUPPORT**

All requests for UAS support shall be made directly to a respective agency program coordinator or through the Department of Public Safety Communications Center (DPSC) (County 911 Center). DPSC will maintain the current list of certified UAS operators and supervisors to contact.

### **MISSION PRIORITIES**

If more than one request is received for UAS support, the UAS agency program coordinator in collaboration with the requestors will evaluate and determine the priority mission. If there is a determined need for a second crew the UAS agency program coordinator will review the lineup and on-call notification list or request support from another participating agency. In general terms, requests for UAS support will be prioritized as follows:

- Life or Public Safety.
- Investigation/Documentation.
- Damage Assessment/Situational Awareness.

### **MISSION APPROVAL CRITERIA**

The on call UAS agency program coordinator will make the determination as to the approval of the mission request. Important approval decision factors include, but are not limited to:

- Is the mission request justified and necessary?
- Is the mission request within the capabilities of the equipment, program and personnel?
- Does the mission fall within federal, state, and local laws, regulations, and policies?
- Can the UA be deployed safely based on current and forecast weather conditions?
- Can the UA be deployed in the operational environment without unduly risking the personal privacy of individuals or groups of individuals?
- Are there sufficiently trained and qualified personnel available to safely operate the UA?
- If the UA deployment requires a search warrant, has one been requested and approved?
- Is there enough information available to make the decision or will a follow up call need to be made to the requestor?
- Determine proximity of critical infrastructure or restricted airspace.

If a mission is approved, a UAS Pilot in Command (PIC) will be selected and notified. Once deployed, the assigned PIC retains final approving authority, and may alter or cancel the mission. If a mission is altered or canceled notification will be made to the requestor and PIC's agency program coordinator.

## **CALL-OUT PROCEDURES**

Agencies will develop or follow existing call-out procedures and protocols. Agency program coordinators will be responsible for ensuring any respective agency call-out rosters are maintained, updated, and shared, if needed, with the Department of Public Safety Communications.

## **MISSION MINIMUM PERSONNEL REQUIREMENTS**

All UAS missions, operational or training, require a minimum of a Pilot in Command (PIC) and visual observer (VO). Under no circumstances will a mission be approved or flown with only a PIC. A safety officer is a preferred addition if available, but not required.

In the event a pilot is still in training and has not been approved to fly missions as a solo operator the chief pilot or another certified PIC must be present to observe, monitor, and evaluate the trainee. For more complex missions that require a second or third crew and UAS there must also be a UAS agency program coordinator on-scene to coordinate with the incident commander.

## **FLIGHT BOUNDARIES IMPOSED BY THE FAA**

The FAA has been charged by the United States Congress to integrate the Unmanned Aircraft Systems into the National Airspace System (NAS). Utilizing a “Safety First” principle the FAA has carefully designated airspace throughout the United States in which UAS may not fly. The Washington DC area is the most restricted airspace in the country. As a result, due to its proximity to the Nation’s Capital, the airspace overlying Fairfax County has complex layers of varying access restrictions. With more than 60 percent of Fairfax County falling into the Flight Restricted Zone (FRZ) it is imperative that the PIC evaluates the location they will be taking off from the area they will be traversing to get to the scene, and the area of operation to ensure they can operate without an airspace authorization. The following basic guidelines will be followed:

- Flight crews are authorized to fly in Class G airspace anywhere in Fairfax County to include the Towns of Vienna, Herndon, and Clifton and parts of the City of Fairfax. PIC’s of missions located in Surface Class B, C or D airspace must have a Wide Area Authorization or be approved via the Low Altitude Authorization and Notification Capability (LAANC) system. Missions will only be flown in other localities based on appropriate request and approval protocols.
- If a surrounding jurisdiction requests assistance of the UAS team that request must first go to the UAS agency program coordinator for review. In many cases the requesting agency may be referred to the Virginia Department of Emergency Management (VDEM) first as they have a team that is available 24/7.
- If VDEM is not available, an assessment will be made to determine availability of a County flight crew. Approval by the crew’s agency program coordinator will need to be done first and if approved, the UAS team will need to submit an emergency FAA COA to get access to the other jurisdiction.
- County UAS program flight operations will follow FAA regulations.
- The maximum altitude for UAS flight operations shall not exceed 400’ per FAA regulations.

## **PERSONAL EQUIPMENT**

Each member of the flight crew will be responsible for wearing appropriate clothing and having the correct equipment with them while on duty. The following are some of the guidelines that should be followed:

- The UAS flight crew should always wear eye protection always while engaged in flight operations.
- All flight crew shall wear the assigned program vest that identifies them as a member of the Fairfax County UAS team. The back of the vest must clearly identify the team position assigned, as an example, UAS Pilot, Pilot in Command, Visual Observer or Safety Officer.
- The flight crew shall always operate in a professional manner and take into consideration that all deployments have the potential for public or media interaction.
- The UAS flight crew will wear their County issued identification.
- Equipment including the County issued portable radio, air-band transceiver and cellular phone must be brought to each mission deployment.
- Water and snacks should become a part of a crew flight bag. Missions may only last an hour, but others may last multiple hours. Any dietary or special allergies requirements must be taken into consideration.
- FAA rules do not allow visual aids other than corrective glasses for keeping the UAS within line of sight, although not permitted for flight operations, a set of binoculars may be carried and used to scan the sky and surrounding area for obstructions or other hazards. They are not permitted to be used by flight crews during flight operations.

## **EQUIPMENT IDENTIFICATION**

In order to ensure that all unmanned aircraft are easily recognized as part of the Fairfax County UAS program all aircraft will display both the FAA assigned identification number and a county seal or agency logo.

## **EMERGENCY PROCEDURES**

Personnel flying the UAS will be trained that in any emergency, the safety of persons on the ground and in the air is the number one priority. The following are the emergency procedures, and each will be documented with an emergency checklist for flight crew to review.

- Fire - UAS will be flown away from people and property until a safe landing location can be found. A fire extinguisher and first-aid kit will be located at the mission site.
- Loss of Link - Onboard system will be established to execute lost link protocol by either landing immediately or returning to launch point to land, depending on conditions, operational and safety requirements. In the event the lost link happens near an airport or helicopter landing area, a call to the appropriate airport tower will be immediately made. The phone numbers are located on the aeronautical chart.
- Loss of Visual Line of Sight - If flight crew members lose, other than momentarily, sight of the aircraft, the pilot will initiate a 'Go-Home' on the remote control. The 'Go-Home'

protocol is identical to the Loss of Link protocol. Once visual contact with the aircraft is re-established the pilot will take back the aircraft using the remote control.

- Loss of Propulsion - During propulsion failure, coordinated flight cannot be maintained effectively in the most common configurations. An announcement will be made to all personnel on-scene advising them of the emergency. If the aircraft fails to successfully land at a predetermined location a recovery operation will be initiated.
- Personal Injury - In the unlikely event of an emergency involving the aircraft and person(s) on the ground, the flight crew shall maintain a list of applicable numbers (EMS, Dispatch) for emergency contact.
- Lost Communications - the PIC and VO will be ideally physically collocated during operations and communications will be through direct verbal communication. However, if the PIC and VO are not collocated and direct verbal communication is not possible, the following communication tools can be utilized:
  - Handheld radio.
  - Voice activated headsets and microphones.
  - Cellular telephone.
  - Hand Signals (used solely or in conjunction with the communication equipment).
  - If communication is lost and cannot be re-established, the UAS will immediately land.

#### **PRE-FLIGHT/ POST-FLIGHT ACTIONS**

- Inspections
  - All flight crew members are responsible for a thorough preflight inspection of the UAS.
  - Before and after each deployment (whether a mission or training), the flight crew shall conduct a thorough inspection of the UAS in accordance with the instructions contained in the manufacturer's user manual.
  - Any issues found that will jeopardize the safe operation of the UAS shall be documented and resolved immediately prior to flight.
  - Any physical damage to equipment that cannot be resolved on-site, and which have an impact on safety of the mission, will override the deployment. These issues must be resolved before flight.
- Weather
  - Before each deployment, the flight crew will gather weather forecasts covering the projected area of operations, flight duration and to include an additional buffer of 6 hours after the flight is projected to end.
  - The flight crew shall utilize FAA approved weather resources to obtain the latest and most current weather conditions.
  - If available, an anemometer should be utilized to better estimate the wind speed and determine if it is within the capabilities of the airframe being flown.
  - The weather conditions reported for the operation shall be recorded in the pre-flight checklist.

- Documentation
  - Inspection and weather checks will be documented prior to flight within the flight logbook.
  - After each flight, the pilot will document the UAS operations and log appropriate flight/equipment usage times in their logbook.
- Planning
  - The flight crew shall familiarize themselves with all available information concerning the deployment including but not limited to the weather conditions, hazards, description of the incident, deployment goals, and other relevant information.
  - The flight crew will ensure that the location for take-off and emergency landing is adequate for a safe deployment.
  - The take-off/landing area should be clearly marked and identifiable with easily seen markers.
  - Identify a location for the media and public who may want to engage the flight crew.
  - At least one emergency landing area should be identified prior to deployment.
  - The flight crew will ensure that they are aware of their surroundings in the event an emergency landing is necessary. This includes the ability to recover the UAS.
- Checklists
  - The flight crew shall utilize pre-flight checklists to ensure the highest level of safety for deployment.
- Maintenance
  - Although there are few parts on the UAS that need servicing, it is necessary that the manufacturer's maintenance schedule is followed and properly documented.
  - Any issues that arise during maintenance that cannot be resolved by routine methods shall be forwarded to the manufacturer/approved dealer for further technical support.
- Other
  - The flight crew will ensure that no items are attached to the UAS prior to flight that are not required for safe operation or to complete the mission goal.
- Pre-Flight Briefing
  - Review of mission goals and methods to achieve goals, including but not limited to handoff procedures. This will be done with the incident commander and all UAS crew members prior to launch.
  - Review of current and forecasted weather conditions and weather limitations
  - Review of current Notice to Airmen (NOTAM) and Temporary Flight Restrictions (TFR) that have been issued for the proposed flight area.
  - Identification of mission limitations and safety issues such as battery charge, Global Positioning Satellite (GPS) strength, and potential for radio interference.
  - Review of proposed flight area, including maximum ceiling and floor and applicable airspace restrictions.
  - Review of communication procedures between flight crew members, including

- but not limited to the availability of cellular phones and portable air band radio to communicate with air traffic control in the event of a fly-away or lost link.
- Review of emergency/contingency procedures including but not limited to aircraft system failure, flight termination, divert, and lost link procedures.
  - Review of required video or digital images requirements.
  - Contents of the COA, if applicable.
  - Radio frequencies to be used by the Pilot in Command to communicate with and control the UAS.
  - Weather evaluation to include current weather and projected weather moving into the area within the next 6 hours. The flight crew will comply with all FAA rules which do not allow UAS flights during certain weather conditions after the weather evaluation is completed.
- **Post Flight Briefing**
    - After all flights, the Pilot in Command will perform a post flight review with their team and incident commander/designee.
    - Opportunities for improvement will be documented.
    - Protocols for the memory card will be followed.
    - Notifications as needed.
    - An inspection of all equipment will be done, and any damage or other deficiency found will be noted in the maintenance logbook.
    - Pilot flight hours will be added to the logbook.

## GLOSSARY OF TERMS

**Above Ground Level (AGL):** AGL is the altitude expressed in the actual number of feet measured above the ground.

**Air Traffic Control (LATC):** A service operated by appropriate authority to promote the safe, orderly and expeditious flow of traffic.

**Area Command (Unified Area Command):** An organization established (1) to oversee the management of multiple incidents that are each being handled by an ICS organization or (2) to oversee the management of large or multiple incidents to which several Incident Management Teams have been assigned. Area Command has the responsibility to set overall strategy and priorities, allocate critical resources per priorities, ensure that incidents are properly managed, and ensure that objectives are met, and strategies followed. Area Command becomes Unified Area Command when incidents are multi-jurisdictional. Area Command may be established at an EOC facility or at some location other than an ICP.

**Available Resources:** Resources assigned to an incident, checked in, and available for use.

**Beyond Visual Line of Sight (BVLOS):** FAA rules require that UAS flights must remain in the sight of the remote Pilot in Command or the visual observer with vision that is unaided by any device other than corrective throughout the entire flight.

**Certificate of Authorization (COA):** Authorization issued by the FAA to a public operator and grants permission to operate a UAS for governmental functions within specific boundaries and parameters.

**Call out Procedure:** The process used to activate the Fairfax County UAS program for deployment of resources.

**Civil Morning Twilight:** Begins when the sun is 6 degrees below the horizon and ends at sunrise.

**Civil Evening Twilight:** Begins at sunset and ends when the sun reaches 6 degrees below the horizon.

**Class A Airspace:** Extends from 18,000 feet (5,500 m) mean sea level MSL to FL600 (approximately 60,000 feet (18,000 m) MSL) throughout the contiguous United States and Alaska.

**Class B Airspace:** Surrounds the **busiest** airports (Washington Dulles, Reagan National) from the surface to 10,000 feet MSL. The dimensions of Class B airspace vary depending on the needs of the airport.

**Class C Airspace:** Extends from the surface to 4,000 feet MSL. These airports are busy enough to have an air traffic control tower and be serviced by radar approach control. The dimensions are tailored to each individual airport, but typically extend out to 5 miles for the inner layer and 10 miles for an outer layer that covers 1,200 feet to 4,000 feet (think of an upside-down wedding cake.)



**Class D Airspace:** Surrounds smaller airports that have control towers and extends from the surface to 2,500 feet MSL

**Class E Airspace:** Surrounds instrument approach paths or federal airways, in all other locations other than Class A, B, C or D airspace, not including the uncontrolled Class G airspace.

**Class G Airspace:** Includes all airspace below 14,500 feet (4,400 m) MSL not otherwise classified as controlled. There are no entry or clearance requirements for class G airspace, even for IFR operations. Class G airspace is typically the airspace very near the ground (1,200 feet or less), beneath class E airspace and between class B-D cylinders around towered airstrips.

**Command Staff:** In an incident management organization, the Command Staff consists of the Incident Commander and the special staff positions of Public Information Officer, Safety Officer, Liaison Officer, and other positions as required, who report directly to the Incident Commander. They may have an assistant or assistants, as needed.

**Controlled Airspace:** A generic term that covers the different classifications of airspace (Class A, B, C, D and E airspace) and defined dimensions within which air traffic control service is provided to IFR flights and to VFR flights in accordance with the airspace classification.

**Declaration of Emergency:** Whenever, in the opinion of the governing official, the safety and welfare of the people of the jurisdiction require the exercise of extreme emergency measures due to a threatened or actual disaster, they may declare a state of emergency to exist.

**Disaster Recovery Center (DRC):** A facility established in a centralized location within or near the disaster area at which disaster victims (individuals, families, or businesses) apply for disaster aid. Commonwealth and federal officials may establish one or more DRC within federally declared jurisdiction where One-on-one assistance can be provided to disaster survivors.

**Emergency/Disaster:** An event that demands a crisis response beyond the scope of any single line agency or service and that presents a threat to a community or larger area. An emergency is usually an event that can be controlled within the scope of local capabilities; a major emergency or disaster usually requires resources beyond what is available locally.

**Emergency Operations Center (EOC):** The physical location at which the coordination of information and resources to support domestic incident management activities normally takes place. An EOC may be a temporary facility or may be in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. EOCs may be organized by major functional disciplines (e.g., fire, law enforcement, and medical services), by jurisdiction (e.g., Federal, State, regional, County, city, tribal), or by some combination thereof.

**Emergency Operations Plan (EOP):** A document which provides for a preplanned and coordinated response in the event of an emergency or disaster situation.

**Emergency Support Function (ESF):** A function which tasks agencies to provide or to coordinate certain resources in response to emergencies or disasters.

**Flight Observer (FO):** The individual trained to maintain the line-of-sight and 360-degree hazard awareness with the aircraft in direction support of the Pilot-in-Command. They are responsible for the safe operations of the immediate area.

**Geographic Information System (GIS):** A computer system capable of assembling, storing, manipulating, and displaying geographically referenced information, i.e. data identified per their locations.

**Incident:** An occurrence or event, natural or human caused, that requires an emergency response to protect life or property. Incidents can, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, wild land and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, war-related disasters, public health and medical emergencies, and other occurrences requiring an emergency response.

**Incident Action Plan (IAP):** An oral or written plan containing general objectives reflecting the overall strategy for managing an incident. It may include the identification of operational resources and assignments. It may also include attachments that provide direction and important information for management of the incident during one or more operational periods.

**Incident Command Post (ICP):** The field location at which the primary tactical-level, on-scene incident command functions are performed. The ICP may be collocated with the incident base or other incident facilities and is normally identified by a green rotating or flashing light.

**Incident Command System (ICS):** A model for disaster response that uses common terminology, modular organization, integrated communications, unified command structure, action planning, manageable span-of-control, predesignated facilities, and comprehensive resource management. In ICS there are five functional elements: Command, Operations, Logistics, Planning and Finance/Administration.

**Incident Commander (IC):** The individual responsible for the management of all incident operations.

**Initial Damage Assessment Report:** A report that provides information regarding overall damage to public and private property, thereby providing a basis for an emergency declaration and/or disaster assistance.

**Instrument Flight Rules (IFR):** Under IFR, ATC exercises positive control of all aircraft within designated airspace. Any pilot operating in this environment must meet minimum equipment requirements and have special certification to fly.

**Joint Field Office (JFO):** An administrative office established by FEMA and staffed by appropriate federal/state personnel following a disaster declaration by the president. The Disaster Field Office is the primary field location for the coordination of response and recovery operations.

**Joint Information Center (JIC):** Is a facility established to coordinate all incident-related public information activities. It is the central point of contact for all news media at the scene of the incident. Public information officials from all participating agencies should collocate at the JIC.

**Joint Information System (JIS):** The JIS refers to processes, procedures, and systems for communicating timely and accurate information to the public during crisis or emergency situations.

**Jurisdiction:** A range or sphere of authority. Public agencies have jurisdiction at an incident related to their legal responsibilities and authorities. Jurisdictional authority at an incident can be political or geographical (e.g., city, County, tribal, state, or federal boundary lines) or functional (e.g., law enforcement, public health).

**Landing Zone (LZ):** A place designated and intended to be used for the takeoff and landing of the UAS aircraft.

**Liaison Officer (LOFR):** A member of the Command Staff responsible for coordinating with representatives from cooperating and assisting agencies.

**Local Emergency:** The condition declared by the local governing body when, in its judgment, the threat or actual occurrence of a disaster is or threatens to be of enough severity and magnitude to warrant coordinated local government action to prevent or alleviate loss of life, property damage, or hardship. A local emergency arising wholly or substantially out of a resource shortage may be declared only by the Governor, upon petition of a local governing body, when he deems the situation to be of enough magnitude to warrant coordinated local government action to prevent or alleviate the hardship or suffering threatened or caused thereby.

**Major Disaster Declaration:** Any natural or man-made disaster in any part of the United States which, in the determination of the President of the United States, is or thereafter determined to be of sufficient severity and magnitude to warrant disaster assistance above and beyond emergency services by the federal government to supplement the efforts and available resources of local and state governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused.

**Mitigation:** Mitigation is any activity taken to eliminate or reduce the degree of long-term risk to human life and property from natural, technological, and human-caused hazards.

**Mutual Aid Agreement (MAA):** A written agreement between agencies and/or jurisdictions in which they agree to assist one another, upon request, by furnishing personnel and equipment in an emergency.

**National Airspace System (NAS):** The common network of U.S. airspace; air navigation facilities, equipment and services, airports or landing areas; aeronautical charts, information and services; rules, regulations and procedures, technical information, and manpower and sharing material. Included are system components shared jointly with the military.

**National Incident Management System (NIMS):** A system mandated by HSPD-5 that provides a consistent, nationwide approach for Federal, State, local, and tribal governments; the private sector; and NGOs to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. To provide for interoperability and compatibility among Federal, State, local, and tribal capabilities, the NIMS

includes a core set of concepts, principles, and terminology. HSPD-5 identifies these as the ICS; multiagency coordination systems; training; identification and management of resources (including systems for classifying types of resources); qualification and certification; and the collection, tracking, and reporting of incident information and incident resources.

**National Response System:** Pursuant to the NRF, the mechanism for coordinating response actions by all levels of government (40 CFR § 300.21) for oil and hazardous substances spills and releases.

**National Weather Service (NWS):** The federal agency which provides localized weather information to the population, and during a weather-related emergency, to state and local emergency management officials.

**Nongovernmental Organization (NGO):** A nonprofit entity that is based on interests of its members, individuals, or institutions and that is not created by a government but may work cooperatively with government. Such organizations serve a public purpose, not a private benefit. Examples of NGOs include faith-based charity organizations and the American Red Cross.

**Notice to Airmen (NOTAM):** A NOTAM is time critical information concerning the establishment, condition, or change in any component of the NAS. The NOTAM provides knowledge that is essential to personnel concerned with flight operations in a designated area.

**Pilot in Command (PIC):** The individual responsible for the overall flight operations of a specific mission.

**Presidential Declaration:** A presidential declaration frees up various sources of assistance from the Federal government based on the nature of the request from the governor.

**Public Assistance:** Aid available to state or local governments to pay part of the costs of rebuilding a community's damaged infrastructure. Public Assistance may include debris removal, emergency protective measures and public services, repair of damaged public property, loans needed by communities for essential government functions and grants for public schools.

**Recovery:** Recovery in the short-term is any activity to return vital life-support systems and critical infrastructure to minimum operating standards; and in the long-term any activity designed to return life to normal or an improved state.

**Response:** Response is any action taken immediately before, during, or after an emergency to reduce casualties, save lives, minimize damage to property, and enhance the effectiveness and speed of recovery.

**Search and Rescue:** The employment of available personnel, equipment and facilities in rendering aid to persons and property in distress, or potential distress, in the air, water or on the land.

**Service Information Center (SIC):** A SIC is an information and resource facility established by the County to effectively communicate response and recovery information to the public, provide recovery services to the public, streamline the recovery process, and alleviate the burdens of

recovery for impacted populations.

**Standard Operating Procedures (SOP):** Guidelines for operating procedures in an emergency; includes but not limited to equipment, processes and methods.

**State of Emergency:** The condition declared by the Governor when, in his judgment, a threatened or actual disaster in any part of the State is of enough severity and magnitude to warrant disaster assistance by the State to supplement local efforts to prevent or alleviate loss of life and property damage.

**Unaffiliated Volunteer:** An individual who is not formally associated with a recognized voluntary disaster relief organization or assigned to an agency; also, known as a spontaneous or emergent volunteer.

**Uncontrolled Airspace:** Any airspace that is not controlled airspace. There are almost no requirements for Visual Flight Rule (VFR) aircraft flying in Class G airspace, other than certain cloud clearance and visibility requirements.

**Unmanned Aircraft System (UAS):** An aircraft that is operated without a physical human presence within or on the aircraft which, in the way it is used or the way it is equipped, can perform audio or visual surveillance and guided by remote control.

**Unified Command:** An application of ICS used when there is more than one agency with incident jurisdiction or when incidents cross political jurisdictions. Agencies work together through the designated members of the Unified Command to establish their designated Incident Commanders at a single Incident Command Post and to establish a common set of objectives and strategies and a single Incident Action Plan.

**Virginia Department of Emergency Management (VDEM):** Commonwealth of Virginia Department of Emergency Management.

**Visual Observer (VO):** The VO is equally responsible for the visual observation of the UAS while in-flight. They are responsible for notifying the Pilot in Command of any obstructions, terrain, structures, air traffic, weather or any circumstance that may impact the aircraft. They manage communications and integration with the person in charge.

**Volunteer:** Any individual accepted or assigned to perform services by an agency that has authority to accept volunteer services when the individual performs services without promise, expectation, or receipt of compensation for services performed.

## **ACRONYMS**

AED – Automatic External Defibrillator

ATC – Air Traffic Control

BVLOS – Beyond Visual Line of Sight

COA – Certificate of Authority

CERT - Community Emergency Response Team

COOP – Continuity of Operations Plan

COG - Continuity of Government

DHS - Department of Homeland Security

DOC - Department Operation Centers

DOD - Department of Defense

DMORT - Disaster Mortuary Operation Response Teams

DPSC - Department of Public Safety Communications

DRC - Disaster Recovery Centers

EAN - Employee Alert Network

EAS - Emergency Alert System

EOD – Explosives Operation Division

EMAC - Emergency Management Assistance Compact

EMnet - Emergency Management Notification Network

EOC - Emergency Operations Center

ESF - Emergency Support Function

FAA – Federal Aviation Administration

FAC - Family Assistance Center

FCRC - Fairfax County Recovery Center

FEMA - Federal Emergency Management Agency

FLIR – Forward Looking Infrared

FRZ – Flight Restriction Zone

GIS - Geographic Information Systems

IAP - Incident Action Plan  
IC - Incident Command  
ICP – Incident Command Post  
ICS - Incident Command System  
IMSAFE – Illness, Medication, Stress, Alcohol, Fatigue, Emotion  
IMT - Incident Management Team  
IT - Information Technology  
JFO - Joint Field Office  
JIC - Joint Information Center  
LEPC - Local Emergency Planning Committee  
LOFR - Liaison Officer  
MACC - Multi-Agency Coordination Center  
MCS - Multi-Agency Coordination System  
MDW - Military District of Washington  
MWSOG - Metropolitan Washington Council of Governments  
MSL – Mean Sea Level  
NCR - National Capital Region  
NDMS - National Disaster Medical System  
NGO - Non-Governmental Organizations  
NIMS - National Incident Management System  
NOAA - National Oceanic and Atmospheric Administration  
NOTAM – Notice to Airman  
NVHA – Northern Virginia Hospital Alliance  
NRF - National Response Framework  
NVRC - Northern Virginia Regional Commission  
OSC – On Scene Coordinator  
PDA - Preliminary Damage Assessment  
PIC – Pilot in Command

PIO - Public Information Officer  
PSA - Public Service Announcements  
RECP - Regional Emergency Coordination Plan  
RHCC - Regional Healthcare Coordination Center  
RPIC – Remote Pilot in Command  
NVRIC – Northern Virginia Regional Intelligence Center  
RICCS - Regional Incident Communication and Coordination System  
SARA - Superfund Amendments and Reauthorization Act  
SHMO - State Hazard Mitigation Officer  
SIC - Service and Information Centers  
SNS - Strategic National Stockpile  
SOFR - Safety Officer  
SUAS – Small Unmanned Aircraft System  
TFR – Temporary Flight Restrictions  
UA – Unmanned Aircraft  
UAS – Unmanned Aircraft Systems  
USAR – Urban Search and Rescue Team  
VADEQ- Virginia Department of Environmental Quality  
VCMC - Volunteer Coordination and Mobilization Center  
VDEM - Virginia Department of Emergency Management  
VDOT - Virginia Department of Transportation  
VFOIA – Virginia Freedom of Information Act  
VIPS - Volunteers in Police Service  
VO – Visual Observer



## APPENDIX A – Retention Schedules

Note: This Appendix sets forth several retention schedules that may apply to data imagery captured as part of the County’s UAS Program. Retention schedules are based on the content of the record and not its format. This Appendix is excerpted from the retention schedules for localities issued by the Library of Virginia. Records will be destroyed in accordance with Library of Virginia instructions when the retention period expires. The Library of Virginia frequently amends these schedules and the current versions may be found at <http://www.lva.virginia.gov/agencies/records/retention.asp>.

<b>Type of Record:</b>	<b>General Schedule and Series</b>	<b>Retention period</b>
Disaster recovery files	GS-16 Series 200036	Five years after claims filed or written off
Fire Training: Class Records	GS-17 Series 200392	Five years after end of calendar year
Fire Code Compliance Inspection Reports	GS-17 Series 007043	10 years after submission
Law enforcement surveillance or monitoring recordings not used as evidence	GS-17 Series 100796	30 days after event
Law enforcement missing Persons files	GS-17 Series 100780	75 years
Law enforcement missing Persons files – Resolved	GS-17 Series 100779	One year after case closed
Law enforcement missing Persons with history files – Resolved	GS-17 Series 100755	Five years after case closed
Reports: Traffic accident/crash - Law Enforcement	GS-17 Series 005670	Three years after closed
Reports: Traffic Accident/Crash - Citizen	GS-17 Series 100781	Three years after event
Traffic Management and Control	GS-17 Series 100806	One year after last action
Law enforcement Investigative Case Files, Less Serious Offenses – Resolved	GS-17 Series 200146	30 years after case closed

Law enforcement Investigative Case Files: Less Serious Offenses – Unresolved	GS-17 Series 200147	50 years after creation
Law enforcement Investigative Case Files: Non-Serious Offenses – Resolved	GS-17 Series 000266	10 years after case closed
Law enforcement Investigative Case Files: Non-Serious Offenses - Unresolved	GS-17 Series 200148	5 years after creation
Law enforcement Investigative Case Files: Serious Offenses - Resolved	GS-17 Series 100771	75 years after case closed
Law enforcement Investigative Case Files: Serious Offenses – Unresolved	GS-17 Series 200145	100 years after creation
Hazardous Materials Files	GS-17 Series 007100	50 Years after event
Incident Reports: Emergency Services, Fire and Rescue	GS-17 Series 007037	6 Years after event

## APPENDIX B - LINKS

FAA UAS resources:

<https://www.faa.gov/uas/>

FAA Drone Registration:

<https://drone-registration.net/>

SkyVector Aeronautical Charts/Mapping:

<https://skyvector.com/>

FAA UAS Facility Maps:

[https://www.faa.gov/uas/request\\_waiver/uas\\_facility\\_maps/](https://www.faa.gov/uas/request_waiver/uas_facility_maps/)

FAA Resources /Policy/Documents/Regulations:

[https://www.faa.gov/uas/resources/policy\\_library/](https://www.faa.gov/uas/resources/policy_library/)

United States Code:

<http://uscode.house.gov/view.xhtml?path=/prelim@title49/subtitle7&edition=prelim>

FAA Webinar Series:

<https://www.faa.gov/uas/resources/webinar/ or faa.gov/go/dronewebinar>

Waivers and Authorizations:

[https://www.faa.gov/uas/getting\\_started/emergency\\_approval/](https://www.faa.gov/uas/getting_started/emergency_approval/)

Temporary Flight Restriction - TFR:

<https://tfr.faa.gov/tfr2/list.html>

Notice to Airman – NOTAM:

<https://pilotweb.nas.faa.gov/PilotWeb/>

FAA Public Safety and Government

[https://www.faa.gov/uas/public\\_safety\\_gov/](https://www.faa.gov/uas/public_safety_gov/)

VFR Charts

<https://faa.gov/go/vfrcharts>

Fairfax County Parks:

<https://www.fairfaxcounty.gov/parks/model-aircrafts-drones>

## **APPENDIX C – WILDLIFE ACTS**

### **MIGRATORY BIRD TREATY ACT**

The Migratory Bird Treaty Act makes it illegal to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid Federal permit. Migratory bird species protected by the Act are listed in 50 CFR 10.13.

Webpage:

<https://www.fws.gov/birds/policies-and-regulations/laws-legislations/migratory-bird-treaty-act.php>

### **BALD AND GOLDEN EAGLE PROTECTION ACT**

The Bald and Golden Eagle Protection Act (16 USC 668-668d) prohibits anyone from taking, possessing, or transporting a bald eagle (*Haliaeetus leucocephalus*) or golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of such birds without prior authorization. This includes inactive nests as well as active nests. Take means to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb. Activities that directly or indirectly lead to take are prohibited without a permit.

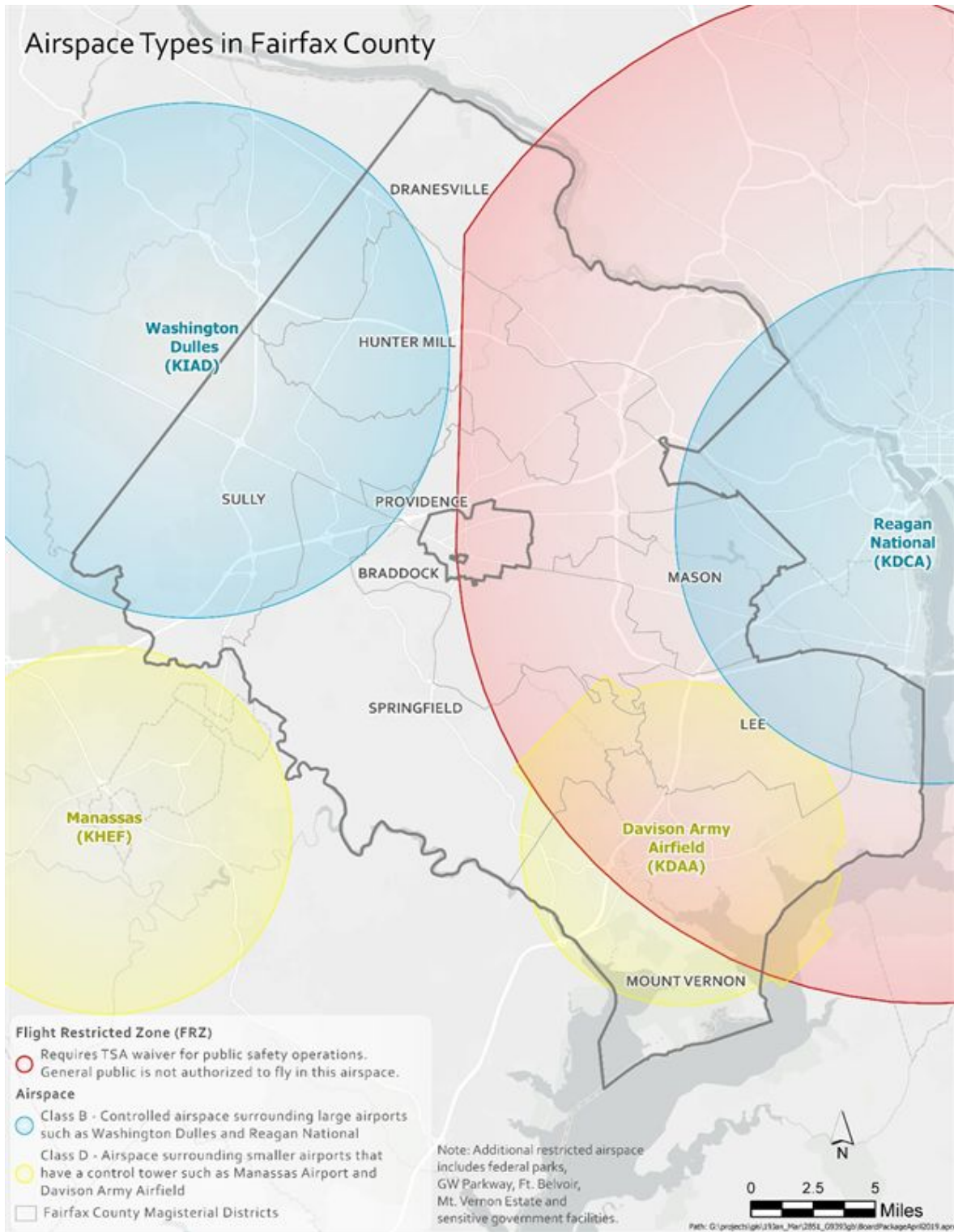
A permit can be issued for taking eagles when the take is associated with, but not the purpose of, an activity and cannot practicably be avoided. We refer to this type of take as "incidental take." Authorization is subject to conditions to minimize impacts. The regulation authorizing incidental take permits for bald and golden eagles can be found in the Code of the Federal Register 50 CFR 22.26

If activities need to be conducted near an eagle nest or may disturb roosting or foraging eagles, a permit may be required from the U.S. Fish and Wildlife Service for "incidental take."

### **AIRBORNE HUNTING ACT**

This Act approved November 18, 1971 added to the Fish and Wildlife Act of 1956 a new section 13 (16 U.S.C. 742j-l), which is commonly referred to as the Airborne Hunting Act or Shooting from Aircraft Act, prohibits shooting or attempting to shoot or harassing any bird, fish, or other animal from aircraft except for certain specified reasons, including protection of wildlife, livestock, and human life as authorized by a Federal or State issued license or permit. States authorized to issue permits are required to file reports with the Secretary of the Interior containing information on any permits issued.

**APPENDIX D – AIRSPACE IN FAIRFAX COUNTY**



Board Agenda Item  
June 25, 2019

10:30 a.m.

Matters Presented by Board Members

Board Agenda Item  
June 25, 2019

11:20 a.m.

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
  - 1. *Sovannorith Duong v. Fairfax County*, VWC File No VA02000031262 (Va. Workers' Compensation Commission); *Sovannorith Duong v. Fairfax County*, EEOC Charge Number 570-2019-01032 (Equal Employment Opportunity Commission)
  - 2. *HCP Properties Fair Oaks of Fairfax VA, LLC v. County of Fairfax, Virginia*, Case No. CL-2017-0018207 (Fx. Co. Cir. Ct.) (Springfield District)
  - 3. *Barry McCabe v. Fairfax County Animal Shelter*, Case No. 19-1583 (U.S. Ct. App. Fourth Circuit)
  - 4. *Justin Reed v. Fairfax County*, Case No. 1:18-cv-1454 (E.D. Va.)
  - 5. *Gillian Ethridge v. Fairfax County*, Case No. 1:19-cv-00382 (E.D. Va.)
  - 6. *Jennie Klenner v. Fairfax County Government*, Case No. CL-2019-0005281 (Fx. Co. Cir. Ct.)
  - 7. *Farid Saleh and Miraj Bibi v. Officer Imran Farooq and Fairfax County*, Case No. CL-2019-001638 (City of Alexandria Cir. Ct.)
  - 8. *Michael Star v. Archstone-Smith, Sara Read, C. Stacey, Officer Leed, Officer Walker, and Jeffrey Overand*, Case No. 1:18-cv-01598 (E.D. Va.)
  - 9. *Harrison Neal v. Fairfax County Police Department and Colonel Edwin C. Roessler Jr.*, Case No. CL-2015-005902 (Fx. Co. Cir. Ct.)
  - 10. *Tracy L. Groff v. Stephen Lawson*, Case No. CL-2018-0009089 (Fx. Co. Cir. Ct.)
  - 11. *Yoselin Suazo v. Fairfax County School Board, John Schmalenberg, and Jerry Mobley*, Case No. CL-2019-04697 (Fx. Co. Cir. Ct.)

12. *Erica M. Allen Winslow v. Ramona Simmons*, Case No. GV19-008954 (Fx. Co. Gen. Dist. Ct.)
13. *Chiao-Yung A. Sher v. Christopher A. Leonard*, Case No. GV19-013944 (Fx. Co. Gen. Dist. Ct.)
14. *K2NC LLC v. Board of Supervisors of Fairfax County, Virginia, Exception Review Committee, Chris Koerner, Amy Gould, Anne S. Kanter, James C. Chesley, Edward W. Monroe, Jr., Ken Lanfear, Elizabeth Martin, Sue Kovach Shuman, Monica Billger, and David W. Schnare*, Case No. CL-2019-0006521 (Fx. Co. Cir. Ct.) (Braddock District)
15. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Yung C. Yung*, Case No. CL-2018-0017331 (Fx. Co. Cir. Ct.) (Braddock District)
16. *Eileen M. McLane, Fairfax County Zoning Administrator v. Harry F. Kendall, III, and Laura P. Kendall*, Case No. CL-2008-0003244 (Fx. Co. Cir. Ct.) (Braddock District)
17. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ranginee Junloy*, Case No. CL-2019-0007777 (Braddock District)
18. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ghassan Filimban and Sanaa Kholfi*, Case No. CL-2019-0000247 (Fx. Co. Cir. Ct.) (Dranesville District)
19. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Charlene Farrell, Trustee of the Farrell Family Trust and Christopher Farrell, Trustee of the Farrell Family Trust*, Case No. GV19-008653 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
20. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Warren K. Montouri, Trustee*, Case No. CL-2019-0007481 (Fx. Co. Cir. Ct.) (Hunter Mill District)
21. *Island Creek Community Association, Inc. v. Fairfax County* (Bd. of Bldg. Code App.) (Lee District)
22. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Isidro Ramirez, Regina Estrada, and Zandra Makel Otero*, Case No. CL-2018-0007087 (Fx. Co. Cir. Ct.) (Lee District)
23. *In re: January 10, 2018, Decision of the Board of Zoning Appeals of Fairfax County, Virginia; Blake D. Ratcliff and Sara B. Ratcliff v. Board of Supervisors of Fairfax County, Virginia*, Case No. CL-2018-0001836 (Fx. Co. Cir. Ct.) (Mason District)
24. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Nickolas A. Ploutis*, Case No. CL-2019-0007336 (Fx. Co. Cir. Ct.) (Mount Vernon District)



25. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Patricia Joyce Saltess*, Case No. CL-2019-0001906 (Fx. Co. Cir. Ct.) (Mount Vernon District)
26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Faical Rihane*, Case No. CL-2019-0007204 (Fx. Co. Cir. Ct.) (Providence District)
27. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mauricio Castro and Maritza Castro*, Case No. GV19-013339 (Fx. Co. Gen. Dist. Ct.) (Providence District)
28. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Mauricio Castro and Maritza Castro*, Case No. GV19-013338 (Fx. Co. Gen. Dist. Ct.) (Providence District)
29. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Christopher L. Sodergen*, Case No. CL-2015-0016908 (Fx. Co. Cir. Ct.) (Springfield District)
30. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jaime Rolando Quintanilla and Rafael Hernandez Quintanilla*, Case No. CL-2019-0006932 (Fx. Co. Cir. Ct.) (Springfield District)
31. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mark Anthony Shiflette*, Case No. GV19-007148 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
32. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Barry K. Bedford and Kathleen A. W. Bedford*, Case No. GV18-029107, and *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Barry K. Bedford and Kathleen A. W. Bedford*, Case No. GV18-029108 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
33. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. John W. Gordon, IV*, Case No. GV18-0023561 (Fx. Co. Gen. Dist. Ct.) (Sully District)

Board Action Item  
June 25, 2019



3:00 p.m.

ACTION - 16

Board Approval of a Minor Variation to PCA 95-Y-016-05, Lidl US Operations, LLC, to Allow a Setback of 64 Feet from Chantilly Crossing Lane (Sully District)

ISSUE:

Request for a minor variation to PCA 95-Y-016-05 under Zoning Ordinance Section 18-204(5) to allow a building setback of 64 feet from Chantilly Crossing Lane where 75 feet is shown on the Generalized Development Plan (GDP).

RECOMMENDATION:

The County Executive recommends that the Board, in accordance with Zoning Ordinance Sect. 18-204 (5) and Virginia Code Sect. 15.2-2302, waive the requirement of a public hearing and approve the request to allow a setback of 64 feet from Chantilly Crossing Lane, notwithstanding what is shown on Sheet 3.

TIMING:

Routine.

BACKGROUND:

Under Par. 5 of Sect. 18-204 of the Zoning Ordinance, the Board may approve certain minor variations to proffered conditions and the associated generalized development plan without a public hearing when such requests do not materially affect proffered conditions of use, density, or intensity. Specifically, Par.(A)(3) permits modifications to minimum yard dimensions, building setbacks or distances from peripheral lot lines shown on an approved development plan, but only if the modified dimensions would not have a materially adverse impact on adjacent properties or other proffered conditions.

The Subject property is zoned C-8, HC, and WC. The property is located at the southeast corner of the intersection of Lee Road and Chantilly Crossing Lane, on approximately 3.18 acres of land, Tax Map 34-3 ((13)) 3A (see Locator Map in Attachment 1). The site is governed by PCA 95-Y-016-05 which was approved, subject to proffers, by the Board of Supervisors on January 24, 2017. The approval amended RZ 95-Y-016 approved for a mixed-use commercial development, to permit a 30,000-square-foot grocery store and an 18,000-square-foot multi-tenant retail building. The accepted proffers and development plan governing the subject property for PCA 95-Y-016-05 are available through the Zoning Evaluation Division or at: <http://ldsnet.fairfaxcounty.gov/ldsnet/ZAPSMMain.aspx?cde=PCA&seq=4210869>

Board Action Item  
June 25, 2019

On April 10, 2019, the Department of Planning and Zoning (DPZ) received a letter dated April 10, 2019, from Bernard S. Suchicital, agent for the applicant, requesting a minor variation to allow a reduction in the building setback to the peripheral lot line at Chantilly Crossing Lane (see Attachment 4). The building setback shown on Sheet 3 of the PCA/GDPA shows a dimension of 76 feet from the building to the peripheral lot line at Chantilly Crossing Lane (See attachment 5). The applicant now requests a reduction to 64 feet to accommodate a new prototypical building design (See Attachment 6). Proffer 2 requires development of the property to be in substantial conformance with the GDPA and states:

*2. Development Plan. Development of the Application Property shall be in substantial conformance with the Generalized Development Plan Amendment ("GDPA"), prepared by Bohler Engineering and dated October 20, 2015, as revised through December 8, 2016. The gross floor area of development on the Application Property shall not exceed 48,000 square feet.*

While the Minor Variation Statement adds language to the proffer; in actuality, this minor variation merely permits a setback of 64 feet instead of 75 feet from Chantilly Crossing Lane as shown on the GDPA and does not modify Proffer 2. Staff has reviewed PCA 95-Y-016-05 and the request to allow a reduction in the building setback to the peripheral lot line at Chantilly Crossing Lane and has determined the proposed change will not have a materially adverse impact on adjacent properties. Given that conclusion, staff believes that approval of this minor variation request meets the requirements of the Zoning Ordinance and recommends its approval.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Excerpt of Approved Proffers for PCA 95-Y-016-05

Attachment 3: Minor Variation Statement

Attachment 4: Letter dated April 10, 2019, to Zoning Evaluation Division

Attachment 5: Approved Generalized Development Plan

Attachment 6: Minor Variation Exhibit

Attachment 7: Affidavit available online at:

<https://www.fairfaxcounty.gov/planning-zoning/zoning/minor-variations>

Board Action Item  
June 25, 2019

STAFF:

Rachel Flynn, Deputy County Executive

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

Tracy D. Strunk, Director, Zoning Evaluation Division (ZED), DPZ

Suzanne Wright, Chief, Special Projects/Applications/Management Branch, ZED, DPZ

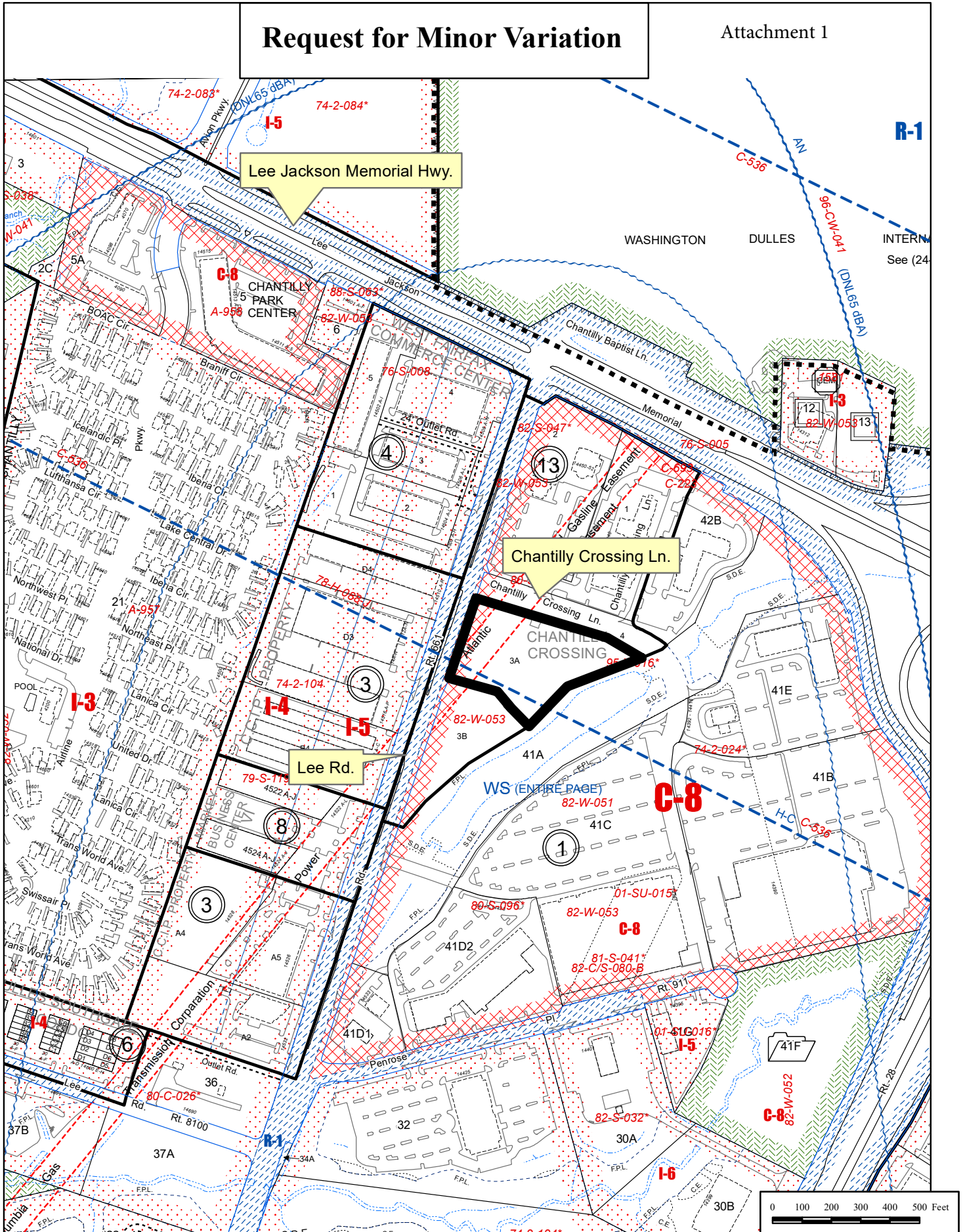
Jerrell Timberlake, Staff Coordinator, ZED, DPZ

ASSIGNED COUNSEL:

Christopher Sigler, Assistant County Attorney, Office of the County Attorney

# Request for Minor Variation

Attachment 1



**PROFFERS****PCA 95-Y-016-05****January 19, 2017**

Pursuant to Section 15.2-2303(A) of the Code of Virginia (1950, as amended) and Section 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), the property owner and Applicant, for themselves and their successors and/or assigns (hereinafter collectively referred to as the "Applicant"), hereby proffer that the development of the parcel under consideration and shown on the Fairfax County 2016 tax maps as Tax Map 34-3 ((13)) 3 (the "Application Property") shall be in accordance with the following conditions if, and only if, Proffered Condition Amendment application PCA 95-Y-016-05 is granted.

1. **Previous Proffers.** All previous proffers associated with PCA 95-Y-016-4, as they apply to the Application Property, shall be superseded by these proffers.
2. **Development Plan.** Development of the Application Property shall be in substantial conformance with the Generalized Development Plan Amendment ("GDPA"), prepared by Bohler Engineering and dated October 20, 2015, as revised through December 8, 2016. The gross floor area of development on the Application Property shall not exceed 48,000 square feet.
3. **Minor Modifications.** Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDPA may be permitted when necessitated by sound engineering or that may become necessary as part of final site or architectural design, when it is determined by the Zoning Administrator that such modifications are in substantial conformance with the GDPA.
4. **Uses.** Uses may include up to 2,500 square feet of fast food restaurants, as permitted under Section 4-805 of the Zoning Ordinance, as may be amended. This amount may be increased with approval of a special exception, without the need for a PCA or GDPA. No drive through uses shall be permitted on the Application Property. The following uses shall not be allowed on the Application property:
  - A. **Alternative Lending Institution.** Alternative lending institutions (ALIs) shall not be permitted on the property. For purposes of this Proffer, an ALI is defined as an establishment providing short term loans to individuals, to include, but not be limited to, pay day lenders, as regulated by Chapter 18, Title 6.2, Code of Virginia, and/or motor vehicle title lenders, as regulated by Chapter 22, Title 6.2, Code of Virginia. For purposes of this Proffer, an ALI shall not be deemed to include an Office, Pawnshop, Drive-In Financial Institution, Financial Institution, or any other state or federally chartered bank, savings and loan institution, or

MINOR VARIATION STATEMENT

LIDL US Operations, LLC

PCA 95-Y-016-05

May 29, 2019

Pursuant to Section 18-204 of the Zoning Ordinance, the property owner, LIDL US Operations, LLC, hereby requests approval of a Minor Variation to the proffers governing Tax Map 34-3 ((13)) 3A to modify the approved proffers with regard to the building setback from Chantilly Crossing Lane. Specifically, this Minor Variation application will add the following sentence to Proffer 2: *“However, notwithstanding what is shown on Sheet 3 of the GDPA, the building setback from Chantilly Crossing Lane shall be a minimum of 64 feet.”*

*“Proffer 2. Development Plan. Development of the Application Property shall be in substantial conformance with the Generalized Development Plan Amendment (“GDPA”), prepared by Bohler Engineering and dated October 20, 2015, as revised through December 8, 2016. However, notwithstanding what is shown on Sheet 3, the building setback from Chantilly Crossing Lane shall be a minimum of 64 feet. The gross floor area of development on the Application Property shall not exceed 48,000 Square feet.”*

The Applicant commits that all remaining proffers will continue to govern the use of the Property, and that the development of the Property will continue to meet the use limitations contained in the Zoning Ordinance.

LIDL US Operations, LLC

By: 

Name: Arnaud Meheust

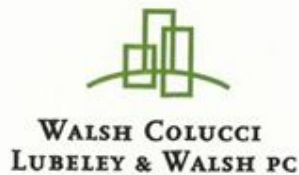
Its: Officer

By: 

Name: Marco Landolt

Its: Officer

Bernard S. Suchicital  
 Land Use Planner  
 (703) 528-4700 Ext. 5419  
[bsuchicital@thelandlawyers.com](mailto:bsuchicital@thelandlawyers.com)



April 10, 2019

**Via Hand Delivery**

Tracy D. Strunk, Director  
 Zoning Evaluation Division  
 Fairfax County Department of Planning & Zoning  
 12055 Government Center Parkway, Suite 801  
 Fairfax, Virginia 22035-5505

**Re: Application for Minor Variation associated with PCA/GDPA 95-Y-016-05  
 Lidl US Operations, LLC (the "Applicant")  
 Tax Map Parcel 34-3 ((13)) 3A (the "Application Property")**

Dear Ms. Strunk:

This letter serves as a statement of justification for a proposed minor variation of the approved Proffer Condition Amendment / Generalized Development Plan Amendment (PCA/GDPA) associated with the above referenced Application Property. The Application Property is part of the Chantilly Crossing Shopping Center located in the southeast quadrant of the intersection of Chantilly Crossing Lane and Lee Road.

The Application Property, referred to as Lidl Chantilly Crossing, consists of approximately 3.181 acres. The Application Property is zoned to the C-8 Highway Commercial District, with the most recent zoning action being the Board of Supervisors approval of the PCA on January 24, 2017, subject to proffers dated January 19, 2017. Copies of the proffers and the PCA/GDPA dated December 8, 2016 are provided as Exhibits 1 and 2, respectively.

The Application Property is approved for development as a grocery store, but has not yet been constructed. On January 15, 2019, representatives of the property owner met with staff from the Fairfax County Department of Planning and Zoning (DPZ) Zoning Evaluation Division to discuss changes to the parking lot as depicted on the PCA/GDPA. Changes to the parking lot were needed to address concerns regarding a power line utility easement that runs through the Application Property. The reconfigured parking lot resulted in additional greenspace, and no change in the number of parking spaces to be provided. Staff confirmed that the parking lot adjustments to the PCA/GDPA conform to the requirements of the Zoning Ordinance and are in substantial conformance with the PCA/GDPA. However, review of those changes brought to the attention of staff an adjustment to the building's setback from Chantilly Crossing Lane.

ATTORNEYS AT LAW

703 528 4700 • WWW.THELANDLAWYERS.COM  
 2200 CLARENDON BLVD. • SUITE 1300 • ARLINGTON, VA 22201-3359

LOUDOUN 703 737 3633 • WOODBRIDGE 703 680 4664



To address this issue, the Applicant is requesting a minor variation with regard to the building setback from Chantilly Crossing Lane. The building setback shown on Sheet 3 of the PCA/GDPA shows a dimension of 76 feet from the building to Chantilly Crossing Lane. The Applicant requests a change to 64 feet to accommodate the prototypical Lidl grocery store. Specifically, it is proposed that Proffer 2 be revised to state the following with changes underlined:

***“Proffer 2. Development Plan. Development of the Application Property shall be in substantial conformance with the Generalized Development Plan Amendment (“GDPA”), prepared by Bohler Engineering and dated October 20, 2015, as revised through December 8, 2016. However, notwithstanding what is shown on Sheet 3, the building setback from Chantilly Crossing Lane shall be a minimum of 64 feet. The gross floor area of development on the Application Property shall not exceed 48,000 Square feet.”***

The Application Property is located within Land Unit I of the Dulles Suburban Center portion of the Comprehensive Plan, and is recommended for optional retail use with a maximum of 67,500 square feet. The Application Property is part of a larger 48,000 square foot retail center, and as such is in conformance with the Comprehensive Plan recommendations.

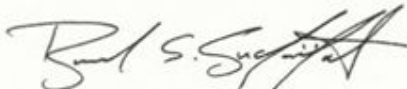
Section 18-204 ((5)) of the Zoning Ordinance permits a minor variation “to modify building setbacks from peripheral lot lines shown on an approved development plan, but only if the modified dimensions would not have a materially adverse impact on adjacent properties or other proffered conditions.” These standards are met with this request as detailed below:

- The modified dimension will not have a materially adverse impact on adjacent properties. The requested 12-foot reduction of the building setback to Chantilly Crossing Lane will not impact the hotel use north of the Application Property, which is situated a considerable distance from Chantilly Crossing Lane.
- The modified dimension will not have a materially adverse impact other proffered conditions. The modification does not increase the building gross floor area (GFA) of 29,136 square feet as shown on Exhibit 3, prepared by Bohler Engineering dated January 16, 2019. The proposed minor variation does not adversely impact vehicular circulation as the curb lines and drive aisles have not been modified.

As always, I appreciate your consideration of this application.

Very truly yours,

WALSH, COLUCCI, LUBELEY, & WALSH, P.C.

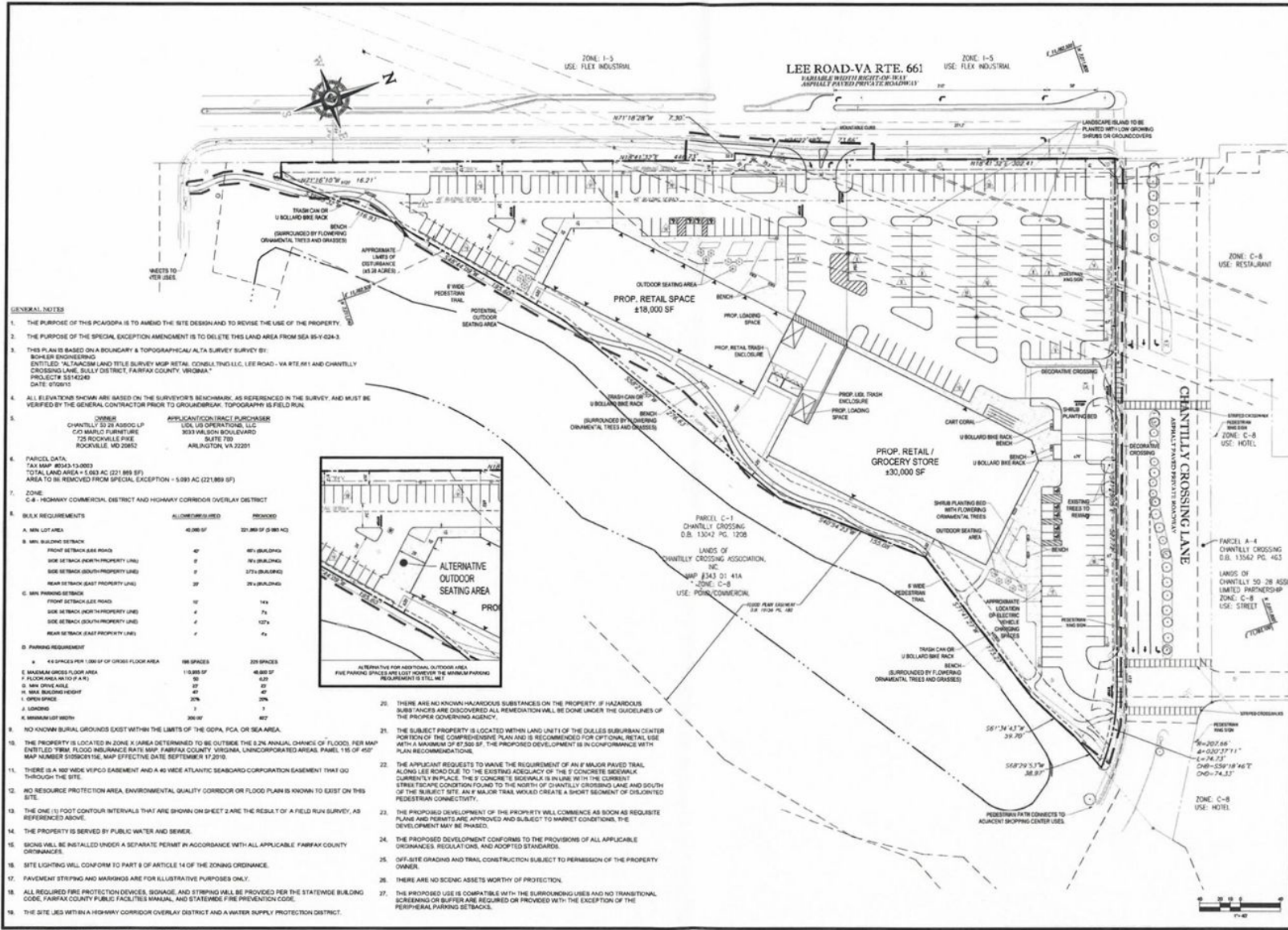


Bernard S. Suchicital  
Land Use Planner

Enclosures: Exhibit 1 – Approved Proffers dated January 19, 2017  
Exhibit 2 – Approved PCA/GDPA dated January 24, 2017  
Exhibit 3 – Minor Variation Exhibit dated January 16, 2019

BSS

cc: Elizabeth D. Baker  
Martin D. Walsh  
Megan M. Sizemore  
Katherine Roberts



**BOHLER ENGINEERING**  
 2236 DAVIS DRIVE, SUITE 230  
 STERLING, VIRGINIA 20154  
 Phone: (703) 705-8000  
 Fax: (703) 709-9601  
 Web: www.bohler-eng.com

**REVISIONS**

REV	DATE	COMMENT	BY
1	11/23/15	FINAL PER APPROVED	ML
2	2/28/16	REVISED PER APPROVED COMMENTS	MLP
3	4/24/16	REVISED PER APPROVED COMMENTS	MLP
4	4/24/16	REVISED PER APPROVED COMMENTS	MLP
5	05/04/16	REVISED PER APPROVED COMMENTS	MLP
6	5/14/16	REVISED PER APPROVED COMMENTS	MLP
7	5/14/16	REVISED PER APPROVED COMMENTS	MLP
8	5/14/16	REVISED PER APPROVED COMMENTS	MLP
9	5/14/16	REVISED PER APPROVED COMMENTS	MLP

**NOT APPROVED FOR CONSTRUCTION**

PROJECT NO: 514240  
 DRAWN BY: KMS  
 DATE: 07/20/15  
 SCALE: 1" = 40' (SEE PLAN)

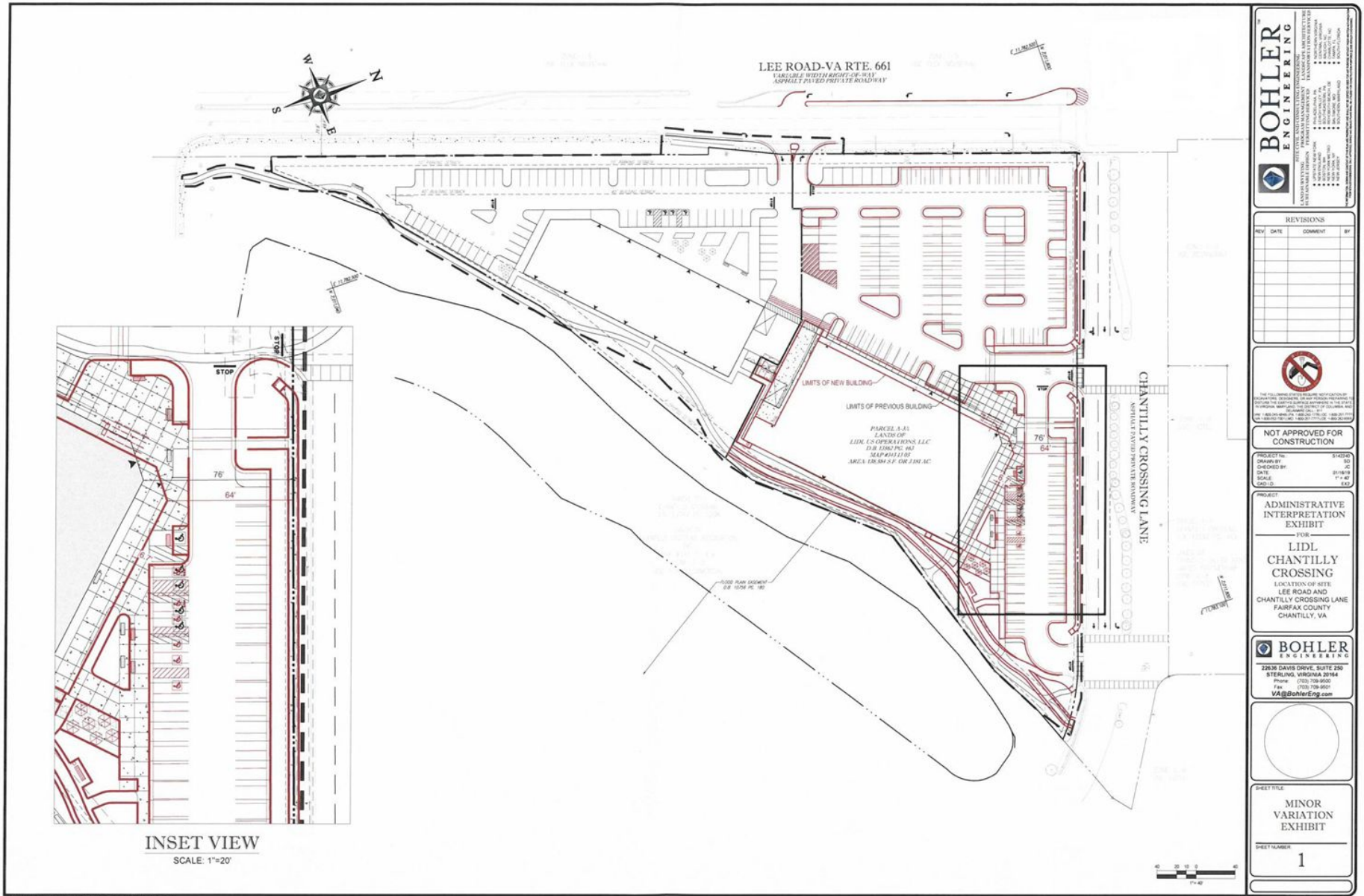
**LIDL US OPERATIONS, LLC**  
 LOCATION OF SITE  
 SEC CHANTILLY CROSSING LANE AND LEE ROAD  
 CHANTILLY, FAIRFAX COUNTY, VA  
 SULLY DISTRICT

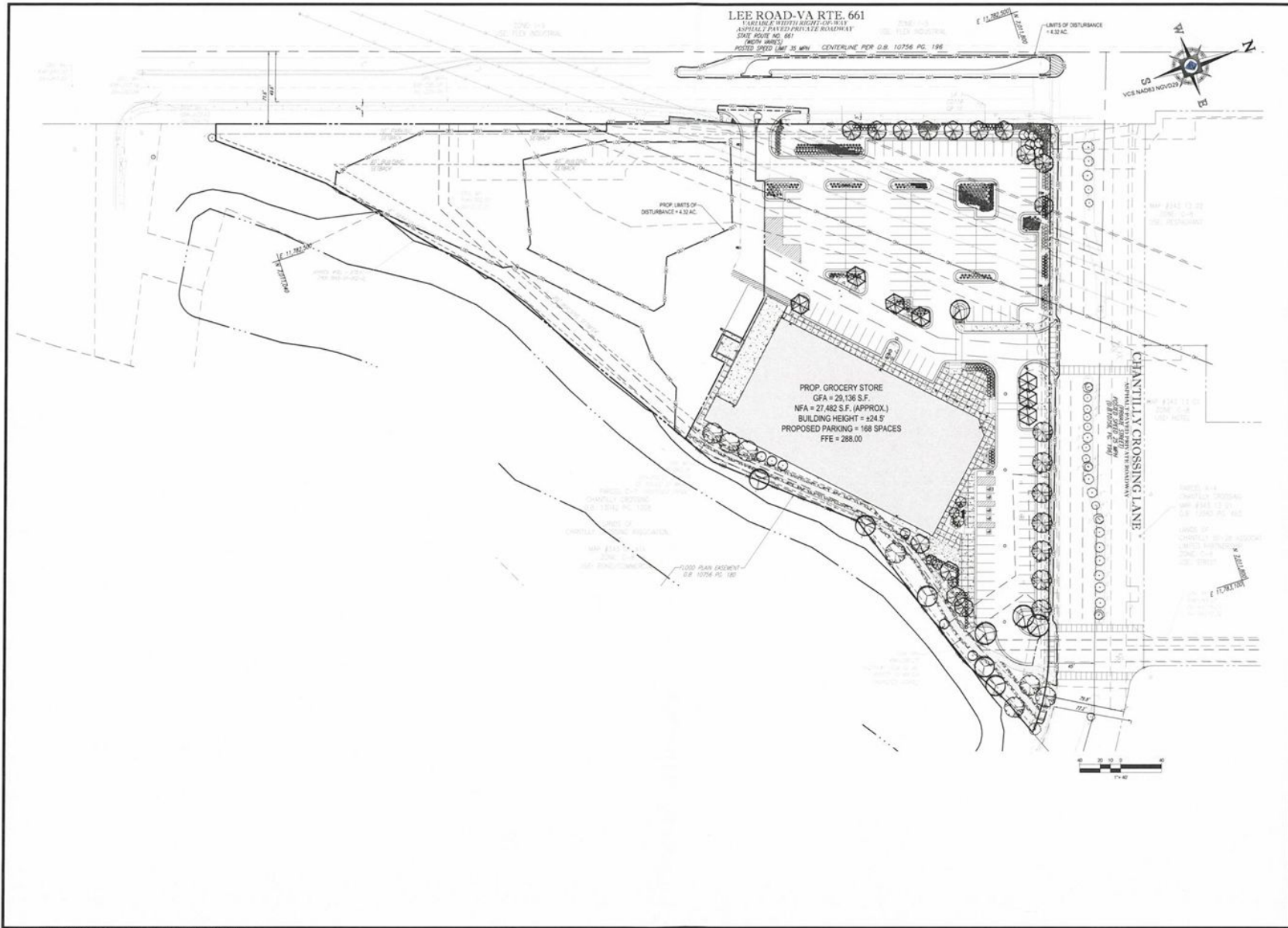
**BOHLER ENGINEERING**  
 2236 DAVIS DRIVE, SUITE 230  
 STERLING, VIRGINIA 20154  
 Phone: (703) 705-8000  
 Fax: (703) 709-9601  
 Web: www.bohler-eng.com

**SEAL OF THE BOARD OF PROFESSIONAL ENGINEERS OF THE STATE OF VIRGINIA**  
 KEITH SIMPSON  
 Lic. No. 04019  
 1/20/16

**GENERALIZED DEVELOPMENT PLAN**

SHEET NUMBER: 3





**BOHLER ENGINEERING**  
 2208 DAVIS DRIVE, SUITE 200  
 STERLING, VIRGINIA 20164  
 Phone: (703) 709-9500  
 Fax: (703) 709-9501  
 VA@BohlerEng.com

BOHLER ENGINEERING, INC. (A PROFESSIONAL CORPORATION)  
 10000 BOHLER DRIVE, SUITE 100  
 FARMERSVILLE, TEXAS 77834  
 10000 BOHLER DRIVE, SUITE 100  
 FARMERSVILLE, TEXAS 77834  
 10000 BOHLER DRIVE, SUITE 100  
 FARMERSVILLE, TEXAS 77834

**REVISIONS**

REV.	DATE	COMMENT	BY

**NOT APPROVED FOR CONSTRUCTION**

PROJECT NO. S14202  
 DRAWN BY: JG  
 DATE: 01/18/18  
 SCALE: AS NOTED  
 CAD: EAC

**ADMINISTRATIVE INTERPRETATION EXHIBIT**

**LIDL CHANTILLY CROSSING**  
 LOCATION OF SITE:  
 LEE ROAD AND  
 CHANTILLY CROSSING LANE  
 FAIRFAX COUNTY  
 CHANTILLY, VA

**BOHLER ENGINEERING**  
 2208 DAVIS DRIVE, SUITE 200  
 STERLING, VIRGINIA 20164  
 Phone: (703) 709-9500  
 Fax: (703) 709-9501  
 VA@BohlerEng.com



**MINOR VARIATION EXHIBIT**

SHEET NUMBER: **2**

Board Agenda Item  
June 25, 2019

3:00 p.m.

Joint Public Hearing on the Proposed Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2020 through 2025 and FY 2020 Budget

ISSUE:

Public hearing and Board approval of the proposed Virginia Department of Transportation (VDOT) Six-Year Secondary System Construction Program (SSYP) for Fiscal Years (FY) 2020 through 2025.

RECOMMENDATION:

The County Executive recommends that the Board approve the attached Secondary System Construction Program for FY 2020 through 2025 (Attachment 1), the FY 2020 Budget, and the resolution (Attachment 2) required by VDOT.

TIMING:

The Board is requested to act on this item on June 25, 2019, following the public hearing.

BACKGROUND:

The proposed SSYP has been prepared by VDOT, in coordination with County staff, pursuant to Section 33.2-331 of the *Code of Virginia*. This is an update of the previous Program which was the subject of a public hearing before the Board on June 19, 2018. Project schedule information is also included in the proposed program.

Roadway funding in Virginia is now largely allocated through the Commonwealth's Smart Scale and State of Good Repair programs. Consequently, the secondary road fund has been shrinking and no additional secondary road funds are expected in the future. The Commonwealth's Biennial Budget specifies that these changes will not affect the expenditure of the secondary funds that were allocated by July 1, 2019, provided that they are committed and expected to be expended as of January 1, 2020. Those secondary funds that remain unspent as of January 1, 2020, will be deallocated and transferred to the State of Good Repair Program, unless such funds are allocated to a fully funded and active project. Therefore, the County can continue to utilize those secondary funds already allocated to projects.

The County initiated legislation during the 2019 General Assembly Session that would limit the requirements for the SSYP Update. Specifically, HB 2578 (Plum) / SB 1684 (Petersen), changes the Code of Virginia to require that a governing body hold a public hearing on the SSYP only when the locality has a proposed new funding allocation greater than \$100,000. Both bills passed the General Assembly unanimously, were signed by the Governor, and become effective on July 1, 2019. Therefore, in the future, a public hearing will only be required in years when a new funding allocation is substantial.

Although the program has limited funds, there are two changes to the program for FY 2024.

- Funding available in FY 2025 for the Unpaved Road District Grant Program equals the revised available funding in FY 2024, \$6,616.00.
- Rolling Road – Route 638 (UPC 5559), which will be funded with other sources, was removed from this report.
- Telegraph Road (UPC 11012) was completed and removed from this report.

Table A shows the annual VDOT Secondary System Construction Program for Fairfax County from FY 2008 through FY 2025.

**Table A**

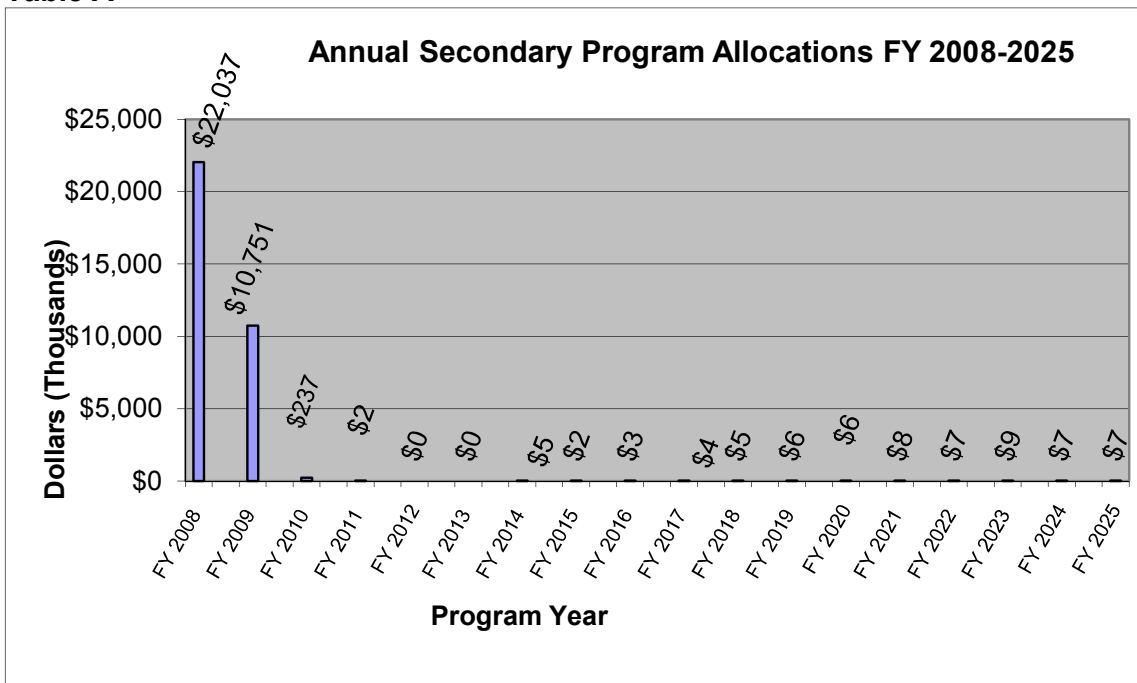


Table B shows the changes in the Six-Year Secondary Construction Program amounts from the FY 2003 – FY 2008 Program through the current Program.

**Table B: Secondary Program Comparison**

2003-2008	\$138,335,526
2004-2009	\$153,442,084
2005-2010	\$113,686,186
2006-2011	\$131,445,086
2007-2012	\$78,270,291
2008-2013	\$119,121,972
2009-2014	\$10,994,320
2010-2015	\$1,443,761
2011-2016	\$11,798
2012-2017	\$19,591
2013-2018	\$11,382
2014-2019	\$25,680
2015-2020	\$51,480
2016-2021	\$33,275
2017-2022	\$36,860
2018-2023	\$41,750
2019-2024 (revised)	\$43,073
2020-2025 (projected)	\$43,600

**FISCAL IMPACT:**

There is no impact to the Fairfax County budget at this time. At such time as individual projects are constructed, the County may send VDOT any related funds that have been collected for a particular project by the County through proffers, construction escrows and/or other local funds.

**ENCLOSED DOCUMENTS:**

Attachment 1: Secondary System Construction Program for FY 2020 through FY 2025

Attachment 2: Resolution Approving Budget and Program.

Attachment 3: Secondary Priority Road Widening Status Update



Board Agenda Item  
June 25, 2019

STAFF:

Rachel Flynn, Deputy County Executive

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

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

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Brent Riddle, Coordination and Funding Division, FCDOT

Secondary System  
 Fairfax County  
 Construction Program  
 Estimated Allocations

Fund	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	Total
CTB Formula - Unpaved State	\$5,852	\$0	\$0	\$0	\$0	\$0	\$5,852
Secondary Unpaved Roads	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TeleFee	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Residue Parcels	\$0	\$0	\$0	\$0	\$0	\$0	\$0
STP Converted from IM	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal STP - Bond Match	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Formula STP	\$0	\$0	\$0	\$0	\$0	\$0	\$0
MG Formula	\$0	\$0	\$0	\$0	\$0	\$0	\$0
BR Formula	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other State Match	\$0	\$0	\$0	\$0	\$0	\$0	\$0
State Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal STP	\$0	\$0	\$0	\$0	\$0	\$0	\$0
District Grant - Unpaved	\$0	\$8,216	\$6,921	\$9,379	\$6,616	\$6,616	\$37,748
<b>Total</b>	<b>\$5,852</b>	<b>\$8,216</b>	<b>\$6,921</b>	<b>\$9,379</b>	<b>\$6,616</b>	<b>\$6,616</b>	<b>\$43,600</b>

Board Approval Date:

-----  
 Residency Administrator Date

-----  
 County Administrator Date

## ATTACHMENT 1

District: Northern Virginia

County: Fairfax County

Board Approval Date: 2020-21 through 2024-25

Route	Road Name	Estimated Cost	Traffic Count
PPMS ID	Project #		Scope of Work
Accomplishment	Description		FHWA #
Type of Funds	FROM		Comments
Type of Project	TO		
Priority #	Length	Ad Date	
4008		<i>PE</i>	\$0
100373	1204008	<i>RW</i>	\$0
NOT APPLICABLE	COUNTYWIDE RIGHT OF WAY ENGR.	<i>CN</i>	\$0
S	VARIOUS LOCATIONS IN COUNTY	<i>Total</i>	<b>\$0</b>
0000.04	VARIOUS LOCATIONS IN COUNTY	3/1/2011	USE WHEN IMPARTICAL TO OPEN A PROJECT: ATTORNEY FEES and ACQUISITION COST.
0638	ROLLING ROAD	<i>PE</i>	\$5,887,000
5559	0638029156	<i>RW</i>	\$18,674,476
RAAP CONTRACT	ROLLING ROAD - RTE 638 - WIDEN TO 4 LANES	<i>CN</i>	\$31,570,401
STP	0.369 MILE NORTH ROUTE 286 (FAIRFAX COUNTY PARKWAY)	<i>Total</i>	<b>\$56,131,877</b>
Migration	Kenwood Avenue	7/12/2022	MPO Project.
0002.03	1.4		
0612	Colchester Road	<i>PE</i>	\$60,000
76256	0612029P87	<i>RW</i>	\$50,000
RAAP CONTRACT	COLCHESTER ROAD - RTE 612 -RECON & PAVE GRAVEL ROAD	<i>CN</i>	\$335,000
STP	CHAPEL ROAD (ROUTE 641)	<i>Total</i>	<b>\$445,000</b>
Migration	0.24 MILE NORTHWEST OF ROUTE 641	1/13/2028	Unpaved Road Allocation
0003.01	0.2		

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, June 25, 2019, at which meeting a quorum was present and voting, the following resolution was adopted.

PROGRAM ENDORSEMENT RESOLUTION

WHEREAS, Sections 33.2-331 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan,

WHEREAS, Andrew Beacher, Preliminary Engineering Manager, Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (FY2020 through FY2025) and the FY 2020 Budget for Fairfax County,

NOW, THEREFORE, BE IT RESOLVED that since said Plan appears to be in the best interests of the Secondary Road System in Fairfax County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (FY2020 through FY2025) and FY 2020 Budget are hereby approved as presented at the public hearing;

Adopted this 25<sup>th</sup> day of June, 2019, Fairfax, Virginia

ATTEST

\_\_\_\_\_

Catherine A. Chianese  
Clerk to the Board of Supervisors

FY 2020 - 2025 Secondary Six Year Program Summary

**COST ESTIMATES IN THOUSANDS**

#	<u>SSYP Project</u>	FY 2019 COST <u>Jun-15</u>	FY 2020 COST <u>Jun-16</u>	CHANGE/ COST <u>INCREASE</u>	PERCENT COST INCREASE SINCE <u>Jun-15</u>	Bid/Advertisement Date	
						FY19	FY20
1	COLCHESTER ROAD RECONSTRUCTION AND PAVE GRAVEL ROAD	\$ 445	\$ 445	\$ -	0.0%	January-28	January-28
2	ROLLING ROAD	\$ 56,826	\$ 56,132	\$ (694)	-1.2%	July-22	July-22
<b>TOTALS</b>		<b>\$57,271</b>	<b>\$56,577</b>	<b>-\$694</b>	<b>-1.2%</b>		

Board Agenda Item  
June 25, 2019

3:00 p.m.

Public Hearing on PCA 2006-SU-025-04 (Regency Centers Acquisition, LLC) to Amend the Proffers for RZ 2006-SU-025-03 Previously Approved for Mixed-Use Development to Permit a Drive-In Financial Institution and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.08 on the Part of Land Bay D Subject to this PCA (Overall Floor Area Ratio of Land Bay D is 0.41) Located on Approximately 1.0 Acre of Land Zone PDC, WS, and AN (Sully District)

This property is located in the N.E. corner of the northern intersection of Newbrook Drive and Westfields Boulevard. Tax Map 44-1 ((1)) 6H2 (pt.).

PLANNING COMMISSION RECOMMENDATION:

On May 22, 2019, the Planning Commission voted 11-0 (Commissioner Niedzielski-Eichner was absent from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2006-SU-025-04, subject to the execution of proffered conditions consistent with those dated May 1, 2019;
- Modification of Par. 5 of Section 11-104 of the Zoning Ordinance to reduce the stacking requirement from eight vehicles to five vehicles; and
- Reaffirmation of the previously granted modification of Par. 5 of Section 6-206 of the Zoning Ordinance to permit the gross floor area of non-residential secondary uses to exceed 25 percent of the gross floor area of all principle uses in the development.

In a related action, the Planning Commission voted 11-0 (Commissioner Niedzielski-Eichner was absent from the vote) to approve FDPA 2006-SU-025-04, subject to the development conditions dated May 8, 2019 and subject to the Board of Supervisors' approval of the concurrent PCA application.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:

<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)  
Emma Estes, Planner, DPZ

Board Agenda Item  
June 25, 2019

3:00 p.m.

Public Hearing on PCA/CDPA 2016-HM-007 (One Reston Co. LLC and Two Reston Co. LLC) to Amend the Proffers and Conceptual Development Plan for RZ 2016-HM-007, Previously Approved for Mixed-Use Development to Permit Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 2.62, Located on Approximately 12.77 Acres of Land Zoned PDC (Hunter Mill District)

This property is located W. of Reston Parkway, N. of Sunrise Valley Drive, E. of Edmund Halley Drive, and S. of the Dulles Airport Access and Toll Road. Tax Map 17-3 ((8)) 1 A1 (pt.) and 1B (pt.)

PLANNING COMMISSION RECOMMENDATION:

On May 22, 2019, the Planning Commission voted 11-0 (Commissioner Niedzielski-Eichner was absent from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2016-HM-007 and CDPA 2016-HM-007, subject to the execution of proffered conditions consistent with those dated April 24, 2019;
- Modification of Par. 1 of Sect. 2-505 of the Zoning Ordinance to permit development of corner lots to that shown on the CDPA;
- Waiver of Par. 2 of Sect. 2-506 of the Zoning Ordinance to permit a parapet wall, cornice, or similar projection to exceed three feet in height and extend more than three feet above the roof level of any building;
- Waiver of Par. 5 of Sect. 6-206 of the Zoning Ordinance to permit secondary uses in the PDC District to exceed 50 percent of the gross floor area of all principal uses in the development and all other secondary uses to exceed 25 percent of the gross floor area of all principal uses in the development;
- Modification of Par. 4 of Sect. 11-202 of the Zoning Ordinance to permit loading spaces or berths within 40 feet of the nearest point of intersection of the edges of the travelway or the curbs of any two streets to that shown on the CDPA/FDPA;

Board Agenda Item  
June 25, 2019

- Modification of Sect. 11-203 of the Zoning Ordinance for a reduction in the number of required loading spaces to that shown on the CDPA;
- Waiver of Sect. 13-202 of the Zoning Ordinance for the interior parking lot landscaping on the top level of parking structures;
- Modification of Sects. 13-303 and 13-304 of the Zoning Ordinance for the transitional screening and barrier requirements to that shown on the CDPA; and
- Modification of Par. 2 of Sect. 17-201 of the Zoning Ordinance to permit the streetscape and on-road bicycle lanes as shown on the CDPA in lieu of that shown in the Comprehensive Plan.

In a related action, the Planning Commission voted 11-0 (Commissioner Niedzielski-Eichner was absent from the vote) to approve FDPA 2016-HM-007, subject to the development conditions dated May 8, 2019 and subject to the Board of Supervisors' approval of PCA 2016-HM-007 and CDPA 2016-HM-007.

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  
June 25, 2019

3:00 p.m.

Public Hearing to Convey Board-Owned Property on Autumn Willow Drive to the Fairfax County Redevelopment and Housing Authority (Springfield District)

ISSUE:

Public hearing regarding the conveyance of Board-owned property located along Autumn Willow Drive to the Fairfax County Redevelopment and Housing Authority (FCRHA).

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to convey Board-owned property on Autumn Willow Drive to the FCRHA.

TIMING:

On May 7, 2019, the Board authorized the advertisement of a public hearing to convey Board-owned property on Autumn Willow Drive to FCRHA.

BACKGROUND:

The Board of Supervisors is the owner of an approximately 11-acre parcel located near the intersection of Stringfellow Road and Autumn Willow Drive and identified by Tax Map No. 0553 01 0026B (Autumn Willow Property). This vacant parcel is situated within a residential area, and was originally part of a larger parcel that included 17.7 acres of land (Parcel 26C) to the north that are currently improved with recreational fields and 9.6 acres of open space (Parcel 26A) to the south that are located within the non-buildable Resource Protection Area. The fields and open space were conveyed by the Board to the Fairfax County Park Authority in 2013.

The FCRHA is evaluating the possibility of partnering with a private developer pursuant to the terms of the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) to construct up to 180 affordable senior housing units on the Property. The creation of a new housing community for adults 62 years or older with low to moderate incomes (the Project) anticipates a rezoning and a special exception. These applications would be reviewed at public hearings by both the Planning Commission and the Board. The public will be afforded several opportunities to comment on the design of the Project and its possible impacts on the surrounding communities. Initial public outreach efforts are expected to begin as soon as the PPEA selection process is completed.

Board Agenda Item  
June 25, 2019

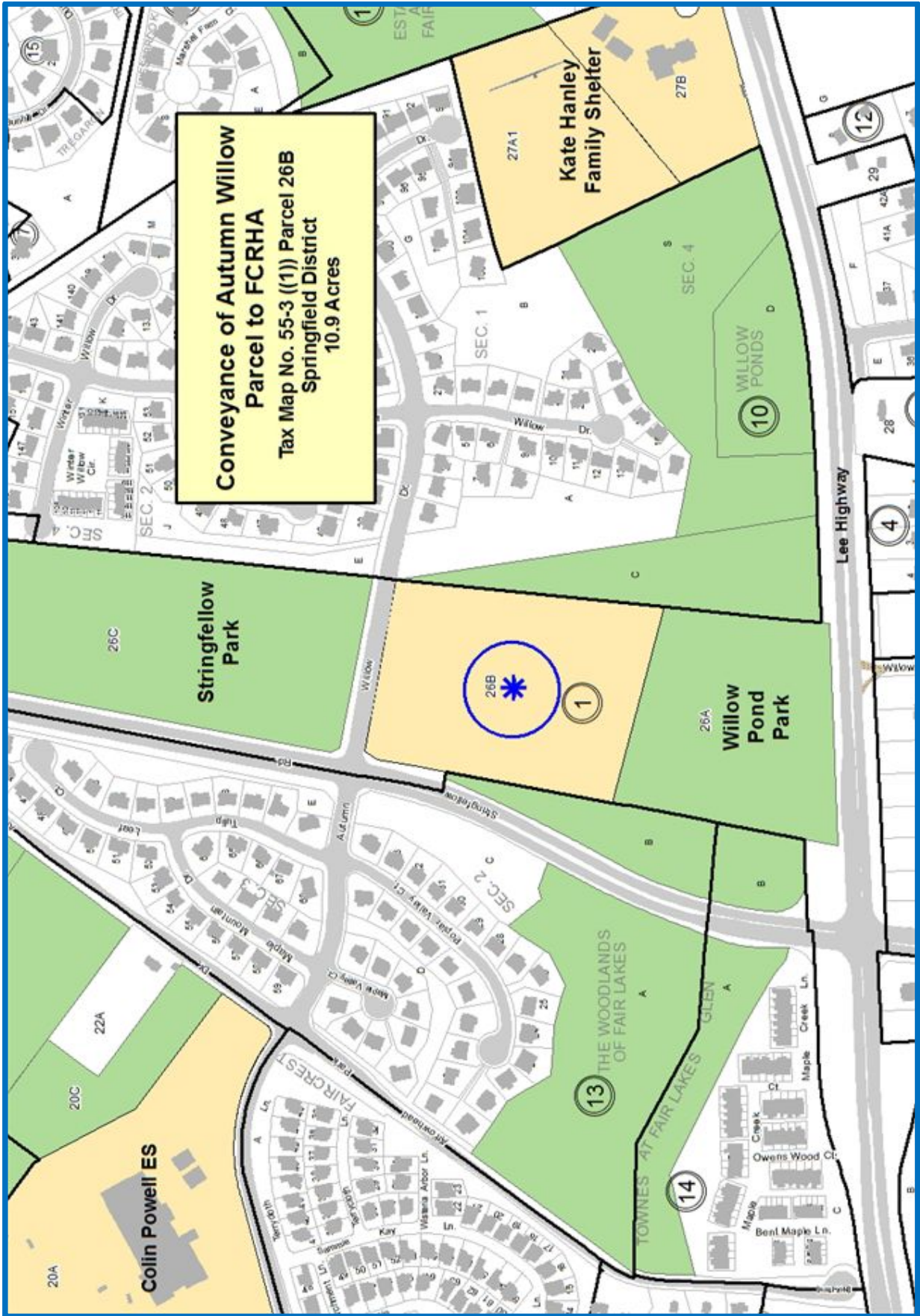
Staff recommends that the conveyance of the Autumn Willow Property to FCRHA be subject to the condition that the parcels must be used in connection with the Project. In the event the FCHRA no longer pursues the Project, the Authority will transfer ownership of the property back to the Board. Staff further recommends that the conveyance be made subject to the County's reservation of the right to assign to public entities, public utilities or telecommunications or cable television providers the right to construct improvements on the property for the purpose of providing utilities and other public services. Staff also recommends that any public utilities located on the property that are owned and maintained by County agencies, such as sanitary sewers and stormwater management facilities and structures, continue to be owned and maintained by the County.

To allow the developer selected through the PPEA process to initiate the rezoning process for the affordable senior housing project, it is necessary for the Board to transfer fee simple ownership of the Autumn Willow Property to FCRHA, which would in turn grant agency to the selected developer for the limited purpose of rezoning and obtaining other necessary governmental approvals for the site.

FISCAL IMPACT:  
None

ENCLOSED DOCUMENTS:  
Attachment 1 – Location Map  
Attachment 2 – Resolution

STAFF:  
Joseph M. Mondoro, Chief Financial Officer  
Rachel O'Dwyer Flynn, Deputy County Executive  
Tisha Deeghan, Deputy County Executive  
Thomas E. Fleetwood, Director, Housing and Community Development  
José A. Comayagua, Director, Facilities Management Department  
Mike Lambert, Assistant Director, Facilities Management Department



**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 at Fairfax, Virginia, on Tuesday, June 25, 2019, at which a quorum was present and voting, the following resolution was adopted:

**WHEREAS**, the Board of Supervisors owns approximately 11 acres of land in Springfield District near the intersection of Stringfellow Road and Autumn Willow Drive, identified as Tax Map Parcel No. 0553 01 0026B (the Autumn Willow Property),

**WHEREAS**, the Fairfax County Redevelopment and Housing Authority has requested the Board of Supervisors to transfer the Autumn Willow Property to the FCRHA for incorporation into an affordable senior housing development,

**WHEREAS**, the Board has no current or planned use for the Autumn Willow Property,

**WHEREAS**, the Board finds that it would be in the best interest of the residents of Fairfax County to convey the real property as described above to the FCRHA.

**NOW, THEREFORE**, upon public hearing duly advertised according to law, it is **RESOLVED** that the County Executive is hereby authorized to execute all necessary documents to convey the real property described above to the FCRHA.

A Copy Teste:

\_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

Board Agenda Item  
June 25, 2019

3:00 p.m.

Public Hearing on PRCA-B-846-02 (Reston Heights Residential I, LLC) to Amend the PRC Plan Associated with RZ-B-846 to Permit Modifications to PRC Plan and Conditions for Mixed-Use Development, Located on Approximately 9.89 Acres of Land Zoned PRC (Hunter Mill District)

This property is located on the E. side of Reston Parkway and W. side of Sunrise Valley Drive, Tax Map 17-3 ((21)) 1A, 2B, 3A, 4A, and 5A.

The Board of Supervisors deferred this public hearing from May 21, 2019, to June 25, 2019, at 3:00 p.m.

PLANNING COMMISSION RECOMMENDATION:

On June 12, 2019, the Planning Commission voted 11-0 (Commissioner Strandlie was absent from the meeting) to recommend to the Board of Supervisors approval of PRCA-B-846-02 subject to the development conditions dated June 12, 2019.

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)  
Harold Ellis, Planner, DPZ

Board Agenda Item  
June 25, 2019

3:00 p.m.

Public Hearing on SEA 88-D-008 (VA Electric & Power Co., D/B/A Dominion Energy Virginia) to Amend SE 88-D-008, Previously Approved for an Electrical Substation to Allow Site Modifications and an Increase in Fence Height, Located on Approximately 3.29 Acres of Land Zoned R-1 and I-4 (Providence District)

This property is located at 8440 Tyco Road, Tysons, 22182. Tax Map 29-1 ((1)) 50C.

The Board of Supervisors deferred this public hearing from May 7, 2019, until May 21, 2019 at 3:30 p.m., at which time it was deferred to June 25, 2019 at 3:00 p.m.

PLANNING COMMISSION RECOMMENDATION:

On April 3, 2019, the Planning Commission voted 9-0 (Commissioner Sargeant recused himself from the vote. Commissioners Strandlie and Tanner were absent from the meeting.) to recommend to the Board of Supervisors the following actions:

- Approval of SEA 88-D-008, subject to the development conditions dated April 3, 2019; and
- Approval of a modification of wall height, as required by Paragraph 3H of Section 10-104 of the Zoning Ordinance, in favor of the 12-foot tall wall shown on the SEA plat.

Concurrently, the Planning Commission voted 9-0 (Commissioner Sargeant recused himself from the vote. Commissioners Strandlie and Tanner were absent from the meeting.) to find that the electric substation proposed under 2232-P18-20 satisfies the criteria of location, character, and extent, as specified in Section 15.2-2232 of the Code of Virginia, as amended, and therefore is substantially in accord with the Comprehensive 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)  
Harold Ellis, Planner, DPZ

Board Agenda Item  
June 25, 2019

3:30 p.m.

Public Hearing on RZ 2018-HM-002 (Reston Crossing, L.P.) to Rezone from I-4 to PDC to Permit Mixed-Use Development with and Overall Floor Area Ratio of 3.31 and Approval of the Conceptual Development Plan, Located on Approximately 14.07 Acres of Land (Hunter Mill District)

This property is located on the S. side of the Dulles Airport Access and Toll Road, W. side of Reston Parkway, N. of Sunrise Valley Drive. Tax Map 17-3 ((8)) A and 2A (pt.) and Edmund Halley Drive public right-of-way to be vacated and/or abandoned.

PLANNING COMMISSION RECOMMENDATION:

On May 22, 2019, the Planning Commission voted 11-0 (Commissioner Niedzielski-Eichner was absent from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2018-HM-002 and the associated Conceptual Development Plan, subject to the execution of proffered conditions consistent with those dated May 21, 2019;
- Modification of Pars. 1A and 1B of Sect. 2-414 of the Zoning Ordinance for the 200-foot and 75-foot minimum distances to the Dulles International Airport Access Highway and Dulles Toll Road right-of-way to permit residential and commercial buildings to 70 and 54, respectively;
- Modification of Sect. 2-505 of the Zoning Ordinance for the sight distance requirements on a corner lot to that shown on the CDP/FDP;
- Waiver of Par. 2 of Sect. 2-506 of the Zoning Ordinance to permit a parapet wall, cornice, or similar projection to exceed three feet in height and to extend more than three feet above the roof level of any building;
- Waiver of Par. 5 of Sect. 6-206 of the Zoning Ordinance to permit the gross floor area devoted to dwellings to exceed 50 percent of the gross floor area of all principal uses in the development;

Board Agenda Item  
June 25, 2019

- Modification of Par. 3 of Sect. 10-104 of the Zoning Ordinance to permit a fence or wall to exceed the height limitation in the front, side, and rear yards to that shown on the CDP/FDP;
- Modification of Sect. 11-203 of the Zoning Ordinance for a reduction in the number of required loading spaces to that shown on the CDP/FDP;
- Waiver of Sect. 13-202 for the interior parking lot landscaping for structured parking decks and private streets to that shown on the CDP/FDP;
- Modification of Par. 2A of Sect. 13-203 of the Zoning Ordinance to provide a minimum of a six-foot wide variable landscape strip in lieu of the required 10-foot wide landscaping strip located between a parking lot and property line; 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 CDP/FDP.

In a related action, the Planning Commission voted 11-0 (Commissioner Niedzielski-Eichner was absent from the vote) to approve FDP 2018-HM-002, subject to the development conditions dated May 8, 2019 and subject to the Board of Supervisors' approval of RZ 2018-HM-002.

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  
June 25, 2019

3:30 p.m.

Public Hearing on PCA 2005-PR-039-02 (Washington Metropolitan Area Transit Authority "WMATA") to Amend the Proffers for RZ 2005-PR-039 Previously Approved for Mixed-Use Development to Permit Relocations of a Traction Power Sub=Station and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 1.37, Located on Approximately 14.06 Acres of Land Zoned PRM and CRA (Providence District) (Concurrent with PCA 88-P-030-03)

and

Public Hearing on PCA 88-P-030-03 (Washington Metropolitan Area Transit Authority "WMATA") to Amend the Proffers and Conceptual Development Plan for RZ 88-P-030 Previously Approved for Mixed-Use Development to Permit Relocation of a Traction Power Sub-Station and Associated Modifications to Proffers and Site Design with an overall Floor Area Ration of 1.25, Located on Approximately 1.33 Acres of Land Zoned PDC and CRA (Providence District) (Concurrent with PCA 2005-PR-039-02)

This property is located in the N.W. quadrant of the intersection of Prosperity Avenue and Gallows Road. Tax Map 49-1 ((1)) 27C (pt.) and 49-1 ((32)) 1, 2, 3, 4, and 5

This property is located on the N. side of Prosperity Avenue, E. of Dorr Avenue and on the S. side of I-66. Tax Map 49-1 ((1)) 27C (pt.).

PLANNING COMMISSION RECOMMENDATION:

On June 19, 2019, the Planning Commission voted 7-0 (Commissioner Sargeant recused himself from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2005-PR-039-02, subject to the execution of proffered conditions consistent with those dated May 16, 2019; and
- Approval of PCA 88-P-030-03, subject to the execution of proffered conditions consistent with those dated May 16, 2019.

Board Agenda Item  
June 25, 2019

The Planning Commission also voted 7-0 (Commissioner Sargeant recused himself from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.) to find 2232-P18-34 substantially in accord with the provisions of the adopted Comprehensive Plan.

The Planning Commission also voted 7-0 (Commissioner Sargeant recused himself from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.) to approve the following:

- FDPA 2005-PR-039-02, subject to the development conditions dated June 17, 2019; and
- FDPA 88-P-030-03, subject to the development conditions dated June 17, 2019.

The Planning Commission also voted 7-0 (Commissioner Sargeant recused himself from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.) to recommend approval of the following waivers and modifications:

New waivers and modifications:

- A waiver of the off-street loading requirements of Section 11-202 of the Zoning Ordinance;
- A waiver of the trail requirements of Section 6-508 of the Zoning Ordinance; and
- A waiver of tree preservation requirements contained in Chapter 12-0308 of the Public Facilities Manual.

Reaffirmed waivers and modifications:

- A waiver of the Public Facilities Manual to permit the use of underground stormwater facilities in the residential portion of the development;
- A modification of the private street limitations per Section 11-302 of the Zoning Ordinance;
- A modification of transitional screening and barrier requirements along all property lines in favor of the landscaping shown on the CDP/FDP Landscape Plan;
- A modification of interior parking lot landscaping on the top parking deck;

**REVISED**

Board Agenda Item  
June 25, 2019

- A waiver of the 75' setback requirements for non-residential uses abutting principal arterial highways as required by Par. 1B of Section 2-414 of the Zoning Ordinance; and
- A modification of the loading requirement in favor of the loading spaces provided on the CDPA/FDPA.

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)  
Katie Antonucci, Planner, DPZ

Board Agenda Item  
June 25, 2019

3:30 p.m.

Public Hearing on RZ 2016-DR-027 (Pomeroy/Clark I, LLC) to Rezone from I-5 and PDC to PDH-20 to Permit Mixed-Use Development with an Overall Floor Area Ratio of 1.09 and a Density of 25.62 Dwelling Units Per Acre Including Bonus Density Associated with ADU/WDU and Approval of the Conceptual Development Plan, Located on Approximately 43.76 Acres of Land (Dranesville District) (Concurrent with PCA-C-637-4)

and

Public Hearing on PCA-C-637-4 (Pomeroy/Clark I, LLC) to Delete Land Area from RZ-C-637, Located on Approximately 37.70 Acres of Land (Dranesville District) (Concurrent with RZ 2016-DR-027)

This property is located in the N.W. quadrant of the intersection of Sunrise Valley Drive and Frying Pan Road, Tax Map 15-4 ((1)) 25 and 26A.

This property is located in the N.W. quadrant of the intersection of Sunrise Valley Drive and Frying Pan Road, Tax Map 15-4 ((1)) 26A.

The Board of Supervisors deferred this public hearing at the November 20, 2018 meeting to January 22, 2019 at 3:30 p.m.; at which time it was deferred to March 5, 2019 at 3:30 p.m.; and then again deferred to May 7, 2019 at 3:30 p.m.; and again deferred to June 4, 2019 at 3:30 p.m.; and once again deferred to June 25, 2019 at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On November 1, 2018 the Planning Commission voted 11-0 (Commissioner Hart was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2016-DR-027 and the associated Conceptual Development Plan, subject to the execution of proffered conditions dated October 12, 2018;
- Approval of PCA-C-637-04;

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- Modification of Par. 2 of Sect. 6-407 of the Zoning Ordinance (ZO) to allow a privacy yard less than 200 square feet for single family attached dwellings in favor of that shown on the Conceptual/Final Development Plan (CDP/FDP);
- Modification of Par. 4 of Sect. 11-202 of the ZO to permit a reduction in the minimum required distance of 40-feet for a loading space in proximity to a drive aisle for multi-family dwellings in favor of that shown on the CDP/FDP;
- Modification of Par. 4 of Section 11-203 of the ZO of the required multi-family dwelling loading space requirement to that shown on the CDP/FDP;
- Modification of Par. 2 of Sect. 11-302 of the ZO to allow private streets to exceed 600-foot maximum length in favor of that shown on the CDP/FDP;
- Modification of Par. 10 of Sect. 11-102 of the Fairfax County ZO to permit driveway parking in front of garage parking (i.e, tandem parking) for multifamily 2-over-2 stacked dwellings as shown on the CDP/FDP;
- Modification of Par. 1 of Sect. 13-305 of the ZO to waive internal transitional yard screening and barrier requirements within PDH District in favor of that shown on the CDP/FDP;
- Waiver of Par. 3B of Sect. 17-201 of the ZO requiring inter-parcel access to adjacent parcels in favor of that shown on the CDP/FDP;
- Modification of Par. 4 of Sect. 17-201 of the ZO requiring further dedication, construction or widening of existing roads in favor of that shown on the CDP/FDP; and
- Modification of Par. 2 of Sect. 17-201 of the ZO to modify the requirement of on-road Bicycle Lane on Sunrise Valley Drive and Frying Pan Road in favor of the 10-foot wide shared use path as shown on the CDP/FDP.

In a related action, the Planning Commission voted 11-0 (Commissioner Hart was absent from the meeting) to approve FDP 2016-DR-027, subject to the development conditions dated October 17, 2018 and subject to the approval of RZ 2016-DR-027 by the Board of Supervisors.

Board Agenda Item  
June 25, 2019

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 Atkinson, Planner, DPZ

Board Agenda Item  
June 25, 2019

3:30 p.m.

Public Hearing on RZ 2017-DR-012 (Pomeroy Companies, Inc/Pomeroy Investments, Inc., TR) to Rezone from R-1 and I-5 to PRM to Permit Mixed-Use Development with an Overall Floor Area Ratio of 1.15 Including Density Associated with ADU/WDU, Located on Approximately 39.42 Acres of Land (Dranesville District) (Concurrent with PCA-C-637-05)

and

Public Hearing on PCA-C-637-05 (Pomeroy Investments Inc., TR) to Delete Land Area from RZ-C-637 Previously Approved for Industrial Uses, Located on Approximately 37.20 Acres of Land Zoned I-5 (Dranesville District) (Concurrent with RZ 2017-DR-012)

This property is located in the N.E. corner of the intersection of Sunrise Valley Drive and Frying Pan Road. Tax Map 15-4 ((1)) 26B and 24-2 ((1)) 5

This property is located in the N.E. corner of the intersection of Sunrise Valley Drive and Frying Pan Road. Tax Map 15-4 ((1)) 26B

On March 5, 2019, the Board of Supervisors deferred this public hearing until May 7, 2019 at 3:30 p.m.; at which time they deferred to June 4, 2019 at 3:30 p.m.; and deferred again until June 25, 2019 at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On May 22, 2019, the Planning Commission voted 10-0 (Commissioners Niedzielski-Eichner and Strandlie were absent from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of PCA C-637-05;
- Approval of RZ 2017-DR-012 and the associated Conceptual Development Plan, subject to the execution of proffered conditions consistent with those dated May 17, 2019;
- Modification of Par. 2 of Sect. 6-407 of the Zoning Ordinance to allow a privacy yard less than 200 square feet for single family attached units in favor of that shown on the Conceptual/Final Development Plan (CDP/FDP);
- Modification of Par. 4 of Sect. 11-202 of the Zoning Ordinance to permit a reduction in the minimum required distance of 40-feet of a loading space in

Board Agenda Item  
June 25, 2019

proximity to a drive aisle for retail and multi-family dwellings in favor of that shown on the CDP/FDP for Landbays A-C only;

- Modification of Par. 2 of Sect. 11-302 of the Zoning Ordinance to allow private streets to exceed 600-foot maximum length in favor of that shown on the CDP/FDP;
- Waiver and Modification of Par. 1 of Sect. 13-302 of the Zoning Ordinance to waive and modify internal transitional yard screening and barrier requirements within a PRM District in all Landbays and along the northern boundary (Screening Yard A in Landbay A only) in favor of that shown on the CDP/FDP;
- Modification and waiver of Par. 3B of Sect. 17-201 of the Zoning Ordinance requiring interparcel access to adjacent parcels in favor of that shown on the CDP/FDP;
- Waiver of Par. 4 of Sect. 17-201 of the Zoning Ordinance requiring further dedication, construction or widening of existing roads in favor of that shown on the CDP/FDP;
- Waiver of Par. 2 of Sect. 17-201 of the Zoning Ordinance to waive the requirement of on-road Bike Lane on Sunrise Valley Drive and Frying Pan Road in favor of the 10-foot wide shared use path as shown on the CDP/FDP; and
- Waiver of Pars. 1 and 2 of Sect. 16-403 of the Zoning Ordinance requiring the submission of a final development plan as a prerequisite for a site plan submission.

In a related action, the Planning Commission voted 10-0 (Commissioners Niedzielski-Eichner and Strandlie were absent from the vote) to approve FDP 2017-DR-012, subject to the development conditions dated May 22, 2019 and subject to the Board of Supervisors' approval of the concurrent Rezoning and Conceptual Development Plan applications.

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 Atkinson, Planner, DPZ



Board Agenda Item  
June 25, 2019

3:30 p.m.

Public Hearing on PCA 2011-PR-023-02/CDPA 2011-PR-023-02 (Cityline Partners LLC) to Amend the Proffers and Conceptual Development Plan to Approve for RZ 2011-PR-023, Previously Approved for Mixed-Use Development to Permit a Continuing Care Facility and Retail, and Associated Modifications to Proffers and Site Design at an Overall Floor Area Ratio of 3.80, Located on Approximately 4.04 Acres of Land Zoned PTC (Providence District) (Concurrent with PCA 2011-PR-023-03)

and

Public Hearing on PCA 2011-PR-023-03 (Cityline Partners LLC) to Amend the Proffers for RZ 2011-PR-023, Previously Approved for Mixed-Use Development to Permit Mixed-Use Development and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 3.09, Located on Approximately 2.91 Acres of Land Zoned PTC (Providence District) (Concurrent with PCA 2011-PR-023-02/CDPA 2011-PR-023-02)

This property is located on the S. side of Westpark Drive, E. of its intersection with Westbranch Drive. Tax Map 29-4 ((7)) 9pt.

This property is located on the S. side of Westpark Drive, E. of its intersection with Westbranch Drive and W. of its intersection with Jones Branch Drive. Tax Map 29-4 ((7)) 3A and 9pt.

The Board of Supervisors deferred this public hearing at the May 7, 2019 meeting until May 21, 2019 at 3:30 p.m.; at which time it was deferred to June 25, 2019 at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On June 12, 2019, the Planning Commission voted 11-0 (Commissioner Strandlie was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2011-PR-023-02/CDPA 2011-PR-023-02 subject to the execution of proffered conditions consistent with those dated May 31, 2019;
- Modification of Section 2-506 of the Zoning Ordinance to permit parapet walls, cornices, or similar projections up to a maximum height of 12 feet;

Board Agenda Item  
June 25, 2019

- Modification of Paragraph 3B of Section 17-201 of the Zoning Ordinance to waive the requirement for interparcel access in favor of that depicted on the CDPA; and
- Approval of PCA 2011-PR-023-03 subject to the execution of proffered conditions consistent with those dated May 14, 2019.

In a related action, the Planning Commission voted 11-0 (Commissioner Strandlie was absent from the meeting) to approve FDP 2011-PR-023-05 subject to the development conditions dated June 12, 2019 and subject to the Board of Supervisors' approval of PCA 2011-PR-023-02/CDPA 2011-PR-023-02.

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)  
Stephen Gardner, Planner, DPZ

Board Agenda Item  
June 25, 2019

4:00 p.m. -

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 2, 3, 6, 8, 10, 18 and 20 – Community Gardens, Farmers Markets, Gardening as an Accessory Use and Related Changes

ISSUE:

The proposed Zoning Ordinance amendment includes changes that will add a new community garden use to the Zoning Ordinance as a temporary special permit use with appropriate use standards, define a farmers market and modify the existing use standards, clarify and expand the location regulations for gardening and composting as an accessory use, expand the definition and associated provisions for open space to include community gardens, and make other editorial and clarifying changes.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held its public hearing on April 24, 2019, and deferred the decision until May 1, 2019 and then to May 16, 2019. On May 16, 2019, the Planning Commission voted 10-1-1 (one abstention, Comm. Strandlie voting no) to recommend adoption of the proposed amendment to the Board of Supervisors. Additionally, the Planning Commission voted unanimously to recommend to the Board that staff be directed to report back to the Planning Commission and Board in 18 months following adoption of the amendment on any complaints that have been made regarding gardens and/or related structures in the front yard. Such report should include the specific basis and resolution of the complaint.

RECOMMENDATION:

The County Executive concurs with the Planning Commission's recommendation.

TIMING:

Board of Supervisors' authorization to advertise - March 19, 2019; Planning Commission public hearing - April 24, 2019; Planning Commission decision - May 16, 2019; Board of Supervisors' public hearing - June 25, 2019.

BACKGROUND:

The proposed amendment addresses three sub-topics in the Agricultural Districts and Uses topic set forth in the 2018 Priority 1, First Tier Zoning Ordinance Amendment Work Program (ZOAWP), specifically community gardens/urban agriculture,

sales/distribution of garden/farm products and residential gardening as an accessory use. The Agricultural Districts and Uses topic has been listed on the ZOAWP since 2015, however sub-topic specificity was added in 2017. The changes with regard to the new community garden use and expansion of farmers markets use are prompted by requests from citizens and staff's experience with national trends that indicate that people want to have a greater connection to their food and have freer access to local, fresh food. The changes related to open space are editorial and clarifying in nature and staff recommends the removal of the open air produce stand use and accompanying use limitations as the use has been found to be no longer relevant. Specifically, the changes include:

- 1) Allow community gardens by an administrative permit approval with additional standards that include demonstration that safe and adequate ingress/egress and parking can be provided; limits on the hours of operation, the location and size of accessory structures and setbacks from adjacent properties to mitigate any potential impacts on neighboring properties is provided; and standards to ensure that the establishment of a community garden does not create an erosive condition.
- 2) Modify the standards for farmers markets to allow year-round operation; expand the permitted items to be sold to include agricultural products and items made from farm products, including vendor-produced food, beverage, and other value-added items; delete the requirement that road access must be from an arterial roadway; and permit with a longer validity timeframe and lower cost.
- 3) Clarify the current provisions regarding common open space to allow community gardens as a permitted use of open space.
- 4) Modify the location regulations for accessory structures and uses in the front yard to permit gardening primarily for the growth of herbs, fruits, vegetables, flowers and ornamental plantings, but not including composting, with limitations.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 1.

**REGULATORY IMPACT:**

The proposed amendment will provide for the appropriate zoning regulations needed to ensure that any potential impacts related to the establishment of community gardens and farmers markets will be appropriately mitigated; will permit residents to grow food in more areas of their residential properties subject to limitations; and will remove an obsolete use from the Zoning Ordinance.

**FISCAL IMPACT:**

The proposed changes will create a new community garden use as a type of administrative special permit, with application fees based on the size of the proposed garden as shown in the following table. Additionally, the proposed changes modify the fees for the existing farmers market use. The potential revenue impacts will be minor, assuming the Board adopts the fee levels recommended by staff. Once implemented, staff will continue to monitor revenues in collaboration with the Department of Management and Budget, and make adjustments to budgeted revenues, if necessary.

The proposed changes also eliminate the open air produce stand special permit use which has a \$1,810 fee; however, an analysis has shown that only one such special permit has been accepted over the last twenty years, therefore the removal of the use and the fiscal impact will be negligible.

Additionally, existing staff will be utilized for the review of these applications, so there will be no new staff needs associated with this Zoning Ordinance Amendment.

Use	Current Fee	Recommended by Staff		Advertised Range		Fiscal Impact
		Application Fee	Renewal Fee	Application Fee	Renewal Fee	
<b>New Community Garden Use</b>						
> 2 acres	n/a	\$205 for 2 year permit	\$50 for 2 year permit	\$0-\$500	\$0-\$500 every 2-5 years	\$2,050 initially and \$500 biennially
2-5 acres	n/a	\$435 for BZA application	n/a	\$0-\$910	n/a	\$870 annually
<b>Modified Farmers Market Use</b>						
All	\$205 annually	\$205 for 2 year permit	\$50 for 2 year permit	\$0-\$500	\$0-\$500 every 2-5 years	\$2,050 initially and \$500 biennially
<b>Remove Open Air Produce Stand Use</b>						
All	\$1,810	NA	NA	NA	NA	Only 1 special permit in 20 years

Board Agenda Item  
June 25, 2019

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning%20ordinance/proposed%20amendments/communitygardensfarmersmarketsandgardeningasanaccessoryuseandrelatedchanges.pdf>

Attachment 2 – May 16 Planning Commission Verbatim Excerpt available online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2019%20verbatims/verbatim051619pzoa-communitygardensfarmersmarketsgardeningdeconly.pdf>

STAFF:

Rachel Flynn, Deputy County Executive

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

Leslie B. Johnson, Zoning Administrator, DPZ

Barbara A. Byron, Director, Office of Commercial Revitalization

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

Jennifer Josiah, Non-Profit/Places of Worship Coordinator, Land Development Services

ASSIGNED COUNSEL:

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

Board Agenda Item  
June 25, 2019

4:00 p.m.

Public Hearing on a Proposed Amendment to the Code of the County of Fairfax,  
Chapter 122 (Tree Conservation Ordinance) Regarding Adding Civil Penalties and  
Other Changes

ISSUE:

Board of Supervisors adoption of a proposed amendment to the Tree Conservation Ordinance to add civil penalties for infractions of the Ordinance, add “professional” and certain Arborists to the list of those who may be subject to enforcement, and make other minor edits.

PLANNING COMMISSION RECOMMENDATION:

On May 8, 2019, the Planning Commission voted 9-0 (Commissioners Tanner, Strandlie, and Cortina were absent from the meeting) to recommend to the Board of Supervisors adoption of the proposed amendments to the Tree Conservation Ordinance as set forth in the Staff Report dated April 9, 2019.

The Planning Commission also voted 9-0 (Commissioners Tanner, Strandlie, and Cortina were absent from the meeting) to recommend to the Board of Supervisors that the proposed amendments become effective at 12:01 a.m. on June 26, 2019, and that the requirements be applicable to plans submitted on or after that date.

RECOMMENDATION:

The County Executive recommends that the Board adopt the proposed amendment as set forth in the Staff Report dated April 9, 2019. The proposed amendment has been prepared by Land Development Services (LDS) and coordinated with the Urban Forest Management Division of the Department of Public Works and Environmental Services; and, the Office of the County Attorney.

TIMING:

Board action is requested on June 25, 2019. On April 9, 2019, the Board authorized the advertising of the public hearings. The Planning Commission held a public hearing on May 8, 2019. If adopted, the amendments will become effective on June 26, 2019, at 12:01 a.m.

BACKGROUND:

Under the Tree Conservation Ordinance, violations of the Ordinance are deemed criminal misdemeanors, punishable by fines only after criminal conviction. However, criminal prosecution discourages enforcement because of the long-term impact of a criminal conviction on a person's record and the need, in some cases, to rely on the Commonwealth's Attorney to prosecute violations. The Ordinance's enabling legislation, Virginia Code § 15.2-961.1, authorizes the County to impose civil penalties for violations in the same way civil penalties are imposed for violations of zoning ordinances. The proposed amendment would provide the Director with an option to seek civil penalties, rather than criminal convictions.

PROPOSED AMENDMENT:

The proposed amendment to the Tree Conservation Ordinance will add Section 122-5-4, Infractions and Civil Penalties. This provision mirrors the equivalent provisions contained in the Zoning Ordinance Section 18-903, which is derived from Virginia Code § 15.2-2209. The amendment also adds "professional" and certain Arborists to the list of those who may be subject to enforcement and revises the Definition Section to specify that "Director" means the Director of Land Development Services.

The proposed amendment to the Tree Conservation Ordinance is included as Attachment A to the Staff Report.

REGULATORY IMPACT:

The proposed amendment will create a deterrent against potential illegal land-disturbing activities and add an enforcement mechanism for Fairfax County to address potential violations.

The proposed provision applies to any land-disturbing activity or removal of vegetation contrary to the provisions of the Tree Conservation Ordinance.

FISCAL IMPACT:

Implementation of the proposed amendment will have minimal impact on the County budget. The proposed amendment will create civil penalties that could be imposed on persons committing or permitting the violation(s).



Board Agenda Item  
June 25, 2019

ENCLOSED DOCUMENTS:

Attachment 1 – Planning Commission Verbatim Excerpt available online at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2019%20verbatim/verbatim50819codeamendmenttreeconservationordinance.pdf>

Attachment 2 – Staff Report available online at:

<https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/pdf/pfm/staff-report-civil-penalties.pdf>

STAFF:

Rachel Flynn, Deputy County Executive

William D. Hicks, P.E., Director, Land Development Services

ASSIGNED COUNSEL:

Marc E. Gori, Assistant County Attorney, Office of the County Attorney

Board Agenda Item  
June 25, 2019

4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Editorial and Minor Revisions to Articles 2, 7, 10, 16, 17, 18 and 19

ISSUE:

The proposed amendment addresses several unrelated provisions of the Zoning Ordinance, including one item currently identified on the 2018 Zoning Ordinance Amendment Work Program related to garage and yard sales as an accessory use, as well as several new items that were identified after the adoption of the 2018 Work Program. These new items include changing references related to the Department of Planning and Zoning name change throughout the Zoning Ordinance, clarifying that solar collection systems are a permitted accessory use, revising the provisions related to the ability of the Board of Zoning Appeals (BZA) to reconsider its decisions, and adding clarifying language related to searches, inspections, and permit revocations.

Staff notes that after the preparation of the Staff Report for the Boards' authorization, a Zoning Ordinance amendment was adopted which necessitated two additional changes to the provisions. These changes are outlined in a May 13, 2019 memorandum to the Planning Commission set forth in Attachment 2.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing on May 16, 2019, at which time they deferred decision on this amendment to June 12, 2019. On June 12, 2019, the Planning Commission recommended that the Board adopt the proposed amendment, with the exception of the changes to Par. 6 of Sect. 18-109.

RECOMMENDATION:

Staff continues to support the adoption of the proposed amendment, as advertised, including the changes to Par. 6 of Sect. 18-109 and the editorial changes set forth in the May 13, 2019 memorandum to the Planning Commission. The County Executive supports staff's recommendation.

TIMING:

Board of Supervisors' authorization to advertise – April 9, 2019; Planning Commission public hearing – May 16, 2019, decision deferred to June 12, 2019; Board of Supervisors' public hearing – June 25, 2019 at 4:00 p.m.

BACKGROUND:

The proposed amendment addresses several unrelated provisions of the Zoning Ordinance, as follows:

- 1) Effective July 1, 2019, the Department of Planning and Zoning will be renamed to the Department of Planning and Development. Because the department name is referenced in several places throughout the Zoning Ordinance, changes are needed to Articles 2, 7, 16, 17 and 18.
- 2) To support the Board of Supervisors' solar power initiative, staff proposes an amendment permitting a solar collection system as an accessory use to any residential or non-residential structure.
- 3) Included in the 2018 Zoning Ordinance Amendment Work Program is a clarification item to further describe the types of items that can be sold at a garage/yard sale. The intent is to offer used household and personal items, rather than items that have been specifically purchased, produced, refurbished or fabricated for resale. The changes also clarify that garage/yard sales are allowed in the residential portion of a P-District.
- 4) Par. 6 of Sect. 18-109 establishes the procedure for reconsideration of an action by the Board of Supervisors, Planning Commission, and BZA. Based on recent case law, this amendment will specifically set forth that the BZA may not entertain a motion for reconsideration. In addition, Sect. 19-211, of Article 19 Boards, Commissions and Committees, will be revised to clarify that certain decisions and findings of the BZA are final decisions and subject only to judicial review as provided for in Title 15.2 of the Code of Virginia.
- 4) The amendment clarifies provisions in paragraphs 3 and 4 of Sect. 18-901 related to the revocation by the Zoning Administrator of a zoning use permit associated with a notice of violation. It codifies longstanding County policy that nothing in the Zoning Ordinance authorizes an inspection or search of a property without a warrant; a court order; consent or another exception to the warrant requirement.

REGULATORY IMPACT:

The proposed amendment effects the name change to the Department of Planning and Development and enhances existing regulations by providing clarification of the Zoning Ordinance.

FISCAL IMPACT:

None.

Board Agenda Item  
June 25, 2019

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report at: [https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning%20ordinance/proposed%20amendments/editorial\\_and\\_minor\\_revisions.pdf](https://www.fairfaxcounty.gov/planning-zoning/sites/planning-zoning/files/assets/documents/zoning%20ordinance/proposed%20amendments/editorial_and_minor_revisions.pdf)

Attachment 2 – Memorandum to the Planning Commission

Attachment 3 – 5/16/19 Planning Commission Verbatim Excerpt at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2019%20verbatim/verbatim051619pzoa-editorialandminorrevisionstoarticle2-7-10-16-17-18and19.pdf>

Attachment 4 – 6/12/19 Planning Commission Verbatim Excerpt at:

<https://www.fairfaxcounty.gov/planningcommission/sites/planningcommission/files/assets/documents/pdf/2019%20verbatim/verbatim061219zoaeditorialandminorrevisions-deonly.pdf>

STAFF:

Rachel Flynn, Deputy County Executive

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

Barbara A. Byron, Director, Office of Community Revitalization

Leslie B. Johnson, Zoning Administrator, DPZ

Donna Pesto, Deputy Zoning Administrator, DPZ

Sara Morgan, Senior Planner, DPZ

ASSIGNED COUNSEL:

Sarah Hensley, Assistant County Attorney



## County of Fairfax, Virginia

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

DATE: May 13, 2019

TO: Mary Cortina, Fairfax County Planning Commission

FROM: Donna Pesto  
Deputy Zoning Administrator, Department of Planning and Zoning

SUBJECT: Additional Changes to the Editorial and Minor Changes  
Proposed Zoning Ordinance Amendment Scheduled for May 16, 2019

On the same day that the referenced amendment was authorized, the Board of Supervisors approved a Zoning Ordinance Amendment regarding wireless telecommunication infrastructure. As a result, there are two additional changes that need to be made to the Editorial/Minor Changes amendment currently scheduled for a Planning Commission public hearing on May 16, 2019. First, one additional agency name change is required in Par. 5 of Sect. 2-514. That provision will read as follows:

5. All applications involving wireless facilities, including without limitation small cell facilities, standard process projects, administrative review-eligible projects, and eligible facility requests under the Spectrum Act, that are submitted electronically outside of the Department of Planning and ~~Zoning's~~ Development's regular business hours will be deemed received by the Department on the next business day.

And second, the lead-in paragraph to Par. 3D of Sect. 7-204, as presented in the Staff Report dated April 9, 2019, incorrectly reflects the language before it was modified as a result of the wireless telecommunications infrastructure amendment. The lead-in to Par. 3 of Sect. 7-204 should read as follows, with an additional "plain language" correction, as shown:

3. ARB approval ~~shall be~~ is required prior to the issuance of Building Permits by the Director and approval of sign permits by the Zoning Administrator, and the ARB may review and provide a recommendation regarding applications for a new utility or transmission poles or their associated facilities, in accordance with the following:

These limited changes are within the scope of the current advertisement and do not require reauthorization or readvertisement. Staff will be present at the May 16, 2019 Planning Commission Public Hearing for the discussion of this amendment.

cc: Jill Cooper, Director, Planning Commission  
Leslie B. Johnson, Zoning Administrator, Department of Planning and Zoning  
Sara Morgan, Senior Planner, DPZ

Board Agenda Item  
June 25, 2019

4:00 p.m.

Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic

ISSUE:

Public Hearing on amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic.

RECOMMENDATION:

The County Executive recommends approval of the proposed amendments to Chapter 82.

TIMING:

On May 21, 2019, the Board authorized advertisement of a public hearing to consider this matter on June 25, 2019, at 4:00 p.m.

BACKGROUND:

A housekeeping measure to update Chapter 82, portions of Section 82-1-6 (Adoption of State Law) have been amended to reflect changes made to the *Code of Virginia* by the 2019 General Assembly. A summary of the changes as a result of the 2019 General Assembly amendments affecting Chapter 82 is provided in Attachment 2.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed Amendments to Chapter 82, Motor Vehicles and Traffic  
Attachment 2 - Summary of 2019 General Assembly Amendments Affecting Chapter 82, Motor Vehicles and Traffic.

STAFF:

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

ASSIGNED COUNEL:

Kimberly P. Baucom, Senior Assistant County Attorney

Proposed Amendments to  
Chapter 82, Motor Vehicles and Traffic

**Article 1. – In General.**

**Section 82-1-6. Adoption of State Law**

Pursuant to the authority of Section 46.2-1313 of the Virginia Code, all provisions and requirements of the following sections of the Code of Virginia, as in effect on July 1, ~~2018~~ 2019, except those provisions and requirements the violation of which constitutes a felony, are hereby incorporated into the Fairfax County Code by reference, effective July 1, ~~2018~~ 2019.

18.2-266	18.2-269	46.2-203.1
18.2-266.1	18.2-270	<u>46.2-208</u>
18.2-267	18.2-270.01	46.2-218
18.2-268.1	18.2-270.1	46.2-300
18.2-268.2	18.2-271	46.2-301
18.2-268.3	18.2-271.1	46.2-301.1
18.2-268.4	18.2-272	46.2-302
18.2-268.5	<u>46.2-100</u>	46.2-329
18.2-268.6	46.2-102	46.2-334.001
<u>18.2-268.7</u>	46.2-104	46.2-341.20:5
18.2-268.8	46.2-108	46.2-341.26:2
18.2-268.9	46.2-109	46.2-341.26:3
18.2-268.10	46.2-110	46.2-341.26:4
18.2-268.11	46.2-111	<u>46.2-341.26:7</u>
18.2-268.12	46.2-112	46.2-341.26:9

46.2-341.27	46.2-704	46.2-819.4
46.2-341.28	46.2-711	46.2-820
46.2-346	46.2-715	46.2-821
46.2-349	46.2-716	46.2-822
<u>46.2-357</u>	46.2-724	46.2-823
46.2-371	46.2-730	46.2-824
46.2-373	<u>46.2-800</u>	46.2-825
46.2-376	46.2-801	46.2-826
46.2-379	46.2-802	46.2-827
<u>46.2-380</u>	46.2-803	46.2-828
46.2-391.01	46.2-804	46.2-828.2
46.2-391.2	46.2-805	46.2-829
46.2-391.3	46.2-806	46.2-830
46.2-391.4	46.2-807	46.2-831
46.2-392	46.2-808	46.2-832
46.2-393	46.2-808.1	46.2-833
46.2-398	46.2-810	46.2-833.1
46.2-602.3	46.2-811	46.2-834
<u>46.2-612</u>	46.2-812	46.2-835
<u>46.2-613</u>	46.2-814	46.2-836
46.2-616	46.2-816	46.2-837
46.2-617	46.2-817	46.2-838
46.2-618	46.2-818.1	46.2-839



46.2-841	46.2-864	46.2-885
46.2-842	46.2-865	46.2-886
46.2-842.1	46.2-865.1	46.2-887
<u>46.2-844</u>	46.2-866	<u>46.2-888</u>
46.2-845	46.2-868	46.2-889
46.2-846	46.2-868.1	46.2-890
46.2-848	46.2-869	46.2-891
<u>46.2-849</u>	46.2-870	46.2-892
46.2-850	46.2-871	46.2-893
46.2-851	46.2-872	46.2-894
46.2-852	46.2-873	46.2-895
46.2-853	46.2-874	46.2-896
46.2-854	46.2-876	46.2-897
46.2-855	46.2-877	46.2-898
46.2-856	46.2-878	46.2-899
46.2-857	46.2-878.1	46.2-900
46.2-858	46.2-878.2	46.2-902
46.2-859	46.2-878.3	<u>46.2-903</u>
46.2-860	46.2-879	<u>46.2-904</u>
46.2-861	46.2-880	<u>46.2-905</u>
<u>46.2-861.1</u>	<u>46.2-882</u>	46.2-906
46.2-862	46.2-883	<u>46.2-908.1</u>
46.2-863	46.2-884	46.2-909

46.2-910	46.2-940	46.2-1026
46.2-911.1	46.2-942	46.2-1027
46.2-912	46.2-1001.1	46.2-1030
46.2-914	46.2-1001	46.2-1031
46.2-915	46.2-1002	46.2-1032
46.2-915.2	46.2-1003	46.2-1033
46.2-918	46.2-1004	46.2-1034
46.2-919	46.2-1010	46.2-1035
46.2-919.1	46.2-1011	46.2-1036
46.2-920	46.2-1012	46.2-1037
46.2-921	46.2-1013	46.2-1038
<u>46.2-921.1</u>	46.2-1014	46.2-1039
46.2-922	<u>46.2-1015</u>	46.2-1040
46.2-923	46.2-1016	<u>46.2-1041</u>
<u>46.2-924</u>	46.2-1017	46.2-1043
46.2-926	46.2-1018	46.2-1043.1
46.2-927	46.2-1019	46.2-1044
46.2-928	46.2-1020	46.2-1047
46.2-929	46.2-1021	46.2-1049
46.2-930	46.2-1022	46.2-1050
46.2-932	<u>46.2-1023</u>	<u>46.2-1052</u>
46.2-936	46.2-1024	46.2-1053
46.2-937	<u>46.2-1025</u>	<u>46.2-1054</u>

46.2-1055	<u>46.2-1081</u>	46.2-1130
46.2-1056	46.2-1082	46.2-1137
46.2-1057	46.2-1083	46.2-1150
46.2-1058	46.2-1084	46.2-1151
46.2-1059	46.2-1088	46.2-1154
46.2-1060	46.2-1088.1	46.2-1155
46.2-1061	46.2-1088.2	46.2-1156
46.2-1063	46.2-1088.5	46.2-1157
46.2-1064	46.2-1088.6	46.2-1158
46.2-1065	46.2-1090	<u>46.2-1158.01</u>
46.2-1066	46.2-1091	46.2-1158.02
46.2-1067	46.2-1092	46.2-1158.1
46.2-1068	46.2-1093	46.2-1172
46.2-1070	46.2-1102	46.2-1173
46.2-1071	46.2-1105	<u>46.2-1216</u>
46.2-1072	46.2-1110	46.2-1218
46.2-1076	46.2-1111	46.2-1219.2
46.2-1077	46.2-1112	<u>46.2-1231</u>
46.2-1077.01	46.2-1115	46.2-1234
46.2-1078	46.2-1116	46.2-1240
<u>46.2-1078.1</u>	46.2-1118	<u>46.2-1242</u>
46.2-1079	46.2-1120	46.2-1250
46.2-1080	46.2-1121	46.2-1309

46.2-1315

46.2-1508.2

46.2-1552

46.2-1561

46.2-29

References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the County. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein; and it shall be unlawful for any person, within the county, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-270.1, 18.2-271, 18.2-271.1 and 18.2-272 of the *Code of Virginia* which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-271, 18.2-270.1, 18.2-271.1 and 18.2-272 of the *Code of Virginia*.

## ATTACHMENT 2

### SUMMARY OF 2019 GENERAL ASSEMBLY AMENDMENTS AND REPEAL AFFECTING CHAPTER 82

The information presented below summarizes changes to Title 18.2 and Title 46.2 of the *Code of Virginia*, portions of which are adopted by reference into Chapter 82 of the *Code of the County of Fairfax*.

Be it enacted by the General Assembly of Virginia:

An Act to amend and reenact §§ [46.2-100](#), [46.2-800](#), [46.2-849](#), [46.2-903](#), [46.2-904](#), [46.2-905](#), [46.2-908.1](#), [46.2-1015](#), [46.2-1041](#), and [46.2-1081](#) of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 46.2 a section numbered [46.2-1315](#), relating to motorized skateboards or scooters; operation; local authority. Authorizes localities to regulate the operation of companies providing motorized skateboards or scooters for hire. The bill changes the definition of motorized skateboard or scooter by (i) removing the requirement that such device have no seat and requiring that the device be designed to allow a person to stand or sit, (ii) removing the device may be powered in whole or in part by an electric motor, (iii) providing that the device has a speed of no more than 20 miles per hour, and (iv) providing that such device weighs less than 100 pounds. The bill makes consistent the operational requirements for motorized skateboards or scooters and similar devices, including (a) allowing motorized skateboards and scooters to be driven on sidewalks, (b) requiring motorized skateboards and scooters driven on a roadway to be driven as close to the right curb as is safely practicable, (c) prohibiting the operation of motorized skateboards or scooters on any Interstate Highway System component, and (d) requiring operators of motorized skateboards and scooters to give hand signals and have lights on such devices. The bill prohibits operating a motorized skateboard or scooter at a speed faster than 20 miles per hour.

An Act to amend and reenact §§ [46.2-208](#) and [46.2-844](#) of the Code of Virginia, relating to Department of Motor Vehicles records; certain private vendors; penalty. Requires the Department of Motor Vehicles to release certain vehicle owner data, upon request, to a private vendor operating a video-monitoring system on or in a school bus. The bill limits how such data can be used and stored and provides that any person who unlawfully discloses such data is subject to a civil penalty of \$1,000 for each disclosure. The bill provides that drivers required to stop for a stopped school bus shall remain stopped until the school bus is put in motion.

An Act to amend and reenact §§ [46.2-612](#) and [46.2-613](#) of the Code of Virginia, relating to reorganization of motor vehicle registration, licensing, and certificates of title statutes; segregation of criminal offenses and traffic offenses; alteration of

judicial authority to dismiss related criminal offenses. Moves the criminal offenses related to registration, licensing, and certificates of title included within § 46.2-613 to § 46.2-612. The bill reorganizes these statutes so that § 46.2-612 contains only criminal offenses and § 46.2-613 contains only traffic infractions. Removes the authority of the court to dismiss a summons for a criminal offense related to the registration, licensing, and certificates of title when proof of compliance with the law is provided to the court on or before the court date.

An Act to amend the Code of Virginia by adding a section numbered [46.2-861.1](#) and to repeal § [46.2-921.1](#) of the Code of Virginia, relating to duties of drivers of vehicles approaching stationary vehicles displaying certain warning lights; penalty. Makes a driver's failure to move into a nonadjacent lane on a highway with at least four lanes when approaching a stationary vehicle displaying flashing, blinking, or alternating blue, red, or amber lights, or, if changing lanes would be unreasonable or unsafe, to proceed with due caution and maintain a safe speed, reckless driving, which is punishable as a Class 1 misdemeanor. Under current law, a first such offense is a traffic infraction punishable by a fine of not more than \$250, and a second such offense is punishable as a Class 1 misdemeanor.

An Act to amend and reenact § [46.2-903](#) of the Code of Virginia, relating to vehicles on sidewalks. Clarifies that any public entity may allow "other power-driven mobility devices," as defined in the bill, to be ridden or driven on sidewalks in accordance with the Americans with Disabilities Act and other state and federal laws.

An Act to amend and reenact § [46.2-1025](#) of the Code of Virginia, relating to amber warning lights; vehicles hauling forest products. Authorizes vehicles hauling forest products to use amber warning lights approved by the Superintendent of State Police, provided that the lights are mounted or installed so as to be visible from behind the vehicle.

An Act to amend and reenact § [46.2-1052](#) of the Code of Virginia, relating to tinting films; exception for security canine handlers. Exempts vehicles operated in the performance of private security duties by a licensed security canine handler from limitations on window tinting.

An Act to amend and reenact §§ [46.2-1054](#), [46.2-1216](#) and [46.2-1231](#) of the Code of Virginia, relating to immobilization of vehicles. Allows the owner or operator of a parking lot or other building to immobilize a trespassing vehicle by use of any device in a manner that prevents its removal or lawful operation, provided that the device used does not damage the vehicle. Current law limits immobilization devices to those, such as a boot, that prevent a vehicle from being moved by preventing a wheel from turning. The bill clarifies that the currently authorized use of a device by a locality to immobilize a vehicle against which there are outstanding parking violations in a manner that prevents its operation means in a manner that prevents its lawful operation.

An Act to amend and reenact § [46.2-1078.1](#) of the Code of Virginia, relating to use of handheld personal communications devices; highway work zones; penalty. Prohibits any person from holding a handheld personal communications device in his hand while driving a motor vehicle in a highway work zone, with certain exceptions. The bill provides that a violation is punishable by a mandatory fine of \$250. Current law prohibits only the reading of an email or text message on the device and manually entering letters or text in the device as a means of communicating, with the same exceptions.

An Act to amend and reenact § [46.2-1242](#) of the Code of Virginia, relating to parking; access aisles adjacent to parking spaces reserved for persons with disabilities. Prohibits parking any vehicle in any striped access aisle adjacent to a parking space reserved for persons with disabilities.

Board Agenda Item  
June 25, 2019

4:30 p.m.

Public Hearing to Expand the Cardinal Forest Community Parking District (Braddock District)

ISSUE:

Proposed amendment to Appendix M, of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Cardinal Forest Community Parking District (CPD).

RECOMMENDATION:

The County Executive recommends that the Board adopt the amendment to the Fairfax County Code shown in Attachment I to expand the Cardinal Forest CPD.

TIMING:

On June 4, 2019, the Board authorized advertisement of a Public Hearing to consider the proposed amendment to Appendix M, of the *Fairfax County Code* to take place on June 25, 2019, at 4:30 p.m.

BACKGROUND:

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

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



Board Agenda Item  
June 25, 2019

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

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

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

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

FISCAL IMPACT:

The cost of sign installation is estimated to be \$800. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Amendment to the *Fairfax County Code*, Appendix M (CPD Restrictions)  
Attachment II: Area Map of Proposed Cardinal Forest CPD

STAFF:

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT  
Neil Freschman, Chief, Traffic Engineering Section, FCDOT  
Henri Stein McCartney, Sr. Transportation Planner, FCDOT  
Charisse Padilla, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Wemi Peters, Assistant County Attorney

PROPOSED CODE AMENDMENT

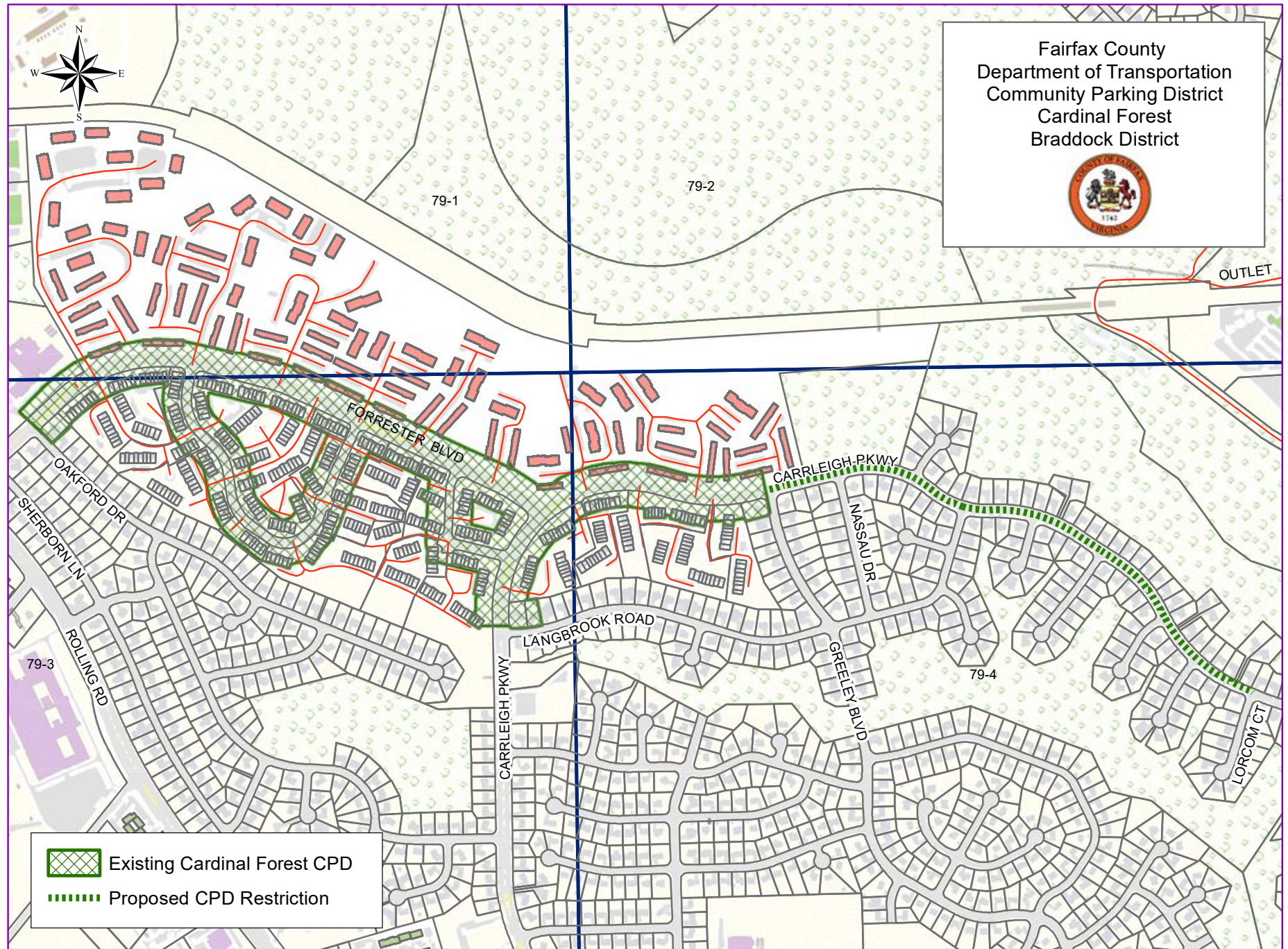
THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA  
APPENDIX M

Amend *The Code of the County of Fairfax, Virginia*, by modifying the following streets in Appendix M-22, Section (a)(2), Cardinal Forest Community Parking District, in accordance with Article 5B of Chapter 82:

*Carrleigh Parkway (Route 4131)*

From the western intersection of Langbrook Road to Greeley  
Boulevard Lorcom Court.

Fairfax County  
Department of Transportation  
Community Parking District  
Cardinal Forest  
Braddock District



Board Agenda Item  
June 25, 2019

4:30 p.m.

Public Hearing to Expand the Burke Centre Community Parking District (Braddock District)

ISSUE:

Proposed amendment to Appendix M, of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Burke Centre Community Parking District (CPD).

RECOMMENDATION:

The County Executive recommends that the Board adopt the amendment to the Fairfax County Code shown in Attachment I to expand the Burke Centre CPD.

TIMING:

On June 4, 2019, the Board authorized advertisement of a Public Hearing to consider the proposed amendment to Appendix M, of the *Fairfax County Code* to take place on June 25, 2019, at 4:30 p.m.

BACKGROUND:

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

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

Board Agenda Item  
June 25, 2019

agencies to provide services.

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

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

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

FISCAL IMPACT:

The cost of sign installation is estimated to be \$250. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Amendment to the *Fairfax County Code*, Appendix M (CPD Restrictions)  
Attachment II: Area Map of Proposed Burke Centre CPD

STAFF:

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT  
Neil Freschman, Chief, Traffic Engineering Section, FCDOT  
Henri Stein McCartney, Sr. Transportation Planner, FCDOT  
Charisse Padilla, Transportation Planner, FCDOT

ASSIGNED COUNSEL:

Wemi Peters, Assistant County Attorney

PROPOSED CODE AMENDMENT

THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA  
APPENDIX M

Amend *The Code of the County of Fairfax, Virginia*, by adding and/or modifying the following streets in Appendix M-21, Section (a)(2), Burke Centre Community Parking District, in accordance with Article 5B of Chapter 82:

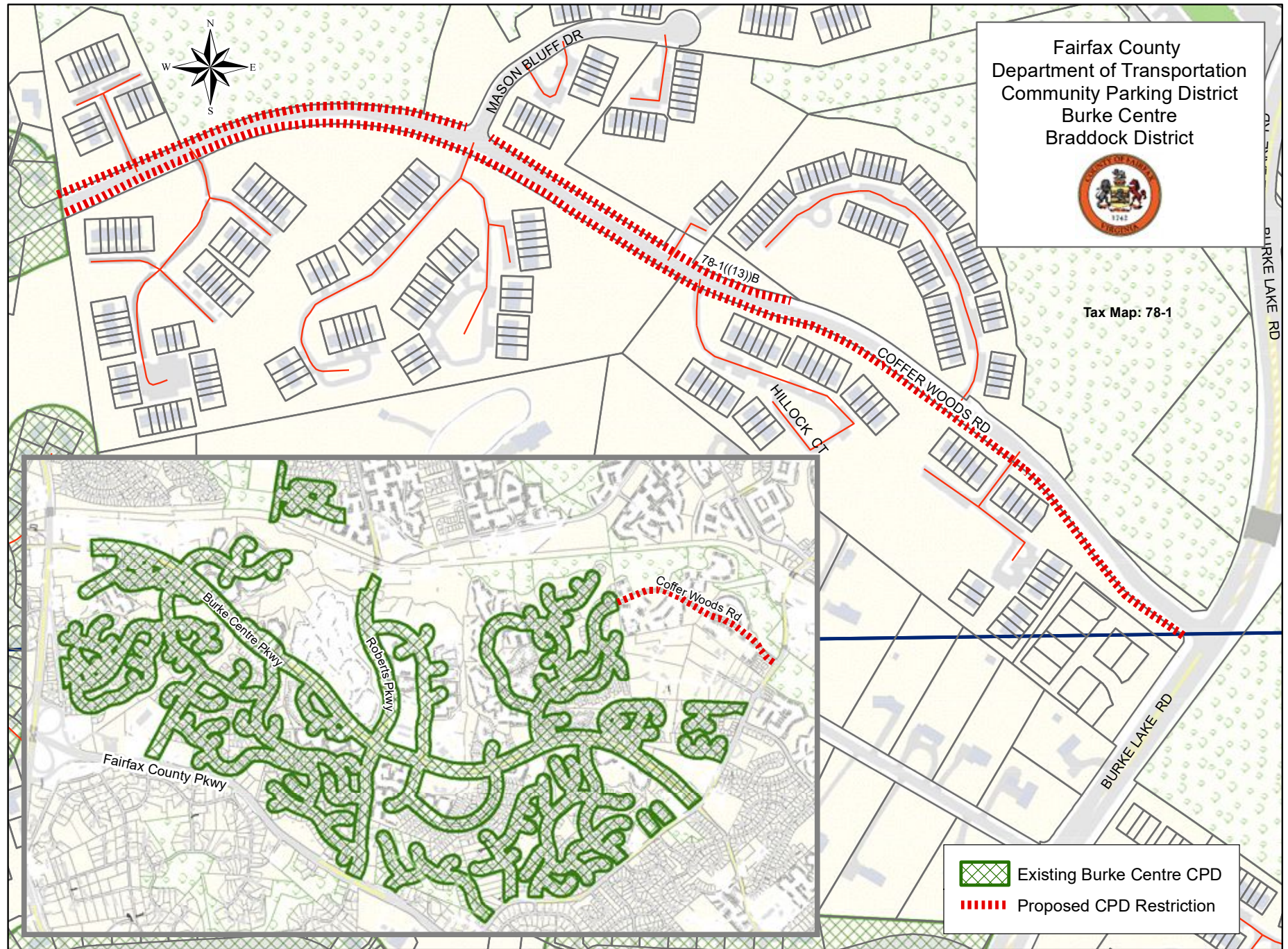
*Coffer Woods Road (Route 5847)*

From Burke Centre Parkway to ~~Ward's Grove Circle~~ Burke Lake Road, east side only; and from Ward's Grove Circle to ~~Wood Duck Court~~ the eastern boundary of parcel 78-1((13))B, west side.

Fairfax County  
Department of Transportation  
Community Parking District  
Burke Centre  
Braddock District



Tax Map: 78-1



Board Agenda Item  
June 25, 2019

4:30 p.m. -

Public Hearing to Consider Proposed Amendments to the Police Officers Retirement System Ordinance

ISSUE:

Public hearing on proposed amendments to Article 7 of Chapter 3 of the Code of the County of Fairfax, which sets forth the ordinance for the Fairfax County Police Officers Retirement System (PORS).

RECOMMENDATION:

The County Executive recommends that the Board consider the proposed amendments to the PORS ordinance for the purpose of changing certain provisions with respect to spousal options. The PORS Board of Trustees has reviewed and supports the proposed amendments.

TIMING:

On May 21, 2019, the Board authorized advertisement of a public hearing to consider the matter on June 25, 2019, at 4:30 p.m.

BACKGROUND:

At the April 2, 2019, meeting of its Personnel Committee, the Board was presented with several proposed amendments to spousal option provision in the PORS ordinance that have been requested by PORS members. In response, the Board directed that these amendments be scheduled as soon as possible for a public hearing.

A member of any of the County's three Retirement Systems presently may elect to receive a decreased retirement benefit in return for having the benefit, or specified fraction thereof, payable to his or her spouse, if the member pre-deceases the spouse. There are, however, critical differences between the respective ordinance provisions authorizing this election, known as the spousal option:

- The ERS and URS ordinances authorize a member who makes a spousal option to designate either 100 percent, 75 percent, 66 <sup>2/3</sup> percent, or 50 percent of his or her retirement benefit to be payable to his or her surviving spouse. The 75 percent option offered under these two Systems, however, is unavailable under the PORS ordinance.



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June 25, 2019

- The ERS and URS ordinances allow a member to elect the spousal option at any time up to the date of retirement. By contrast, the PORS ordinance allows the election only at the time of retirement.
- While the ERS and URS ordinances authorize the revocation of the spousal option when a member and spouse divorce following the member's retirement, the option is irrevocable under the PORS ordinance.

The proposed amendments to the PORS ordinance eliminate these differences, thereby bringing its spousal option provision into better alignment with counterpart provisions in the ERS and URS ordinances.

The proposed amendments also make two further changes to the PORS ordinance's spousal option provision.

First, the amendments allow a member also to choose to designate the surviving spouse to receive 25 percent of his or her retirement benefit. This additional percentage arises from the fact that PORS members, unlike members of ERS and URS, receive no social security benefits. Enabling a member to make a 25 percent designation ameliorates this difference.

Second, the amendments follow Cheiron's recommendation that minor adjustments be made to the actuarial factors used to calculate the decreased retirement benefit provided to a PORS member who elects a spousal option. These adjustments ensure that those factors apply equally to the full menu of percentages from which a member may make a designation, and second, rest upon an updated assumption of when County police officers retire, which recent experience shows to be an average age of 51.

PROPOSED AMENDMENTS:

The proposed PORS ordinance amendments, which if adopted, would become effective on September 1, 2019. These changes would:

- Add to the spousal option the additional percentages of 75 percent and 25 percent, and adjust existing reduction factors based on recent experience per Cheiron (Attachment 2);
- Allow for election of spousal options before retirement; and
- Allow for revocation of spousal options in the event of divorce following retirement.

FISCAL IMPACT:

These changes do not represent benefit enhancements, would not impact the PORS's funded status, and would not require an increase in the County's contribution to PORS.

Board Agenda Item  
June 25, 2019

ENCLOSED DOCUMENTS:

Attachment 1: Amendments to Chapter 3, Article 7 (with changes noted)

Attachment 2: Letter 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

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 up to the time of members actual retirement date~~ 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 permitted in Subdivisions (1), (2), and (3) of this Section.

(1) In the case that event a retired member who 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 or surviving 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 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.

(2) In the event a retired member has elected a reduced retirement allowance in consideration of a continued allowance to his or her spouse or handicapped child, as the case may be, and such spouse or handicapped child predeceases the member or if the, 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.

(3) In the event a retired member has elected a reduced retirement allowance in consideration of a continued allowance to his handicapped child, and such 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. The increase in the member's retirement allowance shall take effect as of the day following the date of the Board's determination.

~~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.~~

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TABLE 2  
 FAIRFAX COUNTY POLICE RETIREMENT OFFICERS 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%	89.25%	0.64 %	96%
75%	92.0%	0.3%	97%
66 2/3%	92.48%	0.43 %	98%
50%	93.44.5%	0.23 %	99%
25%	97.2%	0.1%	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.

***Via Electronic Mail***

April 12, 2019

Mr. Jeffrey Weiler  
 Executive Director  
 Fairfax County Retirement Systems  
 12015 Lee Jackson Memorial Highway, Suite 350  
 Fairfax, Virginia 22033

***Re: Joint & Survivor Factors – Police Officers Retirement System***

Dear Jeff:

In our letter dated February 28, 2019, we suggested that the Boards of the three Fairfax County Retirement Systems adopt a specific actuarial interest rate and mortality table in order to comply with the revised ordinances. We are writing now to suggest a revision to the joint & survivor factors for the Fairfax County Police Officers Retirement System (PORS) in order to be able to expand the percent of allowance continued to the spouse in an actuarially equivalent manner.

The current factors under Section 3-7-39 Table 2 of the Code of *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* are shown below.

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%	89.2%	0.6%	96%
66.67%	92.1%	0.4%	98%
50%	93.1%	0.3%	99%

The factors above were already in place when Cheiron began providing actuarial services for PORS, and the Code does not indicate what actuarial basis was used to determine the original factors. We have attempted to replicate the factors on several occasions and have not been able to find a match. In our most recent attempt, we noted that the factors among the different continuation percentages are not internally consistent.

Conversion factors for alternate forms of payment have previously been tabular in nature and are not directly related to the Plan's actuarial equivalence. We are proposing revisions that are actuarially equivalent on the new basis, but a similarly simplified, basis. If we were to provide factors that are entirely actuarial equivalent, this could result in a substantial increase in the number of option factors in use. For example, the 50% joint & survivor factors specified in the ordinances anticipate using the same reduction for a retiree at any age, varying only by the spouse age difference. A true actuarial equivalent reduction for 50% joint & survivor would also vary by the actual age of the retiree.

Below is a table with revised reduction factors for your use once the Trustees adopt the following table for actuarial equivalence:

A 50/50 blend of 110% (male) and 100% (female) of the RP-2014 Healthy Annuitant Mortality Table for males and females, respectively, backed down to 2006 then projected using the RPEC-2015 model, with an ultimate rate of 0.65% for ages 20-85 grading down to an ultimate rate of 0% for ages 115-120 and convergence to the ultimate rate in the year 2015. Mortality improvements are projected to 2024.

An interest rate of 5% per annum

In developing the table of simplified factors below, we recognized that the joint & survivor benefit is provided in a "pop-up" fashion (i.e., if the beneficiary predeceases the member, the member's benefit is restored to its unreduced amount). We also used the actual average retirement age for PORS retirees under the 25 year plan, which was age 51.

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%	89.6%	0.4%	96%
75%	92.0%	0.3%	97%
66.67%	92.8%	0.3%	98%
50%	94.5%	0.2%	99%
25%	97.2%	0.1%	99%

This letter and its contents have been prepared in accordance with generally recognized and accepted actuarial principles and practices and our understanding of the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board as well as applicable laws and regulations. Furthermore, as a credentialed actuary, I meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this report. This report does not address any contractual or legal issues. I am not an attorney, and our firm does not provide any legal services or advice.



Mr. Jeffrey Weiler  
April 12, 2019  
Page 2

If you have any questions, please let us know.

Sincerely,  
Cheiron

A handwritten signature in blue ink that reads "Fiona E. Liston". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Fiona Liston, FSA, EA, MAAA  
Principal Consulting Actuary

cc: Coralie Taylor



Board Agenda Item  
June 25, 2019

5:00 p.m.

Public Hearing to Lease County-Owned Property at 2610 Reston Parkway to Cellco Partnership d/b/a Verizon Wireless (Hunter Mill District)

ISSUE:

Public hearing to lease County-owned property to Cellco Partnership d/b/a Verizon Wireless for the continuation of telecommunications services for public use at the Fox Mill Fire Station located at 2610 Reston Parkway.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to lease County-owned property at 2610 Reston Parkway to Cellco Partnership d/b/a Verizon Wireless.

TIMING:

On May 21, 2019, the Board authorized the advertisement of a public hearing on June 25, 2019 to lease County-owned property at 2610 Reston Parkway to Cellco Partnership d/b/a Verizon Wireless.

BACKGROUND:

The Board of Supervisors is the owner of the Fox Mill Fire Station, located at 2610 Reston Parkway on a County-owned parcel identified as Tax Map Number 0263 01 0022 (Fox Mill FS). The parking lot serving the property is currently improved with a telecommunications monopole that was constructed by Media General Cable of Fairfax County (Cox Cable) in accordance with a cable television franchise agreement and lease agreement negotiated with the County in 1982 and 1983 respectively. The lease agreement that accompanied the franchise granted Cox the right to construct a fenced compound at the Fox Mill FS to house the monopole and related ground equipment. In addition to serving cable television subscribers, the monopole also operates as a key relay station in the first responders' emergency network.

Cox Cable entered into an agreement with Cellco Partnership d/b/a Verizon Wireless (Verizon) in 1998 to permit Verizon to add its telecommunications equipment on the monopole. Because the existing compound was not large enough to contain its ground equipment, Verizon negotiated a ground lease with the County that allowed Verizon to expand the existing Cox Cable compound by an additional 264 square feet and lease the land for fair market value rent for a 20-year term, ending on September 30, 2018. Verizon has continued to pay rent as a holdover tenant while the County and Verizon have diligently negotiated the terms of a new ground lease.

Verizon has proposed executing a new lease with the County for the continued use of the property for its telecommunications equipment with an initial term of five (5) years, with four 5-year options to extend the lease, for a total possible term of twenty-five (25)



Board Agenda Item  
June 25, 2019

years. The annual rental fee for the first year will be approximately \$30,500 and the annual rate of escalation will be a fixed 2.5 percent per year. The continued operation of the telecommunications monopole and related equipment in the parking lot should not have any impact on Fox Mill FS operations.

FISCAL IMPACT:

The proposed monopole lease will generate approximately \$30,500 in revenue the first year of the new lease term with a 2.5 percent increase each subsequent year. An administrative fee of \$2,000 will be paid within thirty (30) days of execution of the lease. All revenue will be deposited in the General Fund.

ENCLOSED DOCUMENTS:

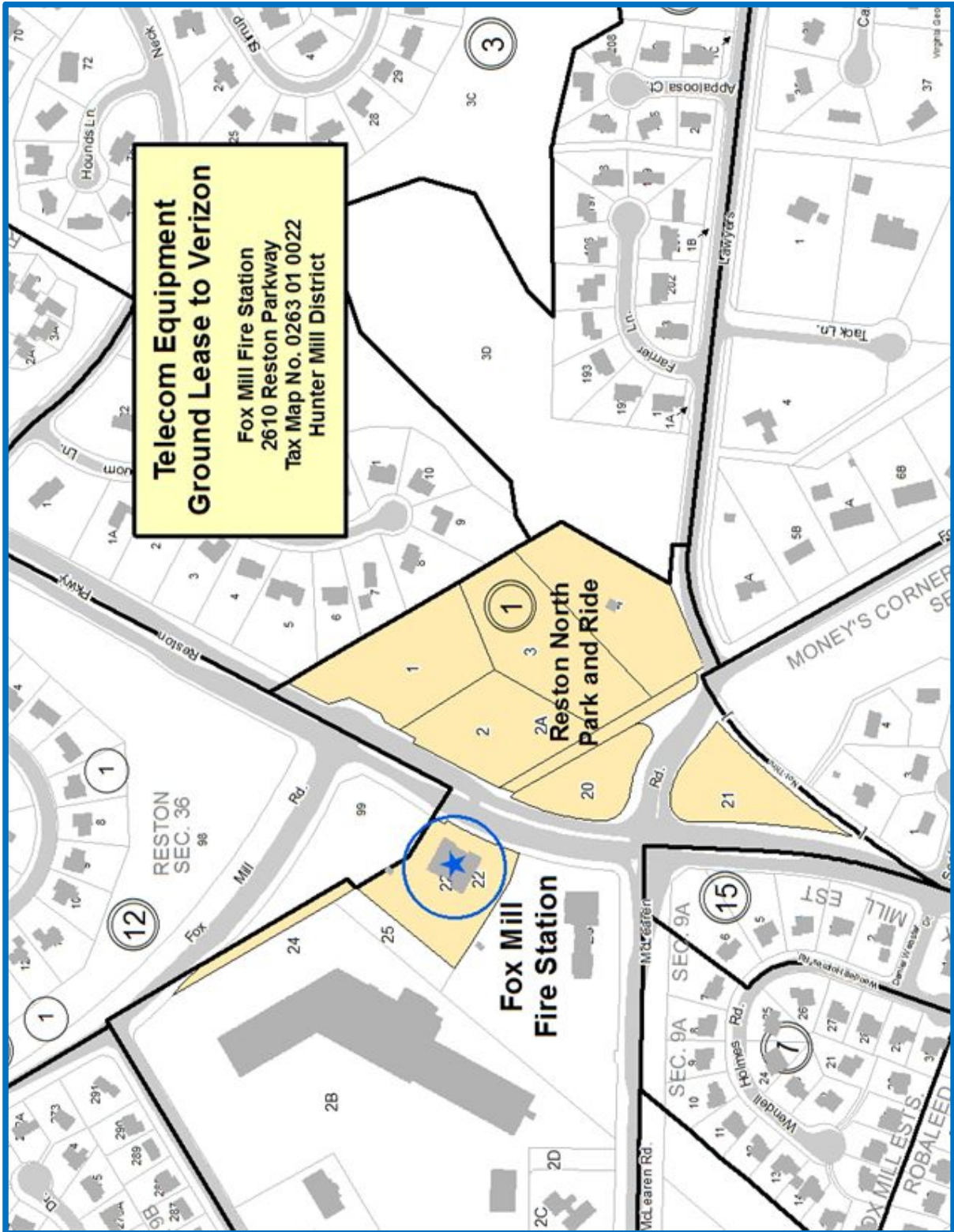
Attachment 1 – Location Map 0263 01 0022  
Attachment 2 – Draft Lease Agreement

STAFF:

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

ASSIGNED COUNSEL:

Daniel Robinson, Assistant County Attorney



**LEASE AGREEMENT BETWEEN THE FAIRFAX COUNTY BOARD  
OF SUPERVISORS AND CELLCO PARTNERSHIP D/B/A VERIZON  
WIRELESS**

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	Exhibit A	Major Components of Lessee's Equipment
	Exhibit B	Site Plan

**THIS REAL PROPERTY DEED OF LEASE AGREEMENT (“Lease”)**, is entered into this \_\_\_\_ day of \_\_\_\_\_, 2019 (the **“Effective Date”**), between the **THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY**, with an address of 12000 Government Center Parkway, Fairfax, Virginia 22035 (**“Lessor”**), and **CELLCO PARTNERSHIP d/b/a Verizon Wireless**, a Delaware general partnership, with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (**“Lessee”**), and the parties mutually agree as follows:

Whereas, Lessee has co-located on the monopole (the **“Tower”**) located on the Parcel described below, which Tower was constructed pursuant to a separate Lease Agreement (the **“Cox Tower Lease”**) between Lessor and Media General Cable of Fairfax County, Inc., dated as of July 12, 1983 and assumed by CoxCom, LLC d/b/a Cox Communications Northern Virginia (**“Cox”**);

Whereas, Lessee has entered into a separate lease agreement with Cox to install Lessee’s antennas and related equipment on the Tower (**“Lessee’s Tower Lease”**);

Whereas, Lessor and Lessee’s predecessor entered into a Real Property Deed of Lease Agreement dated May 5, 1998, as amended by that First Amendment to Real Property Deed of Lease Agreement dated February 27, 2012, to permit Lessee to install its ground-based equipment to service Lessee’s antennas and other tower equipment (**“Ground Lease”**);

Whereas the term of the Ground Lease is about to expire and Lessee desires to enter into this Lease with the Lessor for the Premises described below for the purpose of the operations as further described in this Lease;

NOW THEREFORE, in consideration of the mutual agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### **1. Leased Premises.**

Lessor is the owner of a parcel of land located at 2610 Reston Parkway, in Fairfax County, Virginia and referred to among the Tax Map records of Fairfax County as Tax Map No. 026-3-01-0022, and in Deed Book 4673, Page 223, hereinafter referred to as the **“Parcel”**. Pursuant to the Ground Lease, Lessor leased to Lessee a portion of the Parcel, constituting approximately 264 square feet of ground space (a 12’ x 22’ square foot equipment shelter). This portion is delineated **“Premises”** on the attached **Exhibit B** and is hereinafter referred to as the **“Premises”**. Lessor is willing to permit Lessee to continue to use the Premises for the purposes and in accord with the terms and conditions set forth in this Lease. This purpose shall include the continued operation of its Facilities, as defined below, on the Premises.

**“Facilities,”** as used herein, means Lessee’s wireless communications facility, which may include an equipment shelter or pad, power and telephone utility pedestals, back-up power generator, and cabinets and related cables and utility lines and a location based system,

including without limitation, coaxial cables, base units and other associated antennas, equipment, cables, accessories and improvements, the major components of which are more specifically described on **Exhibit A** attached hereto.

## **2. Use of Premises.**

(a) Lessor leases to Lessee the Premises for the purpose of operating the Facilities upon the Premises as described in **Exhibit B** in the configuration shown on **Exhibit B**, together with the non-exclusive use of that area between the Premises and the Tower for Lessee's ice bridge, cables, conduits and pipes, in the location as shown on **Exhibit B**. Subject to compliance with all laws, Lessee may at its own cost and expense, use the portion of the Premises shown on **Exhibit B** to install, operate, maintain, repair, replace, protect and secure the Facilities, as set forth herein, or as subject to the written approval of Lessor, which will not be unreasonably withheld conditioned or denied. With Lessor's written consent, which will not be unreasonably withheld, conditioned, or denied, Lessor may grant, to the extent practicable and on a space available basis, the Lessee the right to enlarge the Premises so that Lessee may implement any necessary modifications, supplements, replacements, refurbishments, or expansions to the Facilities or to any equipment related thereto, or for any other reasons permitted by Lessor's written consent, which will not be unreasonably withheld, conditioned, or denied. Should Lessee exercise the right to expand the Premises and Lessor provides written consent, which will not be unreasonably withheld, conditioned, or denied, Lessee will pay and Lessor will accept as additional Rent under the Lease an amount equal to the then current Rent calculated on a per square foot basis as multiplied by each additional square foot added to the Premises. Upon notice to Lessor, and with Lessor written consent, which will not be unreasonably withheld, conditioned, or denied, a written description and/or depiction of the modified Premises ground will become part of the Lease without any additional action on the part of Lessee and Lessor. Without limiting Landlord's right to reasonably withhold, condition or deny such consent on other grounds, it shall be deemed reasonable for Landlord to withhold, condition or deny consent to a proposal to enlarge the Premises that impacts the parking lot or access to the parking lot.

(b) Lessor agrees that the Facilities and any related equipment brought to the Premises by Lessee, its agents, contractors, predecessors-in-interest or sublessees, shall be and remain Lessee's personal property or the personal property of its assignees, as the case may be. Lessor shall comply with the requirements of Section 16 of this Lease before exercising any of its rights that arise if an Event of Default (defined below) by Lessee occurs. Lessee, in its sole discretion, may remove the Facilities or any portion of the Facilities at any time during the Term of the Lease, without notice to Lessor and without Lessor's consent so long as Lessee is not in default. Lessee, may, with Lessor's prior written consent, transfer any improvements or alterations to the Premises to Lessor at any time during the Term of the Lease. Upon the termination of the Lease, the Facilities and any foundation shall be removed entirely from the Premises by the Lessee no later than ninety (90) days after the date of the termination of the Lease. Lessee shall verify and confirm in writing that all public service corporations and communication utility company(s) that were granted easements pursuant to Lessee's use of the Premises to have equipment on the Premises have been removed at the Lessee's expense and Lessee shall restore the Premises to an open area to the reasonable

satisfaction of Lessor and which is free of any equipment, foundations, concrete mounting pads, grounding devices, easements or utilities and which has been graded and seeded. All such easements and Facilities shall be vacated at the Lessee's expense.

(c) Lessor grants Lessee a non-exclusive license for ingress and egress to the Premises; and a non-exclusive license to the extent of the Lessor's interest therein to any existing access roads, easements or rights of way serving the Premises for access to the Facilities for the purposes of installing, maintaining, operating, repairing, and removing the Facilities. Subject to the foregoing, Lessee shall have twenty-four (24) hour a day, seven (7) day a week access to the Premises and the Facilities for maintenance, unscheduled repairs and other emergencies.

(d) Except for the Premises (as described in **Exhibit B**), Lessor reserves the right to continue all existing uses of the Parcel. Lessor further reserves the right to make or permit any such future additional use and to make or permit any use of the Parcel as Lessor deems appropriate, provided that Lessee's use of the Premises and the operation of the Facilities are not unreasonably interfered with by such future additional use.

(e) Lessee shall not (i) violate any environmental laws (now or hereafter enacted), in connection with Lessee's use or occupancy of the Premises; or (ii) use, generate, release, manufacture, refine, produce, process, store, or dispose of any hazardous wastes on, under, or about the Premises, or transport to or from the Premises any Hazardous Material (as defined in Paragraph 10); except as allowed by, and in full compliance with, applicable law, for the use of such materials and substances that are ordinary and customary for wireless communications facilities similar to the one operated at the Premises. Lessee will be responsible for all obligations of compliance with any and all environmental laws, including any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental conditions or concerns as may now or hereafter be in effect with respect to the Facilities being installed on the Premises by the Lessee. Lessee shall cure, remedy and be responsible to cure or remedy any environmental condition created on the Premises by Lessee. Lessor represents that it has no knowledge of any substance, chemical, waste or Hazardous Material in the Premises that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Additionally, Lessor agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Premises in violation of any law or regulation. This paragraph shall survive the termination of this Lease.

(f) Any modifications of the Facilities or the addition of new Facilities shall be accomplished without interfering with the use or development of the Parcel, existing as of the date of this Lease, by Lessor or any other party and/or the necessary day to day operations of the Lessor. Promptly upon completion of the forgoing modifications or maintenance, Lessee shall, at its own cost and expense, repair any damage to the Parcel resulting from such construction, installation or maintenance.

### 3. Term.

(a) This Lease shall be effective as of the Effective Date. Subject to the terms and conditions of this Lease, the initial term of this Lease (“**Initial Term**”) shall begin on the **Commencement Date** (as defined below) and end at 11:59 P.M. on the day immediately preceding the fifth (5<sup>th</sup>) anniversary of the Commencement Date. The term “Commencement Date” shall mean October 1, 2018, immediately upon the expiration of the Ground Lease, as further defined in Paragraph 24, below.

(b) Upon thirty (30) days written notice given by Lessee to Lessor, Lessee may terminate this Lease if Lessee determines the Premises has become unsuitable for Lessee because (i) Lessee is unable to obtain or maintain in force all necessary Governmental Approvals (as hereinafter defined); (ii) a material change in government regulations makes it impractical or uneconomic for Lessee to continue to operate the Facilities; (iii) interference by or to Lessee’s operation cannot be resolved; (iv) the Cox Tower Lease or Lessee’s Tower Lease has expired or been terminated early; or (v) the Premises are destroyed or damaged or taken in whole or in part (by condemnation or otherwise) sufficient in Lessee’s reasonable judgment to affect adversely Lessee’s use of the Facilities. Notwithstanding the foregoing, Lessee shall give written notice to Lessor to terminate this Lease within thirty (30) days after the occurrence of any of the foregoing described events which is the basis of termination.

Provided that the Lessee does not breach any of the terms, conditions, covenants, representations or warranties set forth in this Lease, this Lease shall automatically renew subject to the provisions of this Paragraph 3(c) for four (4) additional periods of five (5) years each (each a “**Renewal Term**”) upon the same terms and conditions contained herein; provided, however, that the annual lease fee provided for in Paragraph 4 shall be adjusted at the commencement of each Renewal Term as provided in Paragraph 4. The Lease shall automatically renew for each Renewal Term unless, at least sixty (60) days prior to expiration of the then existing period, Lessee provides written notification to Lessor of its intention not to renew this Lease.

(c) Notwithstanding anything herein to the contrary, Lessor shall have the right to terminate this Lease on not less than twelve (12) months written notice if the Cox Tower Lease has expired or terminated early (and has not been replaced with a new lease). If this Lease is not renewed or terminated as set forth herein, the option(s) remaining shall be rendered null and void. Each Renewal Term shall commence upon the expiration of the immediately preceding Term or applicable Renewal Term. All references in this Lease to the “Term” hereof shall include, where appropriate, the Initial Term and all Renewal Terms so effected.

### 4. Lease Fee.

(a) Commencing upon the Commencement Date, Lessee shall pay to Lessor a non-refundable annual lease fee, as rent, in the amount of \$31,453.80, to be paid to Lessor in equal monthly installments on the first day of the month. Effective on each anniversary of the Commencement Date occurring during the Initial Term, Lessee shall pay to Lessor a non-refundable annual lease fee in an amount equal to 102.5% of the annual lease fee in effect

during the previous lease year, to be paid to Lessor in equal monthly installments on the first day of the month.

(b) If the Lease is renewed for any Renewal Term, Lessee shall pay to Lessor a non-refundable annual lease fee in an amount equal to 102.5% of the annual lease fee in effect during the previous lease year, to be paid to Lessor in equal monthly installments on the first day of the month, which increase shall be effective on each anniversary of the Commencement Date occurring during the Renewal Term(s). Lessor and Lessee acknowledge and agree that from October 1, 2018 through the Effective Date of this Lease, Lessee has been paying Lessor \$2,621.15 monthly which payments shall be applied to the initial lease fee for Year 1 due under this Lease. All rent hereunder shall be paid without notice, demand, deduction or setoff. All payments of rent and all other charges and payments required to be made by Lessee to Lessor hereunder shall be paid to Lessor at Fairfax County, Facilities Management Department, 12000 Government Center Parkway, Suite 424, Fairfax, Virginia 22035. Attn: Leasing Manager or other such address as Lessor shall notify Lessee in writing.

(c) If Lessee fails to pay any installment of lease fees by the fifth (5<sup>th</sup>) day after it is due, Lessee shall also pay to Lessor a late fee equal to five percent (5%) of the late payment. If any amount remains unpaid more than thirty (30) days after its due date, Lessee shall pay Lessor interest on such unpaid amount at an annual rate of ten percent (10%) from the date such amount was due until the date such amount is paid to Lessor. If at the time of assessing any late fee, the applicable interest rate exceeds that which Lessor may lawfully assess, the interest rate for that late fee shall be the maximum that the Lessor may lawfully assess.

(d) Lessee paid a security deposit to the Lessor in accordance with the terms of the Ground Lease in the amount of Two Thousand Six Hundred Dollars (\$2,600.00). This security deposit shall continue to serve as the security deposit under the terms of this Lease (“**Security Deposit**”). The Security Deposit shall be held in a non-interest bearing account by the Lessor and shall be returned to Lessee at the termination of the Lease, provided the Lessee has performed all obligations under this Lease through the date of termination. In the event that Lessee does not remove all of the Facilities from the Premises as set forth in Paragraph 2(c) of this Lease, Lessor may apply all or any portion of the Security Deposit to the costs incurred by Lessor in removing the Facilities.

## **5. Cost Reimbursement**

Lessee shall pay Lessor, as additional rent and as full reimbursement of costs incurred by Lessor for preparing, reviewing and negotiating this Lease, the sum of Two Thousand and 00/100ths Dollars (\$2,000.00), which one-time fee shall be due and payable within ninety (90) days after the date of full execution of this Lease.

## **6. Modification of the Premises.**

(a) The Facilities are constructed as of the date of execution of this Lease and Lessor has approved all existing plans, specifications, drawings, renderings, permits, applications and descriptions for Lessee’s use of the Premises, which is attached hereto as Exhibit A. Lessee



shall have full responsibility and shall pay all costs for plan preparation and procurement of all necessary permits and other approvals from the appropriate governmental agencies.

(b) Lessee has the right to continue to operate the Facilities that exist on the date of execution of this Lease in accordance with Paragraphs 1 and 2 above. Except as otherwise set forth herein, any alterations, modifications or additions (collectively “**Alterations**”) to the Facilities at the Premises shall require Lessor’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed provided the proposed Alterations are reasonable and customary for the type of communications facility contemplated by this Lease. With Lessor’s prior written consent, which shall not be unreasonably withheld, conditioned, or delayed, Lessee, its personnel, invitees, contractors, agents, or assigns may use the Premises, at no additional cost or expense, for the transmission and reception of any and all communications signals and to modify, supplement, replace, upgrade, or refurbish the equipment and/or improvements thereon (collectively, "Facilities"), or relocate the same within the Premises at any time during the term of the Lease for any reason, or in order to be in compliance with any current or future federal, state or local mandated application, including but not limited to emergency 911 communication services, or for any other reason. Lessor, at Lessee’s expense, shall reasonably cooperate in obtaining governmental and other use permits or approvals necessary or desirable for the foregoing permitted use. Notwithstanding the foregoing, but provided the same otherwise comply with all of the terms and conditions of this Lease, Lessee shall have the right to make the following Alterations to the Facilities at the Premises without Lessor’s consent: (i) any Alteration that is exclusively within the interior of Lessee’s equipment shelter or (ii) any Alteration that is in the nature of a repair, maintenance work or replacement/substitution of a piece of equipment (or component thereof) with a substantially similar piece of equipment (or component thereof). Lessee shall have full responsibility and shall pay all costs for plan preparation and procurement of all necessary permits and other approvals from the appropriate governmental agencies for any Alterations, modifications, supplements, replacements, upgrades or refurbishments performed pursuant to this Lease.

(c) All Alterations will comply with the terms set forth in this Lease and with all applicable laws, codes, ordinances (including the Fairfax County Zoning Ordinance as it applies to telecommunication facilities) and regulations.

(d) No damage will be done or interference committed with any equipment or structures located within the Parcel with respect to the Alterations. If damage to the Parcel and/or equipment occurs then, Lessee shall within thirty (30) days repair the damage and return the Parcel to the condition existing before the damage occurred.

(e) If any Alterations should require the relocation of any facilities or equipment presently located at the Premises owned by the Lessor, such facilities or equipment may be relocated by Lessee only with Lessor’s prior written consent and at Lessee’s sole cost and expense.

## **7. Interference.**

(a) Lessee agrees not to permit any use of the Facilities after the Commencement Date that will interfere with Lessor's operations or use of the Parcel.

(b) Lessee agrees to install equipment of a type and frequency which will not cause frequency interference with Lessor's "Public Safety Grade" (Manufacturers High Tier) radio frequency communications equipment used by Lessor. In the event the Facilities cause such interference, Lessee agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon notification to Lessee's Authorized Representative of the interference. Lessee shall be obligated to respond to the problem of interference within four (4) hours of receipt of notification from the Lessor and if the interference is not corrected within one (1) day of receipt of notification, the Lessee shall immediately turn off the Facilities causing such interference until the Facilities can be repaired or replaced (except that Lessee shall be able to intermittently test the Facilities at times reasonably approved by Lessor).

Lessee agrees to install equipment of a type and frequency which will not cause frequency interference with other forms of radio frequency communications equipment existing, or previously approved on the Parcel as of the date Lessee first occupied the Premises so long as the existing radio frequency users operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations. In the event the Facilities cause such interference, Lessee agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon receipt of written notification of the interference. Lessee shall be obligated to respond to the problem of interference within forty-eight (48) hours of receipt of notice from Lessor, and if the interference is not corrected within ten (10) days of receipt of written notification (or such time as may reasonably be required with exercise of the due diligence provided such repairs are begun within said ten (10) days), the Facilities causing such interference shall be powered down until Lessee is able to repair or replace the interfering equipment (provided that Lessee shall be able to intermittently test the Facilities at times reasonably approved by Lessor).

All notices under this Paragraph 7(b) shall be made to Lessee's emergency contact number at its Network Operations Center: 1-800-852-2671.

(c) Lessor will not, nor will Lessor permit its employees, tenants, lessees, invitees, agents, or independent contractors, to interfere in any way with the Facilities, the operations of Lessee at the Premises or the rights of Lessee under this Lease.

## **8. Condition of the Premises.**

Lessee and Lessor acknowledge and agree that Lessee has accepted the Premises "as is" and Lessor shall have no obligation to improve or modify the Premises in any manner whatsoever.

## **9. Maintenance and Repairs of Facilities.**

Lessee shall be responsible for all maintenance and repair of the Facilities and any appurtenant equipment or facilities of Lessee during the term of this Lease. Lessee shall promptly and diligently respond to any request by Lessor for any such maintenance or repair. Lessor will use its best efforts to maintain and repair the Parcel and access thereto, and all areas of the Premises where Lessee does not have exclusive control, in good order, subject to reasonable wear and tear and damage from the elements.

## **10. Indemnification.**

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

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

(c) Nothing contained in this Lease shall be deemed to obligate Lessee to indemnify Lessor for claims solely arising out of the negligence or intentional wrongful acts of the Lessor or Lessor's agents, employees or contractors.

## **11. Insurance.**

(a) Lessee shall acquire, maintain and pay for commercial general liability insurance with a limit of Two Million Dollars (\$2,000,000) per occurrence for bodily injury and property damage and Two Million Dollars (\$2,000,000) general aggregate insuring against claims occurring upon the Premises and/or arising from Lessee's use thereof. Insurance shall include Lessor as an additional insured as their interest may appear under this Lease. Such insurance must be issued by an insurance company licensed, authorized or permitted to conduct business in the Commonwealth of Virginia and shall have a general policyholder's rating of at least A- and a Financial rating of at least VII in the current edition of Best's Insurance Reports. Lessee shall provide Lessor an original certificate evidencing such insurance upon (i) the

Commencement Date of the term of this Lease, (ii) and at any other time during the term of this Lease upon the request of the Lessor. Notwithstanding the forgoing, Lessee may, in its sole discretion, self insure any of the required insurance under the same terms as required by this Agreement. In the event Lessee elects to self-insure its obligation under this Agreement to include Lessor as an additional insured, the following conditions apply: (i) Lessor shall promptly and no later than thirty (30) days after notice thereof provide Lessee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Lessee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) Lessor shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Lessee; and (iii) Lessor shall fully cooperate with Lessee, at Lessee's expense in the defense of the claim, demand, lawsuit, or the like.

(b) Lessee shall carry hazard insurance or self insurance to cover damage to or destruction of the Lessee's equipment and other property. If the Premises or Facilities are destroyed or damaged and rendered unsuitable for normal use, Lessee may terminate this Lease upon providing thirty (30) days written notice to Lessor. In such event, with the exception of liabilities that arise prior to such termination and liabilities that survive termination of the Lease as provided in Paragraph 15 herein, all rights and obligations of the parties shall cease as of the date of the damage or destruction, without further liability hereunder. Notwithstanding the foregoing, Lessee shall remain responsible for removal of its equipment and other property and for restoration of the Parcel and this provision shall not limit Lessee's obligation to restore the site to its original condition.

## **12. Liens.**

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

## **13. Compliance with Laws.**

Lessee shall, at its expense, throughout the term of this Lease, obtain all building permits and other governmental or quasi-governmental licenses, permits, consents and approvals required for the construction, installation, operation and use of the Facilities in compliance with all applicable laws, rules, orders, ordinances and requirements, including but not limited to, all laws, rules, orders, ordinances and requirements which relate to the Federal Aviation Administration, Federal Communications Commission, health, safety, environment or land use. In the event of Lessee's failure to comply with this paragraph, Lessor may, but is not obligated to, take such actions as may be necessary to comply with any such laws, rules, regulations, order, ordinances or requirements, and Lessee shall immediately reimburse Lessor for all costs and expenses incurred thereby.

#### **14. Representations and Warranties.**

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

#### **15. Termination.**

Upon the expiration or earlier termination of this Lease, and if Lessee and Lessor are not in negotiations to extend or renew the Lease, Lessee shall remove the Facilities and any foundation from the Premises as provided in Paragraph 2(c) of this Lease, and shall repair any damage to the Premises and associated public utility areas caused by the installation, operation or removal of the Facilities. If Lessee remains on the premises more than sixty (60) days after the expiration or termination of this Lease, Lessee shall pay to Lessor for such holding over a lease fee per month equal to 12.5% of the annual installment of the lease fee which accrued during the immediately preceding term. The lease fee for such holding over shall remain in effect until Lessee removes the Facilities. If the Facilities are not removed within one hundred twenty (120) days after expiration or earlier termination of this Lease, Lessor shall at its option complete the removal and restoration at the Lessee's expense. Acceptance of the lease fees upon termination shall not be a waiver by Lessor of any of its other remedies at law or in equity. Paragraphs 2(e), 10, 12 and 15, 18 and 22 of this Lease shall survive termination of this Lease.

#### **16. Default.**

(a) If Lessee shall fail to pay when due any of the installments of the lease fee provided for herein or any other sum accruing pursuant to the terms of this Lease, and such failure shall continue for thirty (30) days after written notice from Lessor, or if Lessee shall be in default or fail to perform in a timely manner any other obligation herein provided, other than the payment of lease fee installments, and such failure shall continue for forty five (45) days after written notice from Lessor, or if a petition in bankruptcy shall be filed by or against Lessee and not dismissed within one hundred twenty (120) days, or if Lessee shall be adjudicated insolvent, or if Lessee shall make a general assignment for the benefit of its creditors, or if a receiver or trustee shall be appointed to take charge of and wind up Lessee's business, or if the Lessee abandons or vacates the Facilities for more than four (4) consecutive months prior to the termination of this Lease, then Lessee shall be considered to have caused an event of default ("Event of Default"). If Lessee remains in default beyond any applicable cure period, Lessor may elect to terminate this Lease at its sole discretion and pursue its remedies hereunder, at law or in equity. All time periods set forth in this paragraph for a cure period may be extended by a mutual written agreement.

(b) The following will be deemed a default by Lessor and a breach of this Lease: Lessor's failure to perform any term, condition or breach of any warranty or covenant under this Lease

within forty-five (45) days of written notice from Lessee specifying the failure. If Lessor remains in default beyond any applicable cure period, Lessee will have any and all other rights available to it under law and equity. All time periods set forth in this paragraph for a cure period may be extended by a mutual written agreement.

### 17. Authorized Representative

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

LESSOR:

Name: Kaylynn Kingery  
Title: Leasing Manager  
Email Address: [Kaylynn.kingery@fairfaxcounty.gov](mailto:Kaylynn.kingery@fairfaxcounty.gov)  
Direct Phone Line: 703-324-2836

LESSEE:

Name: Network Operations Center  
Direct Phone Line: 800-852-2671

Or such other employee designated by Lessee from time to time.

### 18. Notices.

All notices required hereunder or in respect hereof shall be in writing and shall be transmitted by postage prepaid certified mail, return receipt requested, or transmitted by overnight courier to the following addresses:

Lessor:

County of Fairfax, Virginia  
Attn: Leasing Manager  
12000 Government Center Parkway, Suite 424  
Fairfax, VA. 22035

With a copy to: County Attorneys Office  
12000 Government Center Parkway, Suite 549  
Fairfax, VA 22035

Lessee:

Cellco Partnership d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

Notices shall be deemed given upon delivery or mailing by certified mail with return receipt requested thereof to the address specified above. Either party may change its address or any address for copies by giving thirty (30) days prior notice of such change in the manner described above.

#### **19. Assignment and Sublease.**

(a) Lessee may, upon notice to Lessor, assign this Lease to any corporation, partnership or other entity which (i) is controlled by, controlling or under common control with the Lessee, (ii) shall merge or consolidate with or into Lessee, or (iii) shall succeed to all or substantially all the assets, property and business of Lessee. In all other instances, Lessee may only assign or transfer its rights and obligations upon Lessor's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Lessee shall submit any requests for any requested consents of Lessor at least sixty (60) days before any assignment of this Lease. Upon assignment, Lessee shall furnish to the Lessor six (6) 8 ½" x 11" colored photographs of the existing conditions and six (6) 8 ½"x 11" colored photographs of the assignee's telecommunications Facilities. Photographs will show all Facilities (i.e. monopole, co-locations, antennas, equipment cabinets, fenced compound with landscaping, access road and/or any other related appurtenances).

(b) This Lease shall not be interpreted to create anything other than a lease and, except as otherwise provided herein, shall not create any other right, title or interest in the property or Premises, nor shall it create an easement. In the event of any assignment which requires Lessor's consent, Lessee agrees that it shall remain liable for all obligations hereunder. For all other assignments, the entity to which the Lease is assigned shall be liable for all obligations of the Lessee under this Lease, regardless of whether such obligation arose before or after such assignment. Lessee may not sublease all or any portion of the Premises. No other parties are permitted use of the Premises without written permission of Lessor. Furthermore, no other party's equipment shall be permitted at the Premises without written permission of Lessor.

#### **20. Sale of Parcel.**

(a) If Lessor, at any time during the Term of the Lease, decides to sell or otherwise transfer all or any part of the Premises, or all or any part of the Parcel, to a purchaser other than Lessee, Lessor shall promptly notify Lessee in writing. In the event of a change in ownership, transfer or sale of the Parcel, Lessor shall notify Lessee within ten (10) days of such transfer. In the event of a change in ownership, transfer or sale of the Parcel, (i) the current Lessor (assignor) shall remain legally responsible for any and all of its obligations arising under this Lease prior to such change, transfer or sale and (ii) the new Lessor (assignee) shall be responsible for any and all of its obligations arising under this Lease after such change, transfer or sale. In no case shall such change, transfer or sale relieve any Lessor of its obligations as described hereunder.

(b) Lessor agrees that any future lease or license it executes with other parties for use of the Parcel will include a clause that prohibits the lessee or licensee from installing such equipment that is of the type and frequency which causes harmful interference which is

measurable in accordance with then existing industry standards to the then existing equipment of Lessee.

The provisions of this Paragraph shall in no way limit or impair the obligations of Lessor under the Lease, including interference and access obligations.

## **21. Miscellaneous.**

This Lease contains the entire agreement between the parties with respect to the subject matter hereof and may not be amended except by a writing signed by the parties hereto. The invalidation of any of the provisions hereof shall not affect any of the other provisions hereof, which shall remain in full force. This Lease shall be binding on the parties hereto and their respective successors and assigns. The failure of either party to this Lease to enforce or exercise at any time any of its rights or remedies or other provisions of this Lease will not be construed to be a waiver thereof, nor affect the validity of any part of this Lease or the right of either party thereafter to enforce each and every such right or remedy or other provision.

## **22. Applicable Law.**

This Lease shall be executed, constructed and enforced in accordance with the laws of the Commonwealth of Virginia, disregarding those laws pertaining to conflicts of law. The only proper jurisdiction and venue for any lawsuit arising out of or relating to this Lease shall be the Circuit Court of Fairfax County or the United States District Court for the Eastern District of Virginia.

## **23. Quiet Enjoyment.**

Lessor covenants that Lessee, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises, subject to the terms and conditions herein contained.

## **24. Prior Gound Lease.**

Lessor and Lessee agree that on the term Commencement Date this Lease replaces the Ground Lease, as defined in the third Whereas Clause, above, referenced by Lessee as Contract #NG 3177. Lessor and Lessee acknowledge that notwithstanding the expiration and termination of the Ground Lease and the commencement of this Lease, during the transition from the Ground Lease to this Lease, Lessee may continue to make, and the Lessor may continue to receive, rental and other payments pursuant to the Ground Lease. In such event, any rental or other payments made pursuant to the Ground Lease after its termination shall be applied and credited against any rentals or other payments due under this Lease



IN WITNESS WHEREOF, the parties hereto have affixed their signatures as of the date first above written.

WITNESS OR ATTEST:

\_\_\_\_\_

LESSOR:

**THE BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY**

By: \_\_\_\_\_

Name: Joseph M. Mondoro

Title: Chief Financial Officer

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

WITNESS OR ATTEST:

\_\_\_\_\_

LESSEE:

**CELLCO PARTNERSHIP  
d/b/a Verizon Wireless**

By: \_\_\_\_\_

Name: Thomas O'Malley

Title: Director – Network Field Engineering

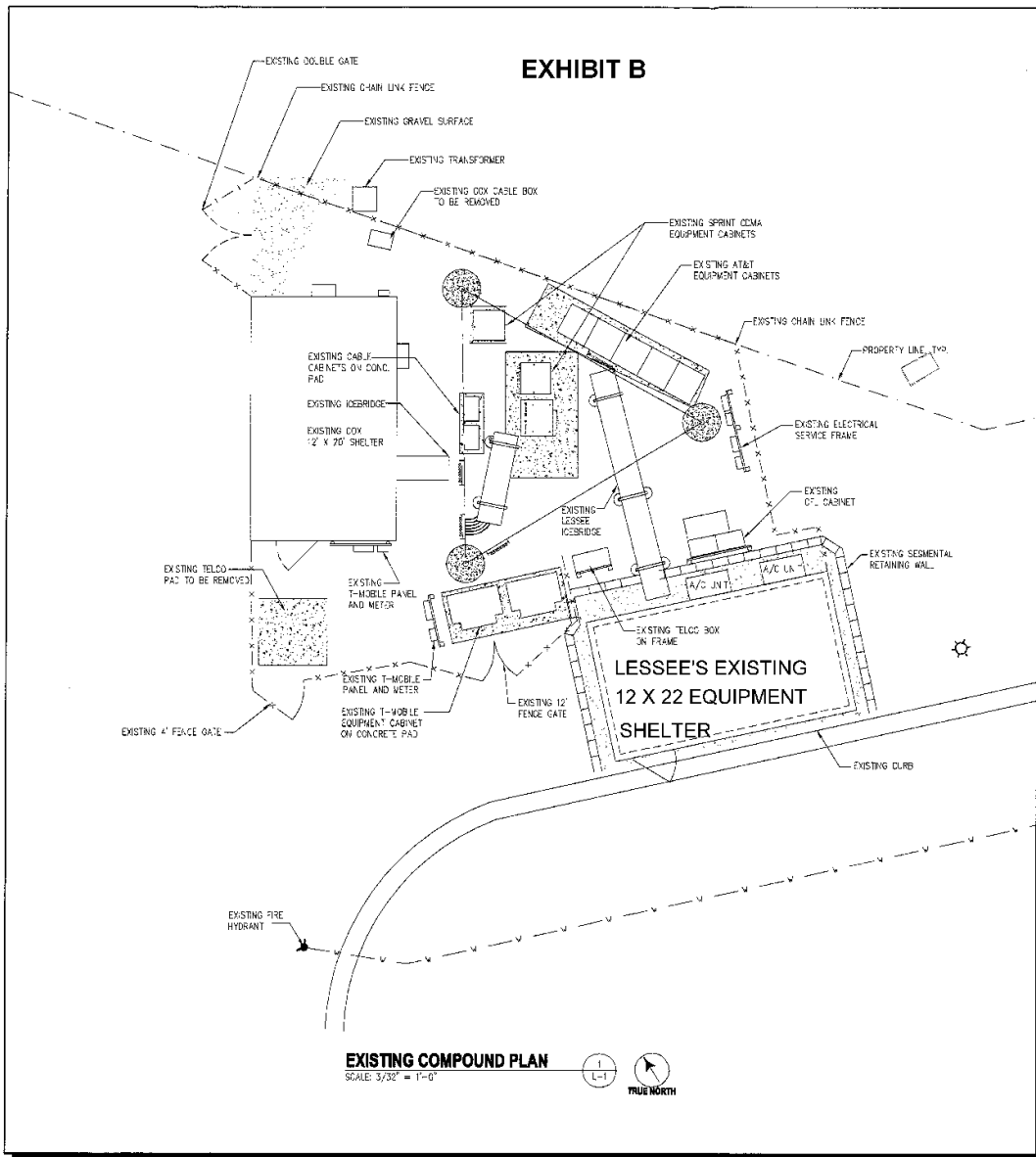
Date: \_\_\_\_\_

## **EXHIBIT A**

### **MAJOR COMPONENTS OF LESSEE'S FACILITIES**

- 12'x20' equipment shelter
- 1 Emergency backup generator
- Requisite cables (coax/fiber) in support of installation
- Requisite cable support superstructure
- Meter Backboard with necessary meters, distribution boxes, safety lighting and appurtenances
- GPS antennas with supporting mounts and brackets

**EXHIBIT B**  
**SITE PLANS**  
**[see attached]**



**TELECENT  
ENGINEERING  
INC.**

17.8 W. JARRETTSVILLE ROAD  
JARRETTSVILLE, MD 20884  
PHONE: 410-992-5816  
FAX: 410-692-5853  
WWW.TEL-ENG.COM

**entrex**  
communication services, Inc.

6600 Rockledge Drive, Suite 550  
Bethesda, MD. 20817  
PHONE: (202)408-0960  
FAX: (202)408-0961

SUBMITTALS		
DATE	DESCRIPTION	REV.
03-22-11	LEASE EXHIBIT REVIEW	

**LEASE EXHIBIT**  
**MONEY'S CORNER**  
**2810 RESTON PARKWAY**  
**HERNDON, VA 20171**

TITLE: **EXISTING COMPOUND PLAN**

102.057	L-1	SHEET 1 OF 4
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Board Agenda Item  
June 25, 2019

5:00 p.m.

Public Hearing to Lease County-Owned Property at 6140 Rolling Road to Cellco Partnership d/b/a Verizon Wireless (Springfield District)

ISSUE:

Public hearing to lease County-owned property to Cellco Partnership d/b/a Verizon Wireless for the continuation of telecommunications services for public use at the West Springfield Government Center located at 6140 Rolling Road.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to lease County-Owned property at 6140 Rolling Road to Cellco Partnership d/b/a Verizon Wireless.

TIMING:

On May 21, 2019, the Board authorized the advertisement of a public hearing on June 25, 2019 to lease County-owned property at 6140 Rolling Road to Cellco Partnership d/b/a Verizon Wireless.

BACKGROUND:

The Board of Supervisors is the owner of the West Springfield Government Center, located at 6140 Rolling Road on a County-owned parcel identified as Tax Map Number 0793 04 0032 (West Springfield GC). The parking lot serving the property is currently improved with a telecommunications monopole that was constructed by Media General Cable of Fairfax County (Cox Cable) in accordance with a cable television franchise agreement and lease agreement negotiated with the County in 1982 and 1983 respectively. The lease agreement that accompanied the franchise granted Cox the right to construct a fenced compound at the West Springfield GC to house the monopole and related ground equipment. In addition to serving cable television subscribers, the monopole also operates as a key relay station in the first responders' emergency network.

Cox Cable entered into an agreement with Cellco Partnership d/b/a Verizon Wireless (Verizon) in 1998 to permit Verizon to add its telecommunications equipment on the monopole. Because the existing compound was not large enough to contain its ground equipment, Verizon negotiated a ground lease with the County that allowed Verizon to expand the existing Cox Cable compound by an additional 360 square feet and lease the land for fair market value rent for a 20-year term, ending on July 31, 2018. Verizon has continued to pay rent as a holdover tenant while the County and Verizon have diligently negotiated the terms of a new ground lease.

Verizon has proposed executing a new lease with the County for the continued use of the property for its telecommunications equipment with an initial term of five (5) years,

Board Agenda Item  
June 25, 2019

with four 5-year options to extend the lease, for a total possible term of twenty-five (25) years. The annual rental fee for the first year will be approximately \$28,000 and the annual rate of escalation will be a fixed 2.5 percent per year. The continued operation of the telecommunications monopole and related equipment in the parking lot should not have any impact on West Springfield GC operations.

FISCAL IMPACT:

The proposed monopole lease will generate approximately \$28,000 in revenue the first year of the new lease term with a 2.5 percent increase each subsequent year. An administrative fee of \$2,000 will be paid within thirty (30) days of execution of the lease. All revenue will be deposited in the General Fund.

ENCLOSED DOCUMENTS:

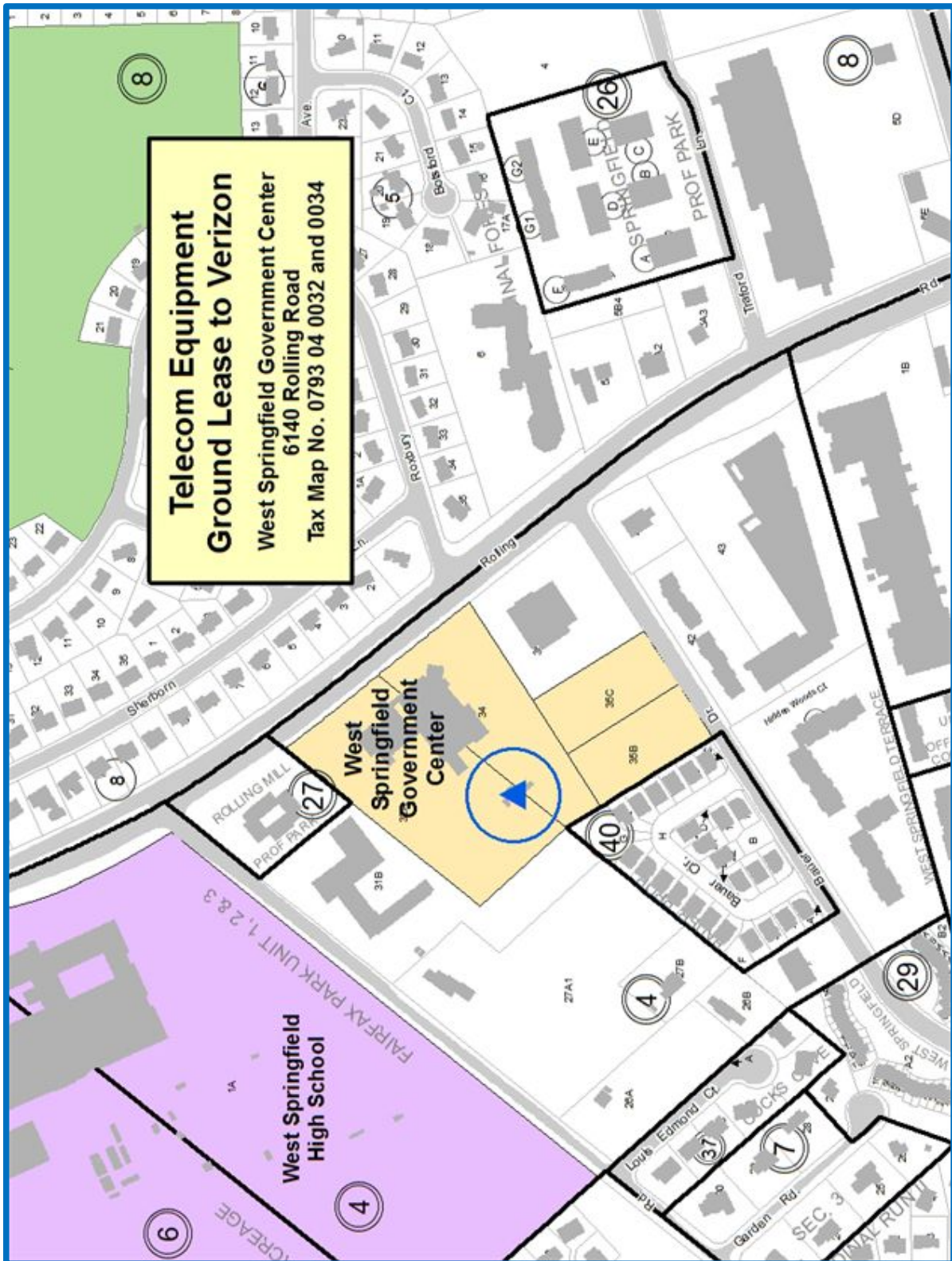
Attachment 1 – Location Map 0793 04 0032  
Attachment 2 – Draft Lease Agreement

STAFF:

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

ASSIGNED COUNSEL:

Daniel Robinson, Assistant County Attorney



**LEASE AGREEMENT BETWEEN THE FAIRFAX COUNTY BOARD  
OF SUPERVISORS AND CELLCO PARTNERSHIP D/B/A VERIZON  
WIRELESS**

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**THIS REAL PROPERTY DEED OF LEASE AGREEMENT (“Lease”)**, is entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 (the **“Effective Date”**), between the **THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY**, with an address of 12000 Government Center Parkway, Fairfax, Virginia 22035 (**“Lessor”**), and **CELLCO PARTNERSHIP d/b/a Verizon Wireless**, a Delaware general partnership, with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (**“Lessee”**), and the parties mutually agree as follows:

Whereas, Lessee has co-located on the monopole (the **“Tower”**) located on the Parcel described below, which Tower was constructed pursuant to a separate Lease Agreement (the **“Cox Tower Lease”**) between Lessor and Media General Cable of Fairfax County, Inc., dated as of June 20, 1983 and assumed by CoxCom, LLC d/b/a Cox Communications Northern Virginia (**“Cox”**);

Whereas, Lessee has entered into a separate lease agreement with Cox to install Lessee’s antennas and related equipment on the Tower (**“Lessee’s Tower Lease”**);

Whereas, Lessor and Lessee’s predecessor entered into a Real Property Deed of Lease Agreement dated September 16, 1998, as amended by that First Amendment to Real Property Deed of Lease Agreement dated February 27, 2012, to permit Lessee to install its ground-based equipment to service Lessee’s antennas and other tower equipment (**“Ground Lease”**);

Whereas the term of the Ground Lease is about to expire and Lessee desires to enter into this Lease with the Lessor for the Premises described below for the purpose of the operations as further described in this Lease;

NOW THEREFORE, in consideration of the mutual agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Leased Premises.**

Lessor is the owner of a parcel of land located at 6140 Rolling Road, in Fairfax County, Virginia and referred to among the Tax Map records of Fairfax County as Tax Map No. 0793-04-0032, and in Deed Book 3394, Page 690, hereinafter referred to as the **“Parcel”**. Pursuant to the Ground Lease, Lessor leased to Lessee a portion of the Parcel, constituting approximately 360 square feet of ground space (a 12’ x 30’ square foot equipment shelter). This portion is delineated **“Premises”** on the attached **Exhibit B** and is hereinafter referred to as the **“Premises”**. Lessor is willing to permit Lessee to continue to use the Premises for the purposes and in accord with the terms and conditions set forth in this Lease. This purpose shall include the continued operation of its Facilities, as defined below, on the Premises.

**“Facilities,”** as used herein, means Lessee’s wireless communications facility, which may include an equipment shelter, power and telephone utility pedestals, back-up power generator, and cabinets and related cables and utility lines and a location based system, including without

limitation, coaxial cables, base units and other associated antennas, equipment, cables, accessories and improvements, the major components of which are more specifically described on **Exhibit A** attached hereto.

## **2. Use of Premises.**

(a) Lessor leases to Lessee the Premises for the purpose of operating the Facilities upon the Premises as described in **Exhibit B** in the configuration shown on **Exhibit B**, together with the non-exclusive use of that area between the Premises and the Tower for Lessee's ice bridge, cables, conduits and pipes, in the location as shown on **Exhibit B**. Subject to compliance with all laws, Lessee may at its own cost and expense, use the portion of the Premises shown on **Exhibit B** to install, operate, maintain, repair, replace, protect and secure the Facilities, as set forth herein, or as subject to the written approval of Lessor, which will not be unreasonably withheld conditioned or denied. With Lessor's written consent, which will not be unreasonably withheld, conditioned, or denied, Lessor may grant, to the extent practicable and on a space available basis, the Lessee the right to enlarge the Premises so that Lessee may implement any necessary modifications, supplements, replacements, refurbishments, or expansions to the Facilities or to any equipment related thereto, or for any other reasons permitted by Lessor's written consent, which will not be unreasonably withheld, conditioned, or denied. Should Lessee exercise the right to expand the Premises and Lessor provides written consent, which will not be unreasonably withheld, conditioned, or denied, Lessee will pay and Lessor will accept as additional Rent under the Lease an amount equal to the then current Rent calculated on a per square foot basis as multiplied by each additional square foot added to the Premises. Upon notice to Lessor, and with Lessor written consent, which will not be unreasonably withheld, conditioned, or denied, a written description and/or depiction of the modified Premises ground will become part of the Lease without any additional action on the part of Lessee and Lessor. Without limiting Landlord's right to reasonably withhold, condition or deny such consent on other grounds, it shall be deemed reasonable for Landlord to withhold, condition or deny consent to a proposal to enlarge the Premises that impacts the parking lot or access to the parking lot.

(b) Lessor agrees that the Facilities and any related equipment brought to the Premises by Lessee, its agents, contractors, predecessors-in-interest or sublessees, shall be and remain Lessee's personal property or the personal property of its assignees, as the case may be. Lessor shall comply with the requirements of Section 16 of this Lease before exercising any of its rights that arise if an Event of Default (defined below) by Lessee occurs. Lessee, in its sole discretion, may remove the Facilities or any portion of the Facilities at any time during the Term of the Lease, without notice to Lessor and without Lessor's consent so long as Lessee is not in default. Lessee, may, with Lessor's prior written consent, transfer any improvements or alterations to the Premises to Lessor at any time during the Term of the Lease. Upon the termination of the Lease, the Facilities and any foundation shall be removed entirely from the Premises by the Lessee no later than ninety (90) days after the date of the termination of the Lease. Lessee shall verify and confirm in writing that all public service corporations and communication utility company(s) that were granted easements pursuant to Lessee's use of the Premises to have equipment on the Premises have been removed at the Lessee's expense and Lessee shall restore the Premises to an open area to the reasonable

satisfaction of Lessor and which is free of any equipment, foundations, concrete mounting pads, grounding devices, easements or utilities and which has been graded and seeded. All such easements and Facilities shall be vacated at the Lessee's expense.

(c) Lessor grants Lessee a non-exclusive license for ingress and egress to the Premises; and a non-exclusive license to the extent of the Lessor's interest therein to any existing access roads, easements or rights of way serving the Premises for access to the Facilities for the purposes of installing, maintaining, operating, repairing, and removing the Facilities. Subject to the foregoing, Lessee shall have twenty-four (24) hour a day, seven (7) day a week access to the Premises and the Facilities for maintenance, unscheduled repairs and other emergencies.

(d) Except for the Premises (as described in **Exhibit B**), Lessor reserves the right to continue all existing uses of the Parcel. Lessor further reserves the right to make or permit any such future additional use and to make or permit any use of the Parcel as Lessor deems appropriate, provided that Lessee's use of the Premises and the operation of the Facilities are not unreasonably interfered with by such future additional use.

(e) Lessee shall not (i) violate any environmental laws (now or hereafter enacted), in connection with Lessee's use or occupancy of the Premises; or (ii) use, generate, release, manufacture, refine, produce, process, store, or dispose of any hazardous wastes on, under, or about the Premises, or transport to or from the Premises any Hazardous Material (as defined in Paragraph 10); except as allowed by, and in full compliance with, applicable law, for the use of such materials and substances that are ordinary and customary for wireless communications facilities similar to the one operated at the Premises. Lessee will be responsible for all obligations of compliance with any and all environmental laws, including any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental conditions or concerns as may now or hereafter be in effect with respect to the Facilities being installed on the Premises by the Lessee. Lessee shall cure, remedy and be responsible to cure or remedy any environmental condition created on the Premises by Lessee. Lessor represents that it has no knowledge of any substance, chemical, waste or Hazardous Material in the Premises that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Additionally, Lessor agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Premises in violation of any law or regulation. This paragraph shall survive the termination of this Lease.

(f) Any modifications of the Facilities or the addition of new Facilities shall be accomplished without interfering with the use or development of the Parcel, existing as of the date of this Lease, by Lessor or any other party and/or the necessary day to day operations of the Lessor. Promptly upon completion of the forgoing modifications or maintenance, Lessee shall, at its own cost and expense, repair any damage to the Parcel resulting from such construction, installation or maintenance.

### 3. Term.

(a) This Lease shall be effective as of the Effective Date. Subject to the terms and conditions of this Lease, the initial term of this Lease (“**Initial Term**”) shall begin on the **Commencement Date** (as defined below) and end at 11:59 P.M. on the day immediately preceding the fifth (5<sup>th</sup>) anniversary of the Commencement Date. The term “Commencement Date” shall mean August 1, 2018, immediately upon the expiration of the Ground Lease, as further defined in Paragraph 24, below.

(b) Upon thirty (30) days written notice given by Lessee to Lessor, Lessee may terminate this Lease if Lessee determines the Premises has become unsuitable for Lessee because (i) Lessee is unable to obtain or maintain in force all necessary Governmental Approvals (as hereinafter defined); (ii) a material change in government regulations makes it impractical or uneconomic for Lessee to continue to operate the Facilities; (iii) interference by or to Lessee’s operation cannot be resolved; (iv) the Cox Tower Lease or Lessee’s Tower Lease has expired or been terminated early; or (v) the Premises are destroyed or damaged or taken in whole or in part (by condemnation or otherwise) sufficient in Lessee’s reasonable judgment to affect adversely Lessee’s use of the Facilities. Notwithstanding the foregoing, Lessee shall give written notice to Lessor to terminate this Lease within thirty (30) days after the occurrence of any of the foregoing described events which is the basis of termination.

Provided that the Lessee does not breach any of the terms, conditions, covenants, representations or warranties set forth in this Lease, this Lease shall automatically renew subject to the provisions of this Paragraph 3(c) for four (4) additional periods of five (5) years each (each a “**Renewal Term**”) upon the same terms and conditions contained herein; provided, however, that the annual lease fee provided for in Paragraph 4 shall be adjusted at the commencement of each Renewal Term as provided in Paragraph 4. The Lease shall automatically renew for each Renewal Term unless, at least sixty (60) days prior to expiration of the then existing period, Lessee provides written notification to Lessor of its intention not to renew this Lease.

(c) Notwithstanding anything herein to the contrary, Lessor shall have the right to terminate this Lease on not less than twelve (12) months written notice if the Cox Tower Lease has expired or terminated early (and has not been replaced with a new lease). If this Lease is not renewed or terminated as set forth herein, the option(s) remaining shall be rendered null and void. Each Renewal Term shall commence upon the expiration of the immediately preceding Term or applicable Renewal Term. All references in this Lease to the “Term” hereof shall include, where appropriate, the Initial Term and all Renewal Terms so effected.

### 4. Lease Fee.

(a) Commencing upon the Commencement Date, Lessee shall pay to Lessor a non-refundable annual lease fee, as rent, in the amount of \$28,150.15, to be paid to Lessor in equal monthly installments on the first day of the month. Effective on each anniversary of the Commencement Date occurring during the Initial Term, Lessee shall pay to Lessor a non-refundable annual lease fee in an amount equal to 102.5% of the annual lease fee in effect

during the previous lease year, to be paid to Lessor in equal monthly installments on the first day of the month.

(b) If the Lease is renewed for any Renewal Term, Lessee shall pay to Lessor a non-refundable annual lease fee in an amount equal to 102.5% of the annual lease fee in effect during the previous lease year, to be paid to Lessor in equal monthly installments on the first day of the month, which increase shall be effective on each anniversary of the Commencement Date occurring during the Renewal Term(s). Lessor and Lessee acknowledge and agree that from August 1, 2018 through the Effective Date of this Lease, Lessee has been paying Lessor \$2345.84 monthly which payments shall be applied to the initial lease fee for Year 1 due under this Lease. All rent hereunder shall be paid without notice, demand, deduction or setoff. All payments of rent and all other charges and payments required to be made by Lessee to Lessor hereunder shall be paid to Lessor at Fairfax County, Facilities Management Department, 12000 Government Center Parkway, Suite 424, Fairfax, Virginia 22035. Attn: Leasing Manager or other such address as Lessor shall notify Lessee in writing.

(c) If Lessee fails to pay any installment of lease fees by the fifth (5<sup>th</sup>) day after it is due, Lessee shall also pay to Lessor a late fee equal to five percent (5%) of the late payment. If any amount remains unpaid more than thirty (30) days after its due date, Lessee shall pay Lessor interest on such unpaid amount at an annual rate of ten percent (10%) from the date such amount was due until the date such amount is paid to Lessor. If at the time of assessing any late fee, the applicable interest rate exceeds that which Lessor may lawfully assess, the interest rate for that late fee shall be the maximum that the Lessor may lawfully assess.

(d) Lessee paid a security deposit to the Lessor in accordance with the terms of the Ground Lease in the amount of Two Thousand Six Hundred Dollars (\$2,600.00). This security deposit shall continue to serve as the security deposit under the terms of this Lease (“**Security Deposit**”). The Security Deposit shall be held in a non-interest bearing account by the Lessor and shall be returned to Lessee at the termination of the Lease, provided the Lessee has performed all obligations under this Lease through the date of termination. In the event that Lessee does not remove all of the Facilities from the Premises as set forth in Paragraph 2(c) of this Lease, Lessor may apply all or any portion of the Security Deposit to the costs incurred by Lessor in removing the Facilities.

## **5. Cost Reimbursement**

Lessee shall pay Lessor, as additional rent and as full reimbursement of costs incurred by Lessor for preparing, reviewing and negotiating this Lease, the sum of Two Thousand and 00/100ths Dollars (\$2,000.00), which one-time fee shall be due and payable within ninety (90) days after the date of full execution of this Lease.

## **6. Modification of the Premises.**

(a) The Facilities are constructed as of the date of execution of this Lease and Lessor has approved all existing plans, specifications, drawings, renderings, permits, applications and descriptions for Lessee’s use of the Premises, which is attached hereto as Exhibit A. Lessee

shall have full responsibility and shall pay all costs for plan preparation and procurement of all necessary permits and other approvals from the appropriate governmental agencies.

(b) Lessee has the right to continue to operate the Facilities that exist on the date of execution of this Lease in accordance with Paragraphs 1 and 2 above. Except as otherwise set forth herein, any alterations, modifications or additions (collectively “**Alterations**”) to the Facilities at the Premises shall require Lessor’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed provided the proposed Alterations are reasonable and customary for the type of communications facility contemplated by this Lease. With Lessor’s prior written consent, which shall not be unreasonably withheld, conditioned, or delayed, Lessee, its personnel, invitees, contractors, agents, or assigns may use the Premises, at no additional cost or expense, for the transmission and reception of any and all communications signals and to modify, supplement, replace, upgrade, or refurbish the equipment and/or improvements thereon (collectively, "Facilities"), or relocate the same within the Premises at any time during the term of the Lease for any reason, or in order to be in compliance with any current or future federal, state or local mandated application, including but not limited to emergency 911 communication services, or for any other reason. Lessor, at Lessee’s expense, shall reasonably cooperate in obtaining governmental and other use permits or approvals necessary or desirable for the foregoing permitted use. Notwithstanding the foregoing, but provided the same otherwise comply with all of the terms and conditions of this Lease, Lessee shall have the right to make the following Alterations to the Facilities at the Premises without Lessor’s consent: (i) any Alteration that is exclusively within the interior of Lessee’s equipment shelter or (ii) any Alteration that is in the nature of a repair, maintenance work or replacement/substitution of a piece of equipment (or component thereof) with a substantially similar piece of equipment (or component thereof). Lessee shall have full responsibility and shall pay all costs for plan preparation and procurement of all necessary permits and other approvals from the appropriate governmental agencies for any Alterations, modifications, supplements, replacements, upgrades or refurbishments performed pursuant to this Lease.

(c) All Alterations will comply with the terms set forth in this Lease and with all applicable laws, codes, ordinances (including the Fairfax County Zoning Ordinance as it applies to telecommunication facilities) and regulations.

(d) No damage will be done or interference committed with any equipment or structures located within the Parcel with respect to the Alterations. If damage to the Parcel and/or equipment occurs then, Lessee shall within thirty (30) days repair the damage and return the Parcel to the condition existing before the damage occurred.

(e) If any Alterations should require the relocation of any facilities or equipment presently located at the Premises owned by the Lessor, such facilities or equipment may be relocated by Lessee only with Lessor’s prior written consent and at Lessee’s sole cost and expense.

## **7. Interference.**

(a) Lessee agrees not to permit any use of the Facilities after the Commencement Date that will interfere with Lessor's operations or use of the Parcel.

(b) Lessee agrees to install equipment of a type and frequency which will not cause frequency interference with Lessor's "Public Safety Grade" (Manufacturers High Tier) radio frequency communications equipment used by Lessor. In the event the Facilities cause such interference, Lessee agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon notification to Lessee's Authorized Representative of the interference. Lessee shall be obligated to respond to the problem of interference within four (4) hours of receipt of notification from the Lessor and if the interference is not corrected within one (1) day of receipt of notification, the Lessee shall immediately turn off the Facilities causing such interference until the Facilities can be repaired or replaced (except that Lessee shall be able to intermittently test the Facilities at times reasonably approved by Lessor).

Lessee agrees to install equipment of a type and frequency which will not cause frequency interference with other forms of radio frequency communications equipment existing, or previously approved on the Parcel as of the date Lessee first occupied the Premises so long as the existing radio frequency users operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations. In the event the Facilities cause such interference, Lessee agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon receipt of written notification of the interference. Lessee shall be obligated to respond to the problem of interference within forty-eight (48) hours of receipt of notice from Lessor, and if the interference is not corrected within ten (10) days of receipt of written notification (or such time as may reasonably be required with exercise of the due diligence provided such repairs are begun within said ten (10) days), the Facilities causing such interference shall be powered down until Lessee is able to repair or replace the interfering equipment (provided that Lessee shall be able to intermittently test the Facilities at times reasonably approved by Lessor).

All notices under this Paragraph 7(b) shall be made to Lessee's emergency contact number at its Network Operations Center: 1-800-852-2671.

(c) Lessor will not, nor will Lessor permit its employees, tenants, lessees, invitees, agents, or independent contractors, to interfere in any way with the Facilities, the operations of Lessee at the Premises or the rights of Lessee under this Lease.

## **8. Condition of the Premises.**

Lessee and Lessor acknowledge and agree that Lessee has accepted the Premises "as is" and Lessor shall have no obligation to improve or modify the Premises in any manner whatsoever.

## **9. Maintenance and Repairs of Facilities.**

Lessee shall be responsible for all maintenance and repair of the Facilities and any appurtenant equipment or facilities of Lessee during the term of this Lease. Lessee shall promptly and diligently respond to any request by Lessor for any such maintenance or repair. Lessor will use its best efforts to maintain and repair the Parcel and access thereto, and all areas of the Premises where Lessee does not have exclusive control, in good order, subject to reasonable wear and tear and damage from the elements.

## **10. Indemnification.**

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

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

(c) Nothing contained in this Lease shall be deemed to obligate Lessee to indemnify Lessor for claims solely arising out of the negligence or intentional wrongful acts of the Lessor or Lessor's agents, employees or contractors.

## **11. Insurance.**

(a) Lessee shall acquire, maintain and pay for commercial general liability insurance with a limit of Two Million Dollars (\$2,000,000) per occurrence for bodily injury and property damage and Two Million Dollars (\$2,000,000) general aggregate insuring against claims occurring upon the Premises and/or arising from Lessee's use thereof. Insurance shall include Lessor as an additional insured as their interest may appear under this Lease. Such insurance must be issued by an insurance company licensed, authorized or permitted to conduct business in the Commonwealth of Virginia and shall have a general policyholder's rating of at least A- and a Financial rating of at least VII in the current edition of Best's Insurance Reports. Lessee shall provide Lessor an original certificate evidencing such insurance upon (i) the



Commencement Date of the term of this Lease, (ii) and at any other time during the term of this Lease upon the request of the Lessor. Notwithstanding the forgoing, Lessee may, in its sole discretion, self insure any of the required insurance under the same terms as required by this Agreement. In the event Lessee elects to self-insure its obligation under this Agreement to include Lessor as an additional insured, the following conditions apply: (i) Lessor shall promptly and no later than thirty (30) days after notice thereof provide Lessee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Lessee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) Lessor shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Lessee; and (iii) Lessor shall fully cooperate with Lessee, at Lessee's expense in the defense of the claim, demand, lawsuit, or the like.

(b) Lessee shall carry hazard insurance or self insurance to cover damage to or destruction of the Lessee's equipment and other property. If the Premises or Facilities are destroyed or damaged and rendered unsuitable for normal use, Lessee may terminate this Lease upon providing thirty (30) days written notice to Lessor. In such event, with the exception of liabilities that arise prior to such termination and liabilities that survive termination of the Lease as provided in Paragraph 15 herein, all rights and obligations of the parties shall cease as of the date of the damage or destruction, without further liability hereunder. Notwithstanding the foregoing, Lessee shall remain responsible for removal of its equipment and other property and for restoration of the Parcel and this provision shall not limit Lessee's obligation to restore the site to its original condition.

## **12. Liens.**

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

## **13. Compliance with Laws.**

Lessee shall, at its expense, throughout the term of this Lease, obtain all building permits and other governmental or quasi-governmental licenses, permits, consents and approvals required for the construction, installation, operation and use of the Facilities in compliance with all applicable laws, rules, orders, ordinances and requirements, including but not limited to, all laws, rules, orders, ordinances and requirements which relate to the Federal Aviation Administration, Federal Communications Commission, health, safety, environment or land use. In the event of Lessee's failure to comply with this paragraph, Lessor may, but is not obligated to, take such actions as may be necessary to comply with any such laws, rules, regulations, order, ordinances or requirements, and Lessee shall immediately reimburse Lessor for all costs and expenses incurred thereby.

#### **14. Representations and Warranties.**

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

#### **15. Termination.**

Upon the expiration or earlier termination of this Lease, and if Lessee and Lessor are not in negotiations to extend or renew the Lease, Lessee shall remove the Facilities and any foundation from the Premises as provided in Paragraph 2(c) of this Lease, and shall repair any damage to the Premises and associated public utility areas caused by the installation, operation or removal of the Facilities. If Lessee remains on the premises more than sixty (60) days after the expiration or termination of this Lease, Lessee shall pay to Lessor for such holding over a lease fee per month equal to 12.5% of the annual installment of the lease fee which accrued during the immediately preceding term. The lease fee for such holding over shall remain in effect until Lessee removes the Facilities. If the Facilities are not removed within one hundred twenty (120) days after expiration or earlier termination of this Lease, Lessor shall at its option complete the removal and restoration at the Lessee's expense. Acceptance of the lease fees upon termination shall not be a waiver by Lessor of any of its other remedies at law or in equity. Paragraphs 2(e), 10, 12 and 15, 18 and 22 of this Lease shall survive termination of this Lease.

#### **16. Default.**

(a) If Lessee shall fail to pay when due any of the installments of the lease fee provided for herein or any other sum accruing pursuant to the terms of this Lease, and such failure shall continue for thirty (30) days after written notice from Lessor, or if Lessee shall be in default or fail to perform in a timely manner any other obligation herein provided, other than the payment of lease fee installments, and such failure shall continue for forty five (45) days after written notice from Lessor, or if a petition in bankruptcy shall be filed by or against Lessee and not dismissed within one hundred twenty (120) days, or if Lessee shall be adjudicated insolvent, or if Lessee shall make a general assignment for the benefit of its creditors, or if a receiver or trustee shall be appointed to take charge of and wind up Lessee's business, or if the Lessee abandons or vacates the Facilities for more than four (4) consecutive months prior to the termination of this Lease, then Lessee shall be considered to have caused an event of default ("Event of Default"). If Lessee remains in default beyond any applicable cure period, Lessor may elect to terminate this Lease at its sole discretion and pursue its remedies hereunder, at law or in equity. All time periods set forth in this paragraph for a cure period may be extended by a mutual written agreement.

(b) The following will be deemed a default by Lessor and a breach of this Lease: Lessor's failure to perform any term, condition or breach of any warranty or covenant under this Lease

within forty-five (45) days of written notice from Lessee specifying the failure. If Lessor remains in default beyond any applicable cure period, Lessee will have any and all other rights available to it under law and equity. All time periods set forth in this paragraph for a cure period may be extended by a mutual written agreement.

### 17. Authorized Representative

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

LESSOR:

Name:	Kaylynn Kingery
Title:	Leasing Manager
Email Address:	<a href="mailto:Kaylynn.kingery@fairfaxcounty.gov">Kaylynn.kingery@fairfaxcounty.gov</a>
Direct Phone Line:	703-324-2836

LESSEE:

Name:	Network Operations Center
Direct Phone Line:	800-852-2671

Or such other employee designated by Lessee from time to time.

### 18. Notices.

All notices required hereunder or in respect hereof shall be in writing and shall be transmitted by postage prepaid certified mail, return receipt requested, or transmitted by overnight courier to the following addresses:

Lessor:

County of Fairfax, Virginia  
Attn: Leasing Manager  
12000 Government Center Parkway, Suite 424  
Fairfax, VA. 22035

With a copy to: County Attorneys Office  
12000 Government Center Parkway, Suite 549  
Fairfax, VA 22035

Lessee:

Cellco Partnership d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

Notices shall be deemed given upon delivery or mailing by certified mail with return receipt requested thereof to the address specified above. Either party may change its address or any address for copies by giving thirty (30) days prior notice of such change in the manner described above.

#### **19. Assignment and Sublease.**

(a) Lessee may, upon notice to Lessor, assign this Lease to any corporation, partnership or other entity which (i) is controlled by, controlling or under common control with the Lessee, (ii) shall merge or consolidate with or into Lessee, or (iii) shall succeed to all or substantially all the assets, property and business of Lessee. In all other instances, Lessee may only assign or transfer its rights and obligations upon Lessor's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Lessee shall submit any requests for any requested consents of Lessor at least sixty (60) days before any assignment of this Lease. Upon assignment, Lessee shall furnish to the Lessor six (6) 8 ½" x 11" colored photographs of the existing conditions and six (6) 8 ½"x 11" colored photographs of the assignee's telecommunications Facilities. Photographs will show all Facilities (i.e. monopole, co-locations, antennas, equipment cabinets, fenced compound with landscaping, access road and/or any other related appurtenances).

(b) This Lease shall not be interpreted to create anything other than a lease and, except as otherwise provided herein, shall not create any other right, title or interest in the property or Premises, nor shall it create an easement. In the event of any assignment which requires Lessor's consent, Lessee agrees that it shall remain liable for all obligations hereunder. For all other assignments, the entity to which the Lease is assigned shall be liable for all obligations of the Lessee under this Lease, regardless of whether such obligation arose before or after such assignment. Lessee may not sublease all or any portion of the Premises. No other parties are permitted use of the Premises without written permission of Lessor. Furthermore, no other party's equipment shall be permitted at the Premises without written permission of Lessor.

#### **20. Sale of Parcel.**

(a) If Lessor, at any time during the Term of the Lease, decides to sell or otherwise transfer all or any part of the Premises, or all or any part of the Parcel, to a purchaser other than Lessee, Lessor shall promptly notify Lessee in writing. In the event of a change in ownership, transfer or sale of the Parcel, Lessor shall notify Lessee within ten (10) days of such transfer. In the event of a change in ownership, transfer or sale of the Parcel, (i) the current Lessor (assignor) shall remain legally responsible for any and all of its obligations arising under this Lease prior to such change, transfer or sale and (ii) the new Lessor (assignee) shall be responsible for any and all of its obligations arising under this Lease after such change, transfer or sale. In no case shall such change, transfer or sale relieve any Lessor of its obligations as described hereunder.

(b) Lessor agrees that any future lease or license it executes with other parties for use of the Parcel will include a clause that prohibits the lessee or licensee from installing such equipment that is of the type and frequency which causes harmful interference which is

measurable in accordance with then existing industry standards to the then existing equipment of Lessee.

The provisions of this Paragraph shall in no way limit or impair the obligations of Lessor under the Lease, including interference and access obligations.

**21. Miscellaneous.**

This Lease contains the entire agreement between the parties with respect to the subject matter hereof and may not be amended except by a writing signed by the parties hereto. The invalidation of any of the provisions hereof shall not affect any of the other provisions hereof, which shall remain in full force. This Lease shall be binding on the parties hereto and their respective successors and assigns. The failure of either party to this Lease to enforce or exercise at any time any of its rights or remedies or other provisions of this Lease will not be construed to be a waiver thereof, nor affect the validity of any part of this Lease or the right of either party thereafter to enforce each and every such right or remedy or other provision.

**22. Applicable Law.**

This Lease shall be executed, constructed and enforced in accordance with the laws of the Commonwealth of Virginia, disregarding those laws pertaining to conflicts of law. The only proper jurisdiction and venue for any lawsuit arising out of or relating to this Lease shall be the Circuit Court of Fairfax County or the United States District Court for the Eastern District of Virginia.

**23. Quiet Enjoyment.**

Lessor covenants that Lessee, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises, subject to the terms and conditions herein contained.

**24. Prior Gound Lease.**

Lessor and Lessee agree that on the term Commencement Date this Lease replaces the Ground Lease, as defined in the third Whereas Clause, above, referenced by Lessee as Contract #NG 3521. Lessor and Lessee acknowledge that notwithstanding the expiration and termination of the Ground Lease and the commencement of this Lease, during the transition from the Ground Lease to this Lease, Lessee may continue to make, and the Lessor may continue to receive, rental and other payments pursuant to the Ground Lease. In such event, any rental or other payments made pursuant to the Ground Lease after its termination shall be applied and credited against any rentals or other payments due under this Lease.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have affixed their signatures as of the date first above written.

WITNESS OR ATTEST:

\_\_\_\_\_

LESSOR:

**THE BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY**

By: \_\_\_\_\_

Name: Joseph M. Mondoro

Title: Chief Financial Officer

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

WITNESS OR ATTEST:

\_\_\_\_\_

LESSEE:

**CELLCO PARTNERSHIP  
d/b/a Verizon Wireless**

By: \_\_\_\_\_

Name: Thomas O'Malley

Title: Director – Network Field Engineering

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

## **EXHIBIT A**

### **MAJOR COMPONENTS OF LESSEE'S FACILITIES**

- 12'x 30' equipment shelter
- 1 Emergency backup generator
- Requisite cables (coax/fiber) in support of installation
- Requisite cable support superstructure
- Meter Backboard with necessary meters, distribution boxes, safety lighting and appurtenances
- GPS antennas with supporting mounts and brackets

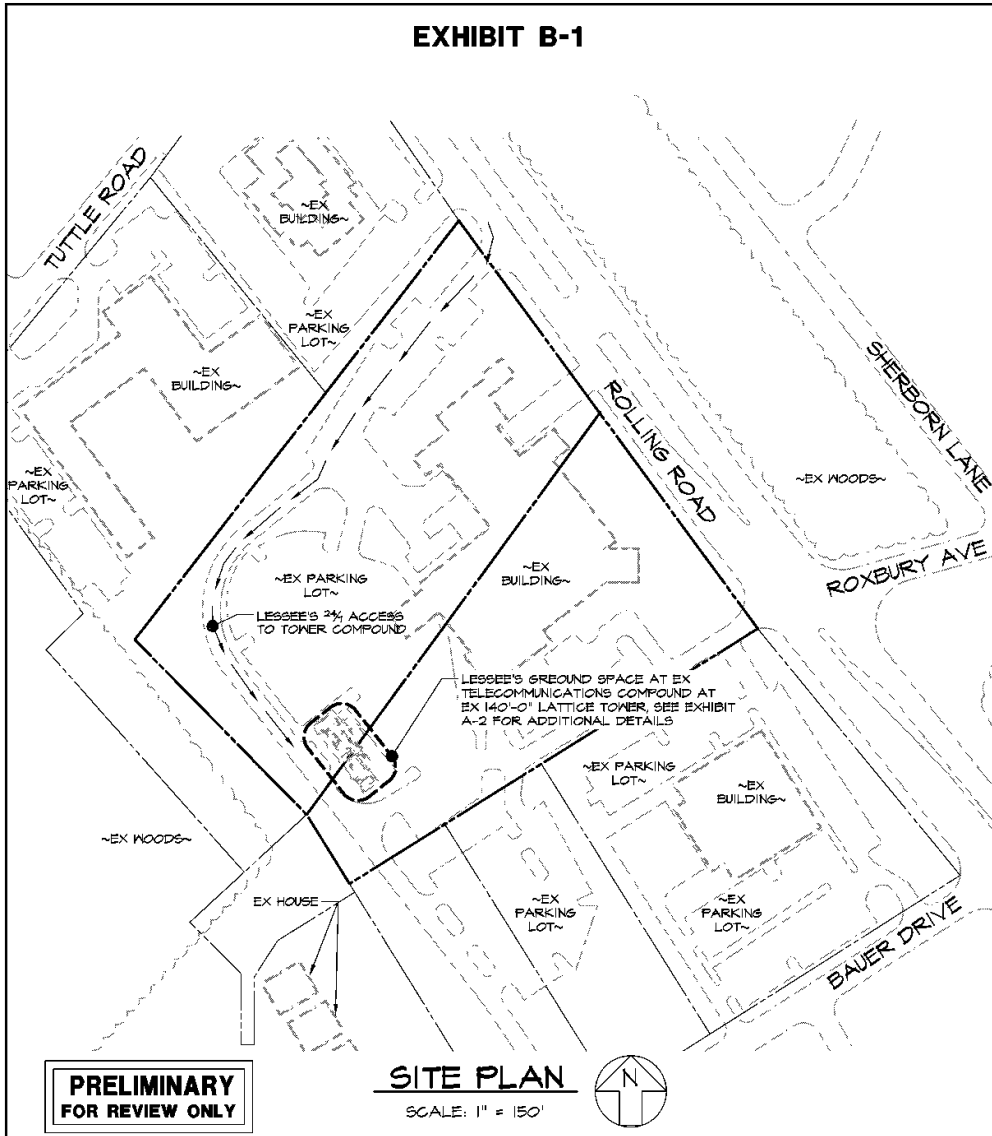
**EXHIBIT B**

**SITE PLANS**

**[see attached – 2 pages]**



**EXHIBIT B-1**



**PRELIMINARY  
FOR REVIEW ONLY**

**SITE PLAN**

SCALE: 1" = 150'

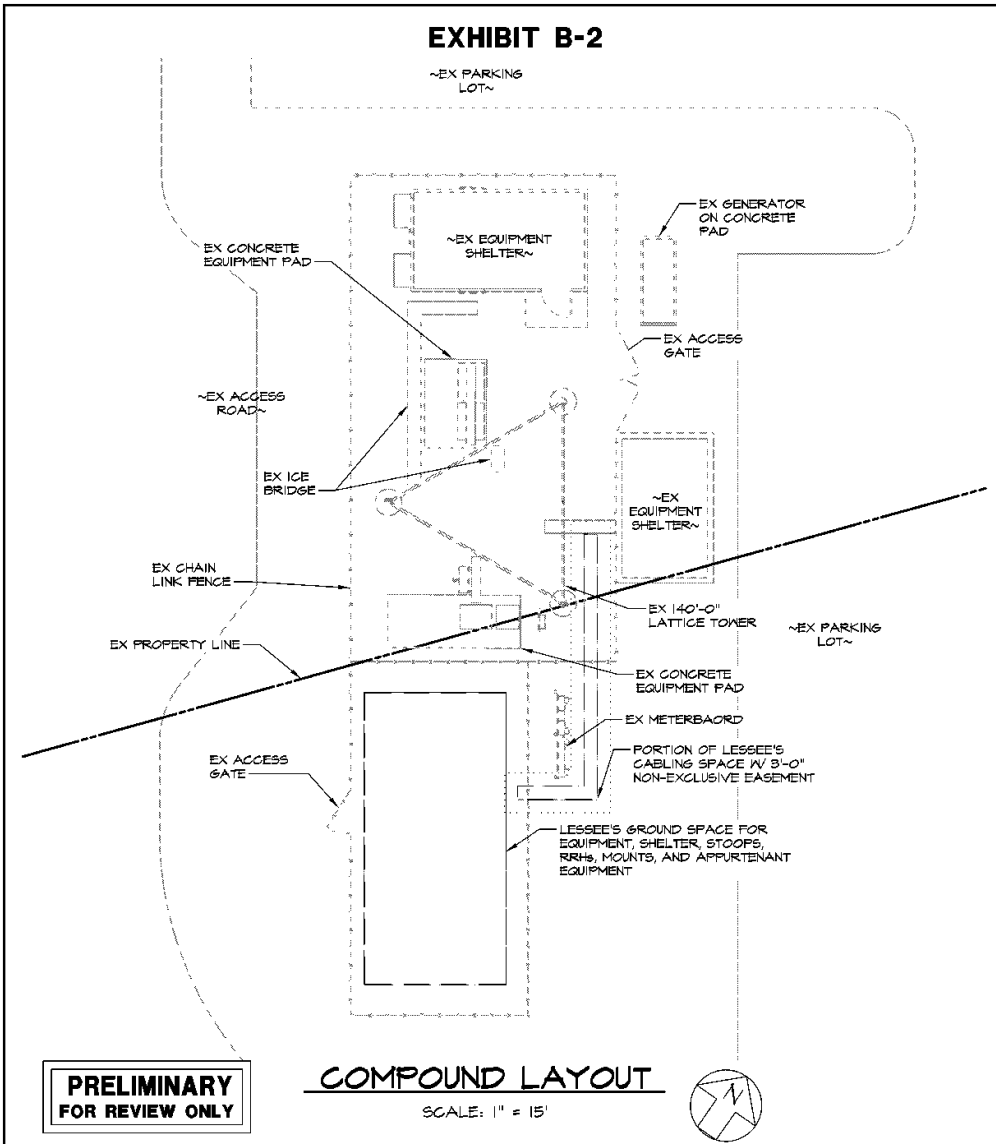


**MORRIS & RITCHIE ASSOCIATES, INC.**  
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS  
1220-C East Joppa Road, Suite 505  
Towson, Maryland 21286  
(410) 821-1690  
Fax (410) 821-1748

**ROLLING VALLEY**  
**6140 ROLLING ROAD**  
**SPRINGFIELD, VIRGINIA 22152**  
**FAIRFAX COUNTY**

SCALE: AS NOTED	DATE: 05/02/18	DRAWN BY: AJL	DESIGN BY: RJD	REVIEW BY: RJD	JOB NO.: 19214.128
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**EXHIBIT B-2**




**PRELIMINARY  
FOR REVIEW ONLY**

**COMPOUND LAYOUT**

SCALE: 1" = 15'



	<b>MORRIS &amp; RITCHIE ASSOCIATES, INC.</b> ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS 1220-C East Joppa Road, Suite 505 Towson, Maryland 21286 (410) 821-1690 Fax (410) 821-1748		<b>ROLLING VALLEY</b> 6140 ROLLING ROAD SPRINGFIELD, VIRGINIA 22152 FAIRFAX COUNTY	
	SCALE: AS NOTED	DATE: 05/02/18	DRAWN BY: AJL	DESIGN BY: RJD
			JOB NO.: 19214.128	

Board Agenda Item  
June 25, 2019

5:30 p.m.

Public Hearing for the Proposed Alterations to the Following Small and Local Sanitary District for the De-Creation/Re-Creation of Small and Local Sanitary Districts of Vacuum Leaf Collection Service (Mount Vernon District)

ISSUE:

Board of Supervisors to conduct a public hearing for the de-creation/re-creation of a small and local sanitary district for discontinuing vacuum leaf collection service (Martha's Rd area).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the proposed petitions within the ~~Providence~~ **Mount Vernon** District.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Small District within Mt Vernon District (Marthas Rd)	De-create/Re- create	Discontinue <del>Refuse, Recycling</del> and Vacuum leaf collection	Approve

TIMING:

Board of Supervisors authorized advertisement on May 21, 2019, for a Public Hearing June 25, 2019, at 5:30 p.m.

BACKGROUND:

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

**REVISED**

Board Agenda Item  
June 25, 2019

The submitted petition has been reviewed, and it has been determined that the petition meets the Board of Supervisors' Adopted Criteria. Staff recommends approval for the de-creation/re-creation of small and/or local sanitary districts for discontinuing vacuum leaf collection be approved. If approved, the modification will become permanent in July 1, 2019.

FISCAL IMPACT:  
None

ENCLOSED DOCUMENTS:  
Attachment 1: Summary Sheet  
Attachment 2: Data Sheet with Resolution and Map

STAFF:  
Rachel Flynn, Deputy County Executive  
Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)  
John W. Kellas, Deputy Director, DPWES, Solid Waste Management Program

SUMMARY SHEET

Proposed alterations to the following small and local sanitary districts for vacuum leaf collection service:

1. De-create/**re-create** small district within Mt Vernon District for the purpose of discontinuing county vacuum leaf collection service to Marthas Rd area.

DATA SHEET  
De-creation/Re-creation  
Small District  
Within the Mount Vernon District

Purpose: De-create/**re-create** small district within Mount Vernon District for discontinuing county vacuum leaf collection service to the Marthas Road area.

- Petition requesting service received October 18, 2018.
- Petition Area: 164 Properties.
- 110 Property Owners in favor (67%).
- 22 property owners opposed.
- 32 Non-responsive/unable to contact.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved effective July 1, 2019.

ADOPTION OF A RESOLUTION  
TO DE-CREATE/RE-CREATE SMALL DISTRICT  
FOR DISCONTINUING CURBSIDE VACUUM LEAF COLLECTION SERVICE  
WITHIN MOUNT VERNON DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 25th day of June 2019, it was proposed by said Board to adopt a resolution to de-create/re-create a local district known as Small District within Mount Vernon District to include Marthas Rd area for the purpose of discontinuing vacuum leaf collection to be effective July 1, 2019, was adopted:

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, de-create/re-create a local sanitary district, pursuant to Virginia Code Section 15.2-858, as amended, to be known as Small District within ~~Providence~~ **Mount Vernon** District, Fairfax County, Virginia, which said de-creation/re-creation of the local sanitary district shall be described as follows:

The de-creation/re-creation of Small District within Mount Vernon District to include Marthas Rd Area located in the County of Fairfax, Virginia, and as shown on the attached map.

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

To discontinue ~~refuse/recycling~~ **curbside vacuum leaf** collection service for the citizens who reside therein.

Given under my hand this \_\_\_\_ day of June 2019

\_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board



**TAX MAP 93-3**

**MARTHAS ROAD AREA**



Board Agenda Item  
June 25, 2019

5:30 p.m.

Public Hearing for the Proposed Alterations to the Following Small and Local Sanitary District for the De-Creation/Re-Creation of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Service (Dranesville District)

ISSUE:

Board of Supervisors to conduct a public hearing for the de-creation/re-creation of a small and local sanitary district for discontinuing refuse/recycling and vacuum leaf collection service (4115 N. Ridgeview Rd area).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the proposed petitions within the ~~Providence~~ Dranesville District.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Small District within Dranesville District (4115 N. Ridgeview Rd)	De-create/Re-create	Discontinue Refuse, Recycling and Vacuum leaf collection	Approve

TIMING:

Board of Supervisors' authorized advertisement on May 21, 2019, for a Public Hearing June 25, 2019, at 5:30 p.m.

BACKGROUND:

The administrative responsibility for the creation/enlargement/de-creation/re-creation of small and local sanitary districts in the county of Fairfax for refuse/recycling and/or leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings. Prior to any action by the Board of Supervisors on a proposed small or local sanitary district, certain relevant standards and criteria must be met in accordance with the Board of Supervisors' Adopted Criteria for the

**REVISED**

Board Agenda Item  
June 25, 2019

Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts. The submitted petition has been reviewed, and it has been determined that the petition meets the Board of Supervisors' Adopted Criteria. Staff recommends approval for the de-creation/re-creation of small and/or local sanitary districts for discontinuing refuse/recycling and/or vacuum leaf collection be approved. If approved, the modification will become permanent in July 1, 2019.

FISCAL IMPACT:  
None

ENCLOSED DOCUMENTS:  
Attachment 1: Summary Sheet  
Attachment 2: Data Sheet with Resolution and Map

STAFF:  
Rachel O. Flynn, Deputy County Executive  
Randolph W. Bartlett, Director, Department of Public Works and Environmental Services (DPWES)  
John W. Kellas, Deputy Director, DPWES, Solid Waste Management Program

SUMMARY SHEET

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

1. De-create small district within Dranesville District for the purpose of discontinuing county refuse, recycling **and vacuum leaf** collection service to 4115 N Ridgeview Rd. This address is serviced by Arlington County for both refuse and vacuum **leaf** collection.

DATA SHEET  
De-create/Re-create  
Small District  
Within the Dranesville District

2. Purpose: De-create small district within Dranesville District for discontinuing county refuse, recycling **and vacuum leaf** collection service to 4115 N Ridgeview Rd.
  - Petition requesting service received April 2, 2019.
  - Petition Area: 1 Properties.
  - 1 Property Owners in favor (100%).
  - 0 property owners opposed.
  - 0 Non-responsive/unable to contact.
  - The Department of Public Works and Environmental Services recommends that the proposed action be approved effective July 1, 2019.

ADOPTION OF A RESOLUTION  
TO DE-CREATE/RE-CREATE SMALL DISTRICT  
FOR DISCONTINUING CURBSIDE TRASH COLLECTION  
AND VACUUM LEAF COLLECTION WITHIN DRANESVILLE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 25th day of June 2019, it was proposed by said Board to adopt a resolution to de-create/re-create a local district known as small district within Dranesville District to include 4115 N. Ridgeview Rd for the purpose of discontinuing refuse/recycling and vacuum leaf collection to be effective July 1, 2019, was adopted:

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia de-create/re-create a local sanitary district, pursuant to Virginia Code Section 15.2-858, as amended, to be known as small district within ~~Providence~~ **Dranesville** District, Fairfax County, Virginia, which said de-creation/re-creation of the local sanitary district shall be described as follows:

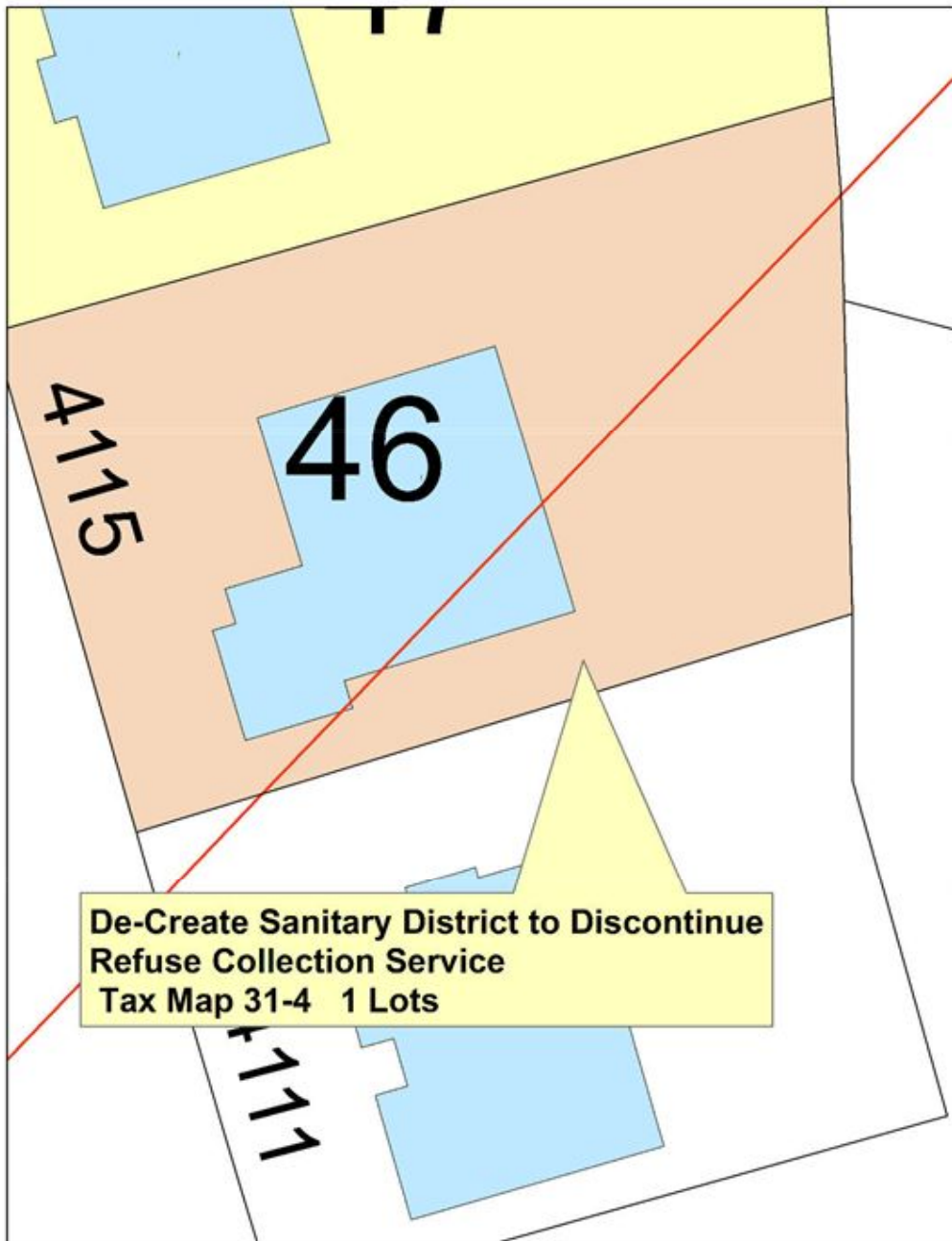
The de-creation/re-creation of Small District within Dranesville District to include 4115 N. Ridgeview Rd. located in the county of Fairfax, Virginia, and as shown on the attached map.

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

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

Given under my hand this \_\_\_\_ day of June 2019

\_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board



TAX MAP 31-4

**4115 N RIDGEVIEW RD AREA**

Board Agenda Item  
June 25, 2019

5:30 p.m.

Public Hearing for the Proposed Alterations to the Following Small and Local Sanitary District Public Hearing for the De-Creation/Re-Creation of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Service (Providence District)

ISSUE:

Board of Supervisors to conduct a public hearing for the enlargement ~~de-creation/re-creation~~ of a small and local sanitary district **for the purpose of discontinuing** refuse/recycling and vacuum leaf collection service **at 2428 Lockett Avenue and 8630 Janet Lane.**

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the proposed petitions within the Providence District.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Small District within Providence District (2428 Lockett Av, 8630 Janet La)	De-create/Re-create	Discontinue Refuse, Recycling and Vacuum leaf collection	Approve

TIMING:

Board of Supervisors authorized to advertise on May 21, 2019, for a Public Hearing June 25, 2019, at 5:30 p.m.

BACKGROUND:

The administrative responsibility for the creation/enlargement/de-creation/re-creation of small and local sanitary districts in the county of Fairfax for refuse/recycling and/or leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings. Prior to any action by the Board of Supervisors on a

**REVISED**

Board Agenda Item  
June 25, 2019

proposed small or local sanitary district, certain relevant standards and criteria must be met in accordance with the Board of Supervisors' Adopted Criteria for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts.

The submitted petition has been reviewed, and it has been determined that the petition meets the Board of Supervisors' Adopted Criteria. Staff recommends approval for the de-creation/re-creation of small and/or local sanitary districts for discontinuing refuse/recycling and/or vacuum leaf collection be approved. If approved, the modification will become permanent in July 1, 2019.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Summary Sheet

Attachment 2: Data Sheet with Resolution and Map

STAFF:

Rachel Flynn, Deputy County Executive

Randy Bartlett, Director, Department of Public Works and Environmental Services (DPWES)

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



SUMMARY SHEET

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

1. De-Create small district within Providence District for the purpose of discontinuing county refuse, recycling and vacuum leaf collection service to ~~8630~~ **2428** Lockett Av and ~~2428~~ **8630** Janet La. These addresses have driveways that are accessed on neighboring streets that are not serviced by Fairfax County collection staff.

—

DATA SHEET  
De-create/Re-create  
Small District  
Within the Providence District

2. Purpose: De-Create Small District within Providence District for discontinuing county refuse, recycling and vacuum leaf collection service to ~~8630~~ 2428 Lockett Av and ~~2428~~ 8630 Janet La.
  - Petition requesting service received April 2, 2019.
  - Petition Area: 2 Properties.
  - 2 Property Owners in favor. (100%)
  - 0 property owners opposed.
  - 0 Non-responsive / unable to contact.
  - The Department of Public Works and Environmental Services recommends that the proposed action be approved effective July 1, 2019.

ADOPTION OF A RESOLUTION  
TO DE-CREATE/RE-CREATE SMALL DISTRICT  
FOR DISCONTINUING CURBSIDE TRASH COLLECTION  
AND VACUUM LEAF COLLECTION  
WITHIN PROVIDENCE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 25 day of June, 2019 it was proposed by said Board to adopt a resolution to de-create/re-create a local district known as Small District within Providence District to include ~~8630~~ **2428** Lockett Av and **2428** **8630** Janet La for the purpose of discontinuing refuse/recycling and vacuum leaf collection to be effective July 1, 2019, was adopted:

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, de-create/re-create a local sanitary district, pursuant to Virginia Code Section 15.2-858, as amended, to be known as Small District within Providence District, Fairfax County, Virginia, which said de-creation/re-creation of the local sanitary district shall be described as follows:

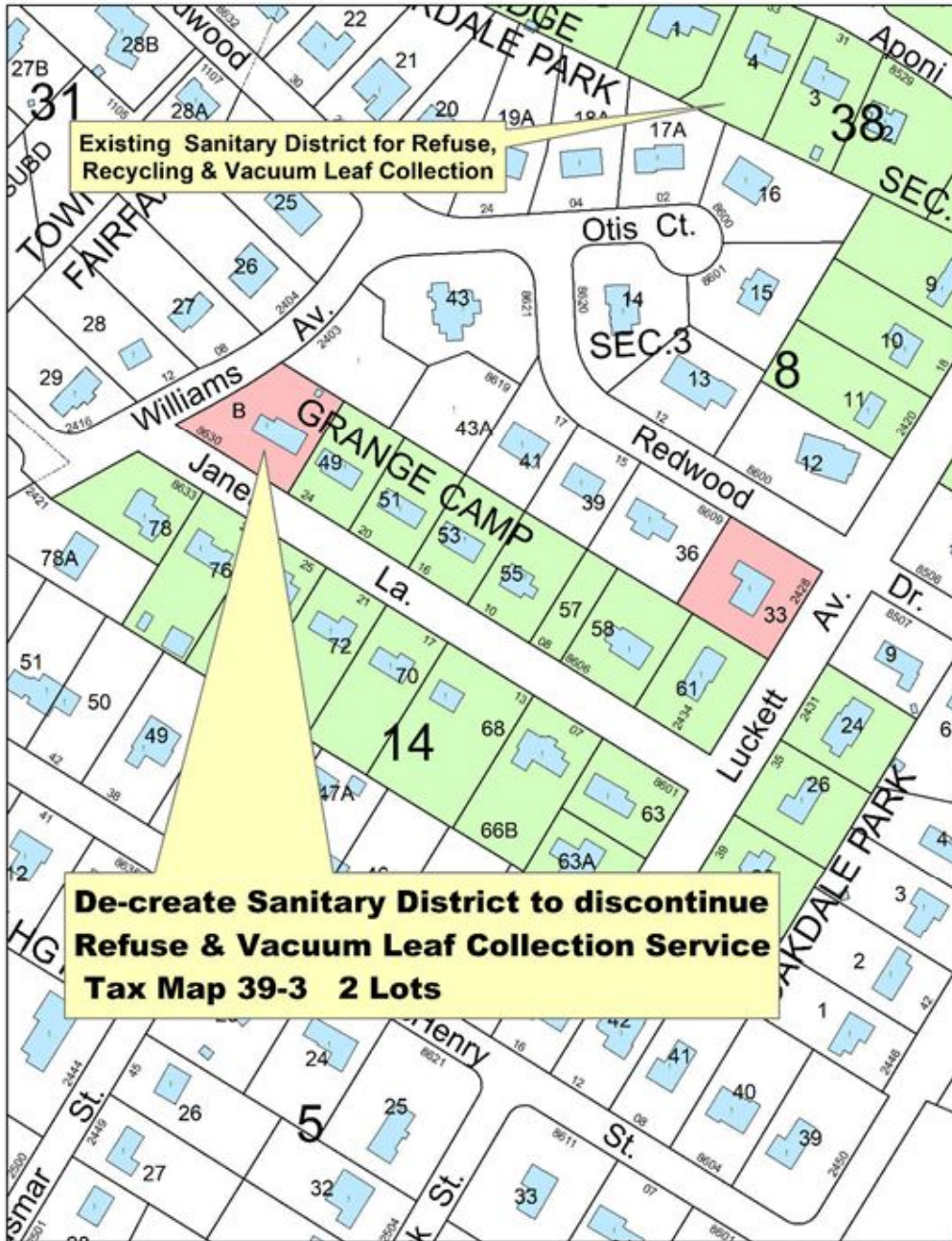
The de-creation/re-creation of Small District within Providence District to include ~~8630~~ **2428** Lockett Av and **2428** **8630** Janet La. located in the County of Fairfax, Virginia, and as shown on the attached map.

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

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

Given under my hand this \_\_\_\_ day of June 2019

\_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board



**TAX MAP 39-3**

**LUCKETT JANET AREA**

Board Agenda Item  
June 25, 2019

5:30 p.m.

Public Hearing for the Proposed Alterations to the Following Small and Local Sanitary District for the Enlargement of Small and Local Sanitary Districts for Refuse/Recycling and Vacuum Leaf Collection Service (Dranesville District)

ISSUE:

Board of Supervisors to conduct a public hearing for the enlargement of a small and local sanitary district for refuse/recycling and vacuum leaf collection service. (Chesterbrook Woods area).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the proposed petitions within the Dranesville District.

<u>Sanitary District</u>	<u>Action</u>	<u>Service</u>	<u>Recommendation</u>
Small District within Dranesville District (Chesterbrook Woods area)	Enlargement	Refuse, Recycling and Vacuum leaf collection	Approve

TIMING:

Board of Supervisors' authorized to advertise on May 21, 2019, for a Public Hearing June 25, 2019 at 5:30 p.m.

BACKGROUND:

The administrative responsibility for the creation/enlargement/de-creation/re-creation of small and local sanitary districts in the county of Fairfax for refuse/recycling and/or leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings. Prior to any action by the Board of Supervisors on a proposed small or local sanitary district, certain relevant standards and criteria must be met in accordance with the Board of Supervisors' Adopted Criteria for the

**REVISED**

Board Agenda Item  
June 25, 2019

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

The submitted petition has been reviewed, and it has been determined that the petition meets the Board of Supervisors' Adopted Criteria. Staff recommends approval for the ~~de-creation/re-creation~~ **enlargement** of small and/or local sanitary districts for ~~discontinuing~~ **providing** refuse/recycling and/or vacuum leaf collection be approved. If approved, the modification will become permanent in July 1, 2019.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Summary Sheet

Attachment 2: Data Sheet with Resolution and Map

STAFF:

Rachel Flynn, Deputy County Executive

Randy Bartlett, Director, Department of Public Works and Environmental Services (DPWES)

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

## SUMMARY SHEET

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

1. Enlarge Small District within Dranesville District for the purpose of providing county refuse, recycling & vacuum leaf collection service to the Chesterbrook Woods area.

DATA SHEET  
Enlargement of  
Small District  
Within the Dranesville District

1. Purpose: ~~De-Create~~ **Enlarge** small district within Dranesville District for providing county refuse, recycling and vacuum leaf collection service the Chesterbrook Woods area
  - Petition requesting service received November 30, 2018.
  - Petition Area: 78 Properties.
  - 47 Property Owners in favor (60%).
  - 17 property owners opposed.
  - 14 Non-responsive/unable to contact.
  - The Department of Public Works and Environmental Services recommends that the proposed action be approved effective July 1, 2019.



ADOPTION OF A RESOLUTION  
TO ENLARGE SMALL DISTRICT  
FOR CURBSIDE TRASH COLLECTION AND VACUUM LEAF COLLECTION  
WITHIN DRANESVILLE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 25 day of June, 2019, it was proposed by said Board to adopt a resolution to enlarge a local district known as Small District within Dranesville District to include Chesterbrook Woods area for the purpose of providing refuse/recycling & vacuum leaf collection to be effective July 1, 2019, was adopted:

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, enlargement of a local sanitary district, pursuant to Virginia Code Section 15.2-858, as amended, to be known as Small District within Dranesville District, Fairfax County, Virginia, which said enlargement of the local sanitary district shall be described as follows:

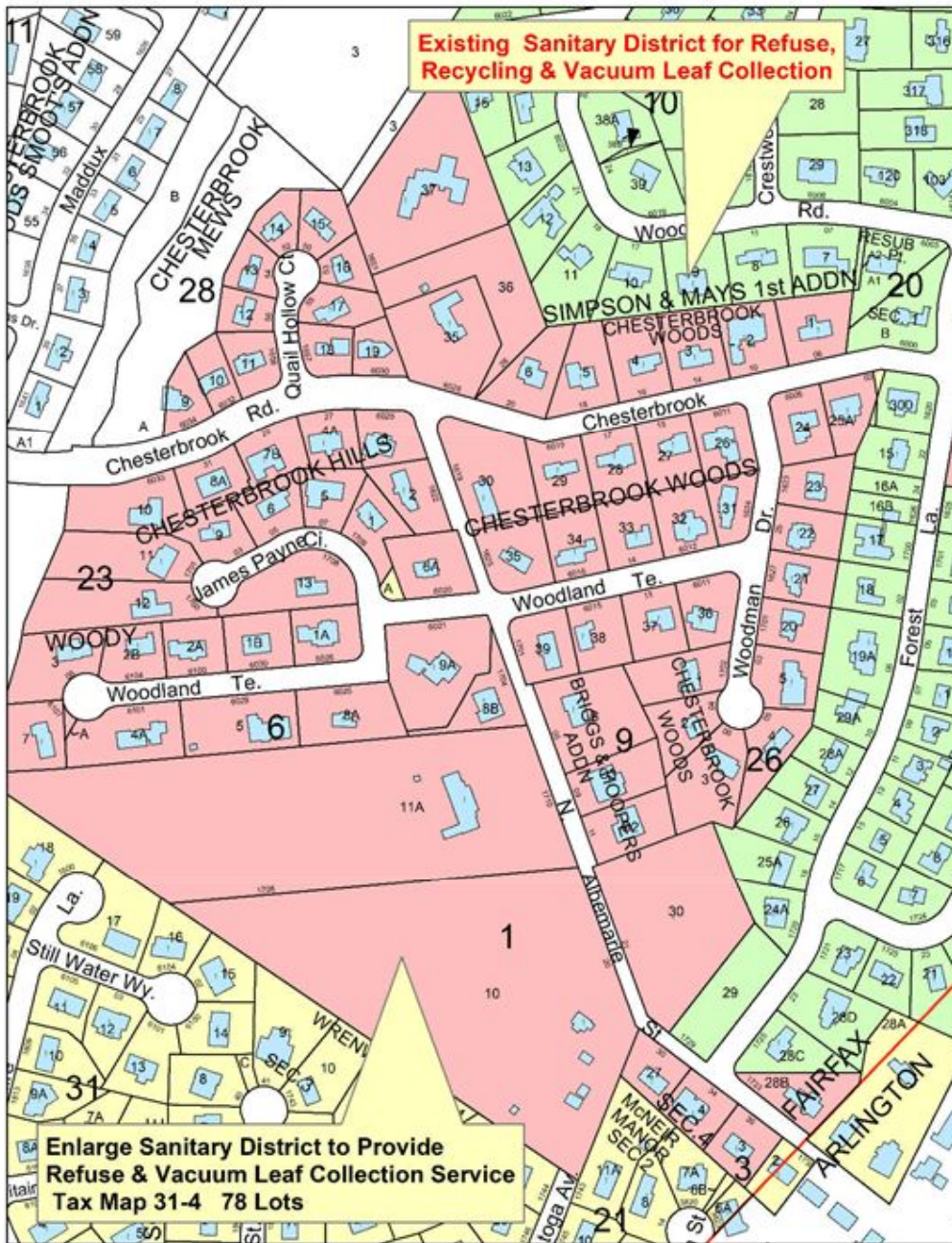
The enlargement of small district within Dranesville District to include the Chesterbrook Woods area located in the County of Fairfax, Virginia, and as shown on the attached map.

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

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

Given under my hand this \_\_\_\_ day of June 2019

\_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board



**Tax Map 31-4**

**CHESTERBROOK WOODS AREA**

Board Agenda Item  
June 25, 2019

6:00 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern